

CITY OF ALBANY  
CITY COUNCIL WORK SESSION  
Municipal Court Room  
Monday, April 21, 2014  
4:00 p.m.

**MINUTES**

CALL TO ORDER

Mayor Sharon Konopa called the meeting to order at 4:00 p.m.

ROLL CALL

Councilors present: Bill Coburn, Floyd Collins, Bessie Johnson, Rich Kellum, Ray Kopczynski, Dick Olsen

Councilors absent: None

BUSINESS FROM THE PUBLIC

Casey Costa, 2935 Shortridge Place SE, said that she and her 87-year-old mother are both Oregon Medical Marijuana Program (OMMP) cardholders and voters. Safe access to the medical marijuana that is beneficial to both of them is a top priority. She has been to Canna Kitchen at various times over the past year and not once has she observed unruly behavior, minors in the area, or danger of any kind. The people elected to a position of fiduciary responsibility should want to see safe access to medical cannabis continue and to have that revenue stay in Albany rather than send people to outlying areas to obtain the medicine they have been able to legally and safely obtain for the last two years at Canna Kitchen. She said that many people will be watching this decision and remembering it at the next election.

Konopa said that the City Council has previously taken public input on medical marijuana and is now at the point of deciding on zoning aspects of the ordinance.

Rhea Graham, Albany Canna Kitchen and Research, said that she just wants to continue to be there for her customers. She asked that her existing business be protected from any new regulations.

Scott Pierson, 1908 Cascade Heights NW, encouraged the Council to reconsider a moratorium rather than zoning restrictions. He said he is not speaking on the merits of medical marijuana. He asked that the Council consider whether they want to be contrarian or follow the lead of other communities in the area by going with a moratorium. He said that most of the business community is saying “not yet” to medical marijuana; a moratorium would allow time to better understand the ramifications and learn from the experiences of others.

Shawn Amen, Lebanon, said that the will of the people, the Governor, and the Oregon Health Authority (OHA) have all said that medical marijuana is a good thing and they are making it as safe for the community as possible. The process used to take public testimony and build the OMMP program was very extensive, and OMMP card holders pay several hundred dollars to have the right to obtain this medicine. If a patient says it alleviates their pain and the doctors and OHA agree, he said, then it’s time to put the prohibition politics away and allow safe access for these folks.

Stacy Koos, 2589 21<sup>st</sup> Avenue, asked that the Council consider the entire business community and the negative impacts to legal businesses when making their decision. She said there are many unanswered questions associated with allowing dispensaries which distribute an illegal substance. Delaying the decision for one year would provide an opportunity to check in with other cities which choose to blindly forge ahead. She said there are many issues associated with dispensaries that the City is not prepared to deal with at this time, including additional policing and security needs. She asked that the decision on whether to allow medical marijuana dispensaries be delayed until we better understand the risks and prepare to mitigate them for all businesses.

Dan Schutte, 52236 Quartz SE, said he is a veteran and his doctor has prescribed marijuana as medicine. He said doctors have found medical marijuana to be helpful for a variety of issues and to ignore this is a lack of leadership.

Kendra Goodahl, 1287 Palace Drive NE, Salem, said she does not feel it is fair to have zoning regulations for dispensaries in excess of those that are in place for bars or pharmacies.

MEDICAL MARIJUANA DISPENSARY REGULATIONS ORDINANCES

City Attorney Jim Delapoer said that this process has evolved in a way that is not typical and that a majority of the City Council has not yet given specific direction on the ordinance language. He reviewed options before the Council. One draft ordinance would restrict the ability of dispensaries to be located within 300 feet of any property lawfully zoned to allow residential use. Because residential use is allowed under certain conditions in all zones with the exception of Heavy Industrial, this option would make it difficult to locate a dispensary anywhere in Albany. The second draft ordinance would place limitations based on zoning as shown on the corresponding map of Medical Marijuana District (MMD) Residential Use Buffer Areas with Industrial Zone Exception.

Delapoer said that he was asked about the potential of revising the ordinance to include nonmedical marijuana should the state allow that in the future. He does not recommend doing so because the ordinance is written specifically to address

medical marijuana dispensaries; however, if the Council chooses, they could direct the addition of language such as: "These restrictions shall also apply to any facilities selling nonmedical marijuana if such sales are subsequently allowed by the state of Oregon."

Konopa said that she would like to have zoning restrictions in place for nonmedical marijuana uses because she hopes they would be grandfathered in when recreational marijuana is legalized by the state. She wants to ensure that neighborhoods stay livable. She would like to be proactive in protecting Albany's neighborhoods.

Councilor Rich Kellum said that he believes the legislature put in restrictions to protect minors. From that perspective, he doesn't see how we could have a proposal where children in one neighborhood are protected and children in another neighborhood are not.

In discussion and in response to inquiries, staff further explained the draft ordinances. City Manager Wes Hare clarified that the second draft ordinance and corresponding map is Planning staff's attempt to get at what they believed to be Council's intent in restricting dispensaries from locating in or adjacent to neighborhoods.

Councilor Ray Kopczynski said that he doesn't believe there have been any problems with minors in medical marijuana dispensaries in Albany. He said the existing dispensaries are like vaults; minors will not be going into one of those establishments. He said that Canna Kitchen has been in place for two years and there has been no negative effect to the community, the business community, or law enforcement.

Councilor Bessie Johnson said that many cities around Albany are choosing a moratorium. If Albany allows dispensaries, people from those areas will come here; that is not what she wants. The business community thinks the moratorium is the way to go and she supports that. She said the proposed fee of \$150 would not begin to cover the additional law enforcement that would come with this.

Konopa said it is inevitable that the City will be dealing with medical and, potentially, recreational marijuana. She has stated from day one that she wants to make sure that we keep it out of neighborhoods. She feels it is a risk to go with a moratorium and maybe later be subjected to having the use in neighborhoods. She would prefer to address it in the zoning and hopefully have those limitations be grandfathered in if recreational use is legalized.

Councilor Floyd Collins said that he would vote no on either of the draft ordinances. He addressed some of the public testimony that has been received. He said that bars and pharmacies aren't regulated by cities; they are regulated by the state and/or federal governments. The people in Linn County did not vote for medical marijuana; the legislature established uses in opposition to a vote of the people. He doesn't believe that the legislature would grandfather in zoning limitations. In discussion, Delapoer said that he thinks it is unlikely that the City would get a grandfathered benefit by enacting a law to deal with a use that is not currently legal, and that adding language about nonmedical marijuana could make the ordinance more open to challenge.

Johnson reviewed her work with people affected by alcohol and drug use. She said she knows that marijuana damages brains and changes personalities. This is not something she wants in Albany.

Collins initiated additional discussion about the proposed fee. In discussion, Delapoer clarified that police can only respond to allegations of violation of law at dispensaries in the same way they would at any other business. If a fee is set so high that it is a bar to operations, a court may say it is not a reasonable regulation. He suggested that the \$150 fee could be established to offset an anticipated increase in law enforcement, with a review and adjustment in one year based on actual experience.

Councilor Dick Olsen expressed concern that setting a fee for this use could be a step toward having a fee for all businesses in the City.

Coburn, Kopczynski, Olsen and Konopa supported having staff bring back the most recent draft ordinance and corresponding map. Collins, Kellum, and Johnson did not support any MMD ordinance being brought back.

A majority of the Council directed staff to bring back the newest version of the ordinance which is reflective of the map.

#### COMMUNITY DEVELOPMENT BLOCK GRANT PLANS REVIEW

Lead Long Range Planner Anne Catlin said that a public hearing on the City's Community Development Block Grant (CDBG) Plans is scheduled for Wednesday, April 23. The Council is asked to hear public testimony on that date and then keep the record open for public comment until the plans are officially adopted on May 14. The Community Development Commission is recommending that the City Council approve four documents as presented and discussed in the written staff report: 2013-14 Action Plan Amendments, 2014-15 Action Plan, Analysis of Impediments to Fair Housing Choice and Fair Housing Plan, and Albany's CDBG Citizen Participation Plan.

Catlin said that most of the amendments to the 2013-14 Plan relate to distribution of funds to specific program activities, as well as redistribution of funding allocated to housing rehabilitation programs. She said that Albany Helping Hands applied for funding to rehabilitate a building to be used for transitional housing. There have been challenges in getting the data to determine potential issues with the environmental review, including noise associated with railroad crossings. Staff will continue to work on that issue.

Catlin reviewed the process undertaken in the Analysis of Impediments to Fair Housing Choice and Fair Housing Plan. She said the plan identifies a list of items that staff will be working on over the next five years in the areas of education and outreach; they have begun to build connections and gain an understanding of some of the issues.

Catlin said that the composition of the Community Development Commission is established by ordinance and calls for one representative with experience in economic development. Because it has been difficult to find representatives with that experience, and because City Councilors become very familiar with economic development, it has been suggested that that section of the ordinance be revised to state one representative with experience in economic development or a City Councilor. Delapoe suggested that a motion could include that a certain Councilor was being appointed with the recognition that their years on the City Council have given them experience in economic development; he didn't believe that a revision to the ordinance was necessary.

Collins said that, when making allocations for projects, it is important to be clear that participation this year does not guarantee participation next year and priorities for allocation may change as conditions in the community change. Catlin said it is clear in both the application and the contract that there is no guarantee of future funding.

MOTION: Kopczynski moved to appoint Dick Olsen to the Community Development Commission, noting that his years on the City Council have given him substantial experience in economic development. Coburn seconded the motion, and it passed 6-0.

#### COUNCILOR COMMENTS

In response to an inquiry from Johnson, Hare said the City has not yet been notified of a decision by Lowe's and any discussion or action by the Council would be speculative. He recommended that discussion be held when more is known.

Johnson said that she had previously requested information from the Parks and Recreation Director regarding transient lodging tax funding. She would like a list of all funding requests, those that were approved, and those that were denied. Hare will follow up.

Kellum said that he has a concern about how information was distributed regarding the recycling center issue. The concern is that City notices go only to property owners and not to tenants. He will be discussing this further with staff.

Konopa said that the Oregon Heritage Conference will be held in Albany this week which will bring a lot of activity to the area.

#### CITY MANAGER REPORT

There was no further report.

#### ADJOURNMENT

There being no other business, the meeting was adjourned at 6:00 p.m.

Respectfully submitted,

Reviewed by,

Teresa Nix  
Administrative Assistant

Wes Hare  
City Manager