

CITY OF ALBANY  
CITY COUNCIL  
Council Chambers  
333 Broadalbin Street SW  
Wednesday, September 23, 2015  
7:15 p.m.

MINUTES

CALL TO ORDER

Mayor Sharon Konopa called the meeting to order at 7:15 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

Boy Scout Troop #7365 led the pledge of allegiance to the flag.

ROLL CALL

Councilors Present: Mayor Sharon Konopa and Councilors Floyd Collins, Bill Coburn, Bessie Johnson, Rich Kellum, Ray Koczynski and Dick Olsen

Councilors Absent: None

SCHEDULED BUSINESS

Proclamation Mental Illness Awareness Week

Konopa read the proclamation for Mental Illness Awareness Week.

Public Hearing

Community Development Block Grant 2014 Annual Report and Community Needs

Konopa opened the public hearing at 7:20 p.m.

Planner Anne Catlin gave a PowerPoint presentation (see agenda file). She said the City became an entitlement community in 2013 and now receives Community Development Block Grant (CDBG) funds annually from the U.S. Department of Housing and Urban Development (HUD) to implement a variety of community and economic development activities. As part of the program, the City is required to create an annual action plan for accomplishing goals in the five-year Consolidated Plan and to report on progress made toward achieving those goals. Staff recommends the City Council hold a public hearing to consider comments on the City’s 2014 Consolidated Annual Performance and Evaluation Report (CAPER), as well as comments regarding the City’s community development needs. Staff also recommends the Council authorize staff to submit the CAPER to the HUD.

Catlin said the purpose of the CDBG program is to develop viable communities by providing decent housing, a suitable living environment, and expanded economic opportunities, primarily for low and moderate income residents. Efforts to address the goal related to decent housing include housing rehabilitation loans and funding to Albany Helping Hands and the Jackson Street Youth Shelter. Efforts to address a suitable living environment include replacement of a section of Periwinkle Path and a remodel of Sunrise Park. The Sunrise Park project has been delayed for wetlands delineation, and construction is tentatively scheduled for summer 2016. Expanded economic opportunities related efforts include working with Linn Benton Community College (LBCC) to provide tuition for microenterprise training and advising, small business development and advising, and small business grants.

Konopa called for public testimony.

Lisa Grisham, 1505 Walnut Street SW, asked how and when the wetlands mitigation would occur for the Sunrise Park project. In response to a request from Konopa, Catlin explained that the City would submit a removal and fill permit and mitigation would be determined by the State.

There was a sign up sheet available (see agenda file).

There being no other public testimony, Konopa closed the public hearing at 7:27 p.m.

MOTION: Councilor Floyd Collins moved to authorize staff to submit the CAPER to the U.S. Department of Housing and Urban Development. Councilor Rich Kellum seconded the motion, and it passed 6-0.

Business from the Public

Konopa noted that a number of people had signed up to comment on an ordinance declaring a ban on the sale of recreational marijuana by medical marijuana dispensaries. She asked the City Attorney to explain the action being considered. City Attorney Jim Delapoer said the agenda includes a second reading of an ordinance that is narrow in its effect, in that it proposes only to limit recreational sales of marijuana in medical marijuana dispensaries until December 31, 2016. In response to questions from Council, Co-City Attorney Sean Kidd explained that the State will allow medical facilities to sell recreational marijuana until December 31, 2016, but local jurisdictions can take action to ban those recreational sales. The State will accept licenses for recreational sales facilities beginning January 4, 2016, and this ordinance will not affect those licenses. Medical facilities will not be allowed to sell recreational marijuana after December 31, 2016.

Trey Mork, Albany Alternative Health Solutions, 2614 Prairie Place SE, said Oregonians passed the law because they believe registered dispensaries are ready to sell recreational marijuana to adults beginning October 1, 2015. Governor Kate Brown approved it because she supports Oregon's future where cannabis sales are regulated and cannabis isn't associated with the black market but instead helps boost tax revenue for city and state needs. With this ban, the City Council would cripple six local small businesses by driving sales to other towns, go against what was approved by the voters and the legislators, and drive sales to the black market. At his request, about 60 people in the audience held up signs in support of allowing recreational sales by medical marijuana dispensaries.

Steven Van Buskirk, 230 Lyon Street SE, said it seems unreasonable to not allow recreational marijuana to be sold at medical dispensaries as an interim measure. He has read that 14 percent of people smoke marijuana which means that about 7,000 in our community are using illegally. It is unlikely that allowing it to be sold legally at dispensaries would lead to more use. If people have to drive to other communities to buy marijuana, it may encourage more impaired driving.

Deborah King, 4027 Woodward Drive NE, encouraged Council to vote against any ban of recreational marijuana sales to adults. She has worked as a substance abuse counselor, social worker and union organizer, and she is currently working for UFCW 555. She said it is well documented that cannabis is less dangerous than alcohol. She helped with Measure 91 because she believes in the democratic process. She believes the war on drugs is about class and money, in that 20 percent of all people have issues with substance abuse but our prisons are not that diverse. She said cannabis is the number one crop in Oregon and has been for years. She said the City could use the tax money that would be generated by recreational marijuana sales. She asked that the Council embrace the workers employed by the dispensaries, trust the voice of the people and the legislators, and vote no on the proposed ban.

Trevor Ballard, 1540 Salem Avenue SE, said many people from many walks of life have expressed an interest in this issue. People want to be able to keep their money in Albany.

Kate Chitwood, 3514 22<sup>nd</sup> Court SE, said this town has serious problems with heroin and opiates. Taxes from recreational marijuana sales would go to schools; mental health, alcohol and drug services; and local law enforcement. She wants to know how it makes sense to lose that tax money while spending money to prosecute people who are selling illegally. She believes the ban is unsupportive of a few small business owners while the Council supports the annual Wine Walk and other events that encourage public intoxication. She thinks these priorities are messed up.

Alesia Ball, 2420 Mountain View Drive SE, said she was diagnosed with a degenerative spine disease eight years ago, at age 19. She is lucky her parents can afford the \$400 a year it costs to get a medical card so she can go to a dispensary and have access to safe medicine. There are many who need medical marijuana who can't afford those costs. She wants those who need marijuana to be able to obtain it.

Sunnie Sanchez, 3390 NE Oxford Court, Corvallis, said she is a marijuana patient, grower, and activist. She said the demographic that has been forgotten are shut-ins, people who can't easily leave their homes and who can't afford the medical exam and state fee required for an Oregon Medical Marijuana Program (OMMP). Measure 91 makes this medicine easily available to those who really need it. Konopa clarified that the ordinance would not prohibit medical marijuana and that the costs associated with medical marijuana cards are regulated at the state level. Sanchez reiterated that allowing recreational sales through medical dispensaries would allow those who need the medication to obtain it without the expense of obtaining a medical marijuana card.

Lisa Grisham, 1505 Walnut Street SW, said the Oregon Liquor Control Commission (OLCC) doesn't anticipate having any recreational marijuana facilities open prior to October 2016. As a property owner who has lived here since 2003 and who has seen her property taxes increase each year, she encouraged the City Council to consider taxes on marijuana as a revenue source.

Eric Thomas, 2025 Water Avenue NE, said he is an OMMP patient due to a back injury he incurred while serving in the Marine Corps. He tried every other medication first but he was most helped by marijuana. He voted for recreational marijuana sales because some people need dispensary-quality marijuana, but cannot afford the OMMP cards. He said the ban wouldn't make the community safer because money currently going to the black market would continue to do so and that could ultimately fund other illegal activities. The ban keeps millions of tax dollars from the community that could be used for police, fire, roads, and schools. He asked that Council allow dispensaries to sell recreational marijuana.

Kellum asked staff to explain how much tax revenue would come to the City. Kidd said that, beginning next January, the state will put a 25 percent tax on recreational marijuana. Once retail facilities are open beginning in 2017, the state will tax at 17 percent and local jurisdictions can add up to an additional 3 percent subject to voter approval. There is a lot of uncertainty about how much tax revenue would be distributed to communities and the revenue received would have to be used for specific programs associated with Measure 91.

Councilor Ray Kopczynski thanked Mr. Thomas for serving. He asked, how many in the audience are veterans? A number of people raised their hands, and Kopczynski thanked them for serving.

Rhea Graham, 1440 Lawnridge Street SW, said Councilors Rich Kellum and Bessie Johnson have said they don't want cannabis sold in Albany; however, it is currently sold illegally all over town with no taxes, no regulations, and no testing. Not allowing cannabis to be sold in a regulated, secure marketplace just ensures that the black market thrives and citizens miss out on tax revenue when it becomes available. She said the people voted for this and the legislators approved it. She said no one has ever died of cannabis in 10,000 years of documented use. She said only one-quarter ounce per day per person will be allowed to be sold for the recreational market.

Rhonda McNeal, 687 Tangent Street, Lebanon, said she has smoked marijuana for the last 45 years and she has been an OMMP card holder since 2005. She is a mother and an activist, and she supports the sale of recreational marijuana. The right for people to legally smoke marijuana has been a long fight. Alcohol has caused more damage than any other substance; she would rather her son smoke marijuana than drink alcohol or take pharmaceuticals. She asked Council to give the dispensary owners a break – they put a lot of money into their businesses, they are creating jobs, and the tax money could be used to help get people off the streets.

Todd Dalotto, 35714 Ebenger Street SW, said he is a horticultural scientist, cannabis industry consultant, and public policy advisor. He serves on the Oregon Health Authority Committee on Marijuana and he helped draft legislation that led to Measure 91. He serves clients nationwide and he has never seen a case where crime has increased due to the legalization of medical or adult use of marijuana. Crimes have only gone down, allowing local law enforcement to focus on actual crimes with victims. He said it would be good for the community to see adult sales in a regulated environment rather than having the revenues go to the illegal market where there is no testing for mold, pesticides, or potency. The current dispensaries are perfectly poised to be the first retail businesses selling to adults; they have a good record of acting responsibly with no increase in crime. He said many patients who need the medication but can't afford to get their OMMP card have been anticipating recreational sales, and these are often the most seriously ill. He encouraged the City Council to do the right thing and not ban adult sales of marijuana in Albany.

Kellum asked why Measure 91 included the 1,000-foot set back from schools. Dalotto said he doesn't believe the authors of Measure 91 believed there was any actual risk, but the setback was added because it was politically viable. He believes that restriction may be removed in the future as people see that this regulated industry doesn't pose a public safety risk.

Councilor Bill Coburn asked for Dalotto's opinion as to the effect of recreational sales on the medical marijuana dispensaries. Dalotto said he thinks the medical dispensaries will still be viable because medical patients won't pay the retail sales tax and many patients may have developed a relationship with their dispensary.

Casey Costa, 2935 Shortridge Place SE, read a statement which she previously e-mailed to City Councilors. She reviewed statistical information from the State related to deaths and monetary costs associated with cigarette smoking and alcohol consumption and stated that alcohol is the cause of one in every nine deaths in Oregon. There are more than 130 OLCC licensed businesses in the City, generating tax revenue of \$50,000. It is beyond her why taxes from cannabis, which has never been cited as the direct cause of death or overdose, would be something the City Council would chose to block. The people of Albany elected the Councilors to represent them. The people voted yes on Measure 91 and now it's time for their representatives to enact the legal and safe sales of recreational marijuana.

Sean Aman, 2310 McKinley Lane, Lebanon, distributed and reviewed a research report from the Oregon Legislative Revenue Office regarding the revenue impact of marijuana legalization under Measure 91 (see agenda file). He encouraged Councilors to read the report before making a decision on this issue. As the owner of the Going Green dispensary, he employees 15 people and he pays a lot of taxes. If allowed to sell recreational marijuana, he could employ 20 additional people. The City needs revenue and jobs. With this ban, he said, the City Council is basically telling their constituents that the amount of jobs this would create doesn't matter.

Michael Partin, 4815 Knox Butte Road E, owner of West Coast Alternative Medicine, said he is an advocate for personal freedom and he supports the use of marijuana at a recreational level for adults. He encourages adults and parents to keep the product out of reach of children and to educate them about its effects on their growing bodies. He said it makes sense to allow dispensaries in Albany to sell recreational marijuana because they are already regulated and have procedures in place. Over the past two months, his dispensary has made improvements to accommodate recreational sales, and he is sure others have as well. Those improvements cost money which they anticipated would be justified due to the increased sales. Had they understood the possibility of a ban, they would have held off. The criminality of marijuana has been a burden on the community and law enforcement. A ban will do nothing to curb illegal use which has no testing guidelines or safety standards, is not regulated, and does not provide tax revenue. He urged the Council to not go through with the ban.

Tom Cordier, 2240 NW Park Terrace, said he is opposed to having the medical dispensaries sell recreational marijuana. He said Representative Andy Olson recently held a community forum, and he is hearing information tonight that disagrees with the findings of that group of community representatives. He heard the statement that it is clearly documented that marijuana is less dangerous than alcohol, but he doesn't think that is true. He heard the argument that this will make money for the City combined with statements that the dispensaries need the extra business, which leaves a dispute in his mind about the real motive. He heard comments about keeping money off the black market and helping people, but he wonders if dispensaries have really taken money from the black market. He said some legislators in Colorado are seeing unintended consequences with the increase in marijuana use and they are seriously considering more restrictions. He said drivers can be tested for alcohol impairment, but there is no such test for marijuana impairment. Where use is made easier, he thinks it will add strain to police and ambulance services. He thinks the City Council has received biased information tonight. He encouraged them to approve the ordinance.

Cynthia George, 2440 Pioneer Trail, Toledo, said the City Attorney has falsely stated that recreational users could purchase one-half ounce per day and that the OMMP card could be purchased online. In fact, she said, recreational users would be allowed to buy only one-quarter ounce a day and the OMMP program requires a doctor's recommendation. She related her experiences in using medical marijuana products to help her father who was fighting dementia and her mother who had rheumatoid arthritis. She sees hostility and bias by members of Council and she thinks that needs to be addressed.

Cody Zuniga, 2780 21<sup>st</sup> Avenue NW, said there are many citizens age 21 and over who want to see the sale of recreational marijuana allowed in the medical dispensaries. He asked for clarification regarding the reasoning behind the proposed ban. Konopa said the issue was raised by Council, so they are receiving input and will then make a decision. Zuniga said it's hard to overcome an objection when there is no stated objection. In his job as a lab technician for one of the dispensaries, he has tested a lot of street drugs and he has seen many harmful pesticides and heavy metals. He doesn't understand the City Council's objection and he doesn't think public health is being considered.

Shane Lemco, from Independence, complimented the City Council for listening and interacting with the crowd. He referred to the propaganda film, "Reefer Madness", which he feels is a doctrine that the Councilors and their generation were fed. He feels they are wrong. This is America; citizens used the process and marijuana is now legal. This is a representative government, and if citizens don't like the Councilor's decisions, they can be replaced.

Karen Chambers, 3472 College Loop SE, said cannabis was a mandatory crop for many years. Ford's first vehicle ran on hemp oil and was made with hemp fibers. The illegality was spearheaded by the Hearst family because it was impeding on their paper income. She said there is no better vetting process than having the sale of recreational marijuana be available through dispensaries initially. Black market marijuana can make people sick. The Council has the ability to put this in place. Even if revenue is limited, it is revenue that we don't have now. She thinks Council should look to caring for their constituents and their safety.

Josh Winter, 325 Main Street SE, said the voters approved a process. He said veterans fought and died for a democracy so that when the people say they want something, decision-makers can't overrule their wishes. He asked that the Councilors honor their position, the process, and the voters' wishes.

Steve Reynolds, PO Box 1420, said he believes that marijuana is a choice for adults who then deal with the consequences that come with it. He has a number of housing units and anyone with a federal subsidy is bound by federal law. Many of the things that make society work – insurance, banking, housing, employment – are also bound by federal law. He has sympathy for what has been said here tonight and he is not for or against this, but he is just looking for direction from the Council.

Nicolle Lee, 4270 Highway 20, Corvallis, said it is inevitable that the sale of recreational marijuana will occur in Albany no matter what the date, so why should we postpone it?

Lori Inman, PO Box 382, said she was diagnosed two years ago with Post Traumatic Stress Disorder (PTSD) due to past abuse, and marijuana helps her control her night terrors. She is on a fixed income and cannot afford

the OMMP card even with the discounts. If Council would allow dispensaries to sell recreational marijuana, she would know she is getting it safely.

Conner Buchert, 3777 Three Lakes Road SE, said he is a full-time student, going to LBCC for welding, and also works. Alcoholism runs in his family; he knows plenty of alcoholics and it hurts him when he sees his friends drinking heavily. He chooses not to drink and he doesn't understand why it should be made difficult for him to use marijuana as an alternative.

Kellum commented that marijuana use could affect the ability to get a welding job. Buchert said he has the ability to refrain from smoking marijuana when he chooses.

Bill Root, 2634 NW Valley View Drive, commented that marijuana is now legal but not controlled; banning it from being sold in town for the next year or so just gives up control.

Root reminded Council that the Annual Toy Run will be held on December 6, 2015. There will be a large number of motorcyclists in town that day and they will give out several hundred toys to needy children. The Mayor will be reading a proclamation for Motorcycle Awareness Day in conjunction with the event. He thanked the City for their assistance.

Josh Hall, 1110 S 6<sup>th</sup> Street, Lebanon, said he was present on behalf of the locked out steel workers. He thanked Council for the letter they sent urging the parties to finish the bargaining process and get back to work.

#### Presentation

##### Marijuana Information

Sergeant Robert Hayes, Albany Police Department, distributed and reviewed the following materials: *Newer Drug Paraphernalia*, *Marijuana and the Young Brain*, *Marijuana Edibles*, and *Marijuana Related Deaths* (see agenda file). Hayes said he has 23 years in law enforcement and he is certified as a drug recognition expert. Newer drug paraphernalia includes vaporizers, dabs, and edibles. Dabs can have very high Tetrahydrocannabinol (THC) levels and they are created using an extraction process that involves butane. The process is very volatile and there has been one related explosion incident in Albany. Edibles have problems related to knowledge, using the product as instructed, and childproofing. He showed an example where one serving is one-sixth of a cookie, making it easy to overuse.

Hayes clarified that any tax revenue that comes to the City would have to be used specifically for enforcement of Measure 91. He drew attention to information regarding marijuana related deaths, some of which cite cannabis as a contributing factor and one which cites death from "cannabis poisoning". He said poison control calls have increased in Colorado and Washington with the legalization of marijuana. A survey in Colorado documented that since commercial use was legalized, there has been an increase in school expulsions, marijuana related traffic deaths, and emergency room visits for the ingestion of marijuana.

Kopczynski asked how crime in Albany has been affected since the medical marijuana dispensaries opened. Hayes did not have that information. Councilor Dick Olsen said he assumes no crime wave has occurred because of medical marijuana. Hayes said none that he is aware of. Kellum wondered how the police would know if marijuana contributed to a specific problem.

Konopa said there are methods to measure impaired drivers for alcohol; she asked how police would measure for marijuana impairment. Hayes said that marijuana is tested for through a urine test except in the case of a fatality, in which case a blood test is taken. He believes this will be addressed in the upcoming legislative session.

Kopczynski said he understands the tests show the presence of THC for a long time and he asked if they are valid in measuring impairment. Hayes said he believes there is a way to measure impairment through a blood test but not through a urine test. He clarified that driving under the influence arrests are typically made based on impairment symptoms observed in the field.

Konopa said Albany is fortunate to have Hayes' experience, training, and education related to drug enforcement, and she thanked him for his work.

#### Second Reading of Ordinance

Declaring a ban on the sale of recreational marijuana by medical marijuana facilities and declaring an emergency.

Delapoer read the ordinance a second time in title only: AN ORDINANCE OF THE CITY OF ALBANY DECLARING A BAN ON THE SALE OF RECREATIONAL MARIJUANA BY MEDICAL DISPENSARIES; AND DECLARING AN EMERGENCY.

MOTION: Kellum moved to adopt the ordinance. Johnson seconded the motion.

Kopczynski said he has two problems with the language of the ordinance. First, it states that “The people of the City of Albany, Oregon do ordain...” but it isn’t the people who are doing this. Delapoer explained that is mandatory charter language for all ordinances. Kopczynski referred to the emergency clause from the ordinance, and he asked that someone explain why it is an emergency. Delapoer said the emergency clause allows the ordinance to take effect immediately rather than 30 days later. In this case, if the majority of the Councilors wish to go forward with the ordinance, they must do so by October 1, 2015.

Kopczynski said as he understands Measure 91, any individual in the state can grow up to four plants on their property as long as they are outside of public view; therefore, in theory, we could have schools surrounded by homes that are growing their own marijuana.

Kellum said a member of the audience asked why the Council was considering this ordinance. He said the legislation related to both medical marijuana and recreational marijuana facilities specifies a 1,000-foot setback from schools. If it was important to have that setback, then he wonders why it’s okay to have it next door to residential or other places where there are kids. He said the federal government wrote a position paper that indicated they wouldn’t take action against marijuana use in states that have voted to legalize it as long as children are protected, but the City doesn’t yet have those rules in place.

Johnson said that even though the federal government did write that position, marijuana is still against federal law. Councilors took an oath to obey local, state, and federal laws, and that means something to her. She recalled that the medical dispensary owners originally said they didn’t want to sell recreational marijuana, but that has changed. The citizens she has talked with don’t want marijuana near their kids and they are concerned about people driving under the influence. She said there have been marijuana-involved deaths, and she is concerned about children getting ahold of edibles. The majority of her constituents do not want the dispensaries to sell recreational marijuana. She will vote yes on the ordinance.

Coburn said the current ordinance includes an exception for industrial zoned properties which was added to help Canna Kitchen, but he thinks that resulted in unintended consequences. He asked for information on how the locational criteria could be changed and how that would impact existing uses. Kidd said the Council could change the ordinance to remove the industrial zone exemption; existing medical marijuana dispensaries would be grandfathered in. Brief discussion followed regarding state regulations regarding recreational marijuana facilities.

Olsen said he hasn’t heard any complaints from the public about dispensaries being too close to homes or businesses. He thinks prohibition is only good for organized crime, and he is against prohibition in general. He sees the move to decriminalize marijuana as a good thing for the state in general and the city in particular. Marijuana is Oregon’s biggest cash crop and a bunch of it is sold locally, tax free, with profits going to the criminal element. He will vote no on the ordinance.

Kopczynski said high school kids can easily get marijuana illegally and since it is difficult to even get in the door of a legal establishment, he doubts they would even try. He doesn’t think that banning dispensaries from selling recreational marijuana will protect kids; it will just make it more difficult for adults to get the product.

Coburn said marijuana is legalized and he doesn’t have an issue with that. The City Council is trying to come up with reasonable regulations and the locational restrictions that have been discussed seem reasonable to him. There is a desire by some on Council to wait and see what the state will do the first of the year and that would also give time for the Council to come up with local changes that they can all accept. He does not support banning recreational sales until the end of 2016. He would like this body to come up with reasonable restrictions and move ahead.

The motion passed 4-2, with Kopczynski and Olsen voting no and was designated Ordinance No. 5857.

Coburn clarified that he would like to work for the rest of the year to come up with reasonable regulations, noting that with four votes of Council, the ordinance could then be revised.

#### First Reading of Ordinances

##### Consumers Power, Inc. Franchise Agreement

Delapoer read the ordinance for a first time in title only: AN ORDINANCE CREATING ALBANY MUNICIPAL CODE (AMC) CHAPTER 3.03, TO EXEMPT CONSUMERS POWER FROM THE PRIVILEGE TAX OBLIGATIONS SET FORTH IN AMC 3.04 AND ESTABLISHING AN ELECTRICAL UTILITY FRANCHISE AND GENERAL UTILITY EASEMENT FOR CONSUMERS POWER; AND DECLARING AN EMERGENCY.

MOTION: Johnson moved to have the ordinance read a second time in title only. Coburn seconded the motion and it passed 6-0.

Delapoer read the ordinance a second time in title only.

MOTION: Johnson moved to adopt the ordinance. Olsen seconded the motion.

Kopczynski asked why the emergency clause was added. Delapoer said that without the emergency clause, Consumers Power customers and PacifiCorp customers would pay slightly different rates for the 30-day period. Staff felt that that was justification for the emergency clause, but the Council could by motion amend the ordinance by removing the clause.

MOTION TO AMEND: Kopczynski moved to amend the ordinance by removing the emergency clause. Kellum seconded the motion.

VOTE ON AMENDMENT: The motion to amend failed 2-4, with Collins, Johnson, Kopczynski, and Coburn voting no.

VOTE ON MAIN MOTION: The main motion passed 5-1, with Kopczynski voting no, and was designated Ordinance No. 5858.

#### Amending the PP&L Franchise Agreement

Delapoer read the ordinance for the first time in title only: AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE (AMC) CHAPTER 3.04, TO EXEMPT PACIFICORP FROM THE PRIVILEGE TAX OBLIGATIONS SET FORTH THEREIN AND ESTABLISHING AN ELECTRICAL UTILITY FRANCHISE AND GENERAL UTILITY EASEMENT FOR PACIFICORP; AND DECLARING AN EMERGENCY.

MOTION: Johnson moved have the ordinance read a second time in title only. Collins seconded the motion and it passed 6-0.

Delapoer read the ordinance a second time in title only.

MOTION: Johnson moved to adopt the ordinance. Coburn seconded the motion and it passed 5-1, with Kopczynski voting no, and was designated Ordinance No. 5859.

#### Adoption of Consent Calendar

- 1) Approval of Minutes
  - a) August 17, 2015, Work Session.
- 2) Approving the full on-premises sales, commercial establishment, change ownership liquor license application for Marwood Concepts, Inc., d/b/a Loafers Station, located at 222 Washington Street SW.

Olsen requested that Item 2 be removed for discussion.

MOTION: Coburn moved to adopt the Consent Calendar with the exception of Item 2. Kellum seconded the motion and it passed 6-0.

Olsen commented that the City is approving liquor licenses for establishments that allow children to come in, and he compared this to the discussion about protecting children from marijuana retail facilities. Collins clarified that the Oregon Liquor Control Commission (OLCC) issues liquor licenses and the City only passes along a comment to that agency. Brief discussion followed.

MOTION: Olsen moved to adopt Item 2 of the Consent Calendar. Coburn seconded the motion.

Kopczynski said he will vote no one time only, due to the conundrum with the marijuana issue.

VOTE: The motion passed 5-1, with Kopczynski voting no.

#### Award of Bid

##### MS-14-01, OPS crew quarters, to Baldwin General Contracting, Inc.

Staff provided clarifying information related to the project size and timeline.

MOTION: Johnson moved to award the construction bid to Baldwin General Contracting, Inc. Kopczynski seconded the motion and it passed 6-0.

Report

Adopting findings for denial of Planning File CP-01-14 and ZC-100-14, Comprehensive Plan Map and Zoning Map changes, for property located at 241 Waverly Street SE; Linn County Assessor's Map No. 11S-3W-0500, Tax Lot 400.

MOTION: Olsen moved to approve the draft findings in support of a denial decision and to deny the request. Kellum seconded the motion.

Kopczynski said Council directed staff to find reasons to deny the application and, in theory, could now ask them to find reasons to approve it and keep going in circle. He said the impetus for Council making this request was input from the approximately 16 - 18 people involved, yet there were far more than that who showed up for the marijuana issue, and the Council didn't follow their wishes.

VOTE: The motion passed 5-1, with Collins voting no.

Konopa said this decision may be appealed to the Land Use Board of Appeals within 21 days.

BUSINESS FROM THE COUNCIL

Konopa noted that discussion on the one percent for Art as related to the public safety facilities was carried over from Monday's work session. Collins said he would like to see the ordinance amended so there is a minimum of one-quarter percent with a not-to-exceed of one percent, and so that all contributions count toward that value. Brief discussion followed. Delapoer suggested that staff bring back an ordinance that gives general parameters and provides that the Art Commission makes a recommendation and the Council makes the final decision. City Manager Wes Hare said that since we don't yet have final construction costs, he recommends Council proceed with construction of the fire station with the inclusion of the space necessary for the fire apparatus, but not necessarily the reconditioning of the steam engine, and the building of the police station with the drainage elements built in but not the art work associated with the drainage elements. A decision to add art can then be made at a later time when we know more about the total budget. Staff could bring back an ordinance that allows that flexibility.

MOTION: Kellum moved that we keep the size of the space that the Arts Commission recommended for the fire station at their recommendation, and not go forth with any reconstruction of engines and other amenities until we know what the funding sources and the funding needs will be. Collins seconded the motion.

Olsen said, we have four outstanding pieces of fire equipment and this is the only chance we have for a decent fire museum in Albany; he would like to see our downtown be special and doesn't want to pass up this opportunity. In response to his questions, Fire Chief John Bradner clarified that the Art Commission endorsed the project of refurbishing the steamer, but they didn't make a recommendation on space needs. The architect designed enough space for one antique apparatus in the front lobby.

WITHDRAWN: Kellum withdrew the motion.

Collins asked if there is room on the fire station site to expand the lobby and accommodate three apparatus. Bradner said the current lobby is about 850 square feet and the space needed to display an antique apparatus is roughly 200 square feet. With public space area of about 450 square feet and circulation area of about 200 square feet, his rough estimation is that an additional 200 feet would be needed for each additional apparatus. At the architect's estimate of \$200 per square foot, that would be about \$40,000 per additional vehicle in that space. Due to the need to maintain sight clearance for apparatus pulling out, he doesn't think there is the physical space for all three apparatus, but he could check with the architect. Hare noted that there would be other associated costs in addition to the construction costs. It was agreed that staff will bring back a draft ordinance.

Konopa said she was contacted by a business owner who was approved for a marijuana dispensary at the triangle area near the intersection of Pacific Boulevard and Santiam Highway. When the ordinance was established, Konopa said, she looked at the maps to see how the 300-foot setback from residential zones would impact the community, and she had noted this location was less than 300 feet from the apartments near Staples. However, she had measured from tax lot to tax lot while the ordinance calls for measuring to the residential zone. The apartments are on a split-zoned lot with the front part being zoned Community Commercial, and the measurement from the dispensary site to the Residential zone is more than 300 feet.

Delapoer added that staff reviewed the application, found the property was further than 300 feet of any property zoned Residential, and told the applicants in writing that they met the requirements. He said the applicants may sue if they are prevented from opening their business and he thinks the City would have a vulnerable legal case.

Konopa said this is a visible location and, if allowed, the site will be grandfathered as a medical dispensary. She is trying to keep dispensaries away from residential zones. She asked if Council wanted to direct staff to respond with a denial of the application. There was not support to do so. There was agreement that the existing regulations will be brought back in a work session for additional discussion. Items for discussion would include whether the 300-foot

setback should be to the property or the zone; reconsideration of the exemption for industrial zones; and potential time, place, and manner restrictions for marijuana facilities.

Coburn said he thinks Councilor Olsen has a great idea with the fire museum, and he will want to discuss that further.

Kopczynski noted that the Chevron station on west Pacific Boulevard has changed to a Mobile station.

Konopa expressed appreciation to the Moda Center for including Albany in their Trailblazers - Rip City events. She said all of the representatives were very nice and the kids who participated had a great time.

Assistant Public Works Director/Operations Manager Chris Bailey said the Albany Area Metropolitan Planning Organization has a compressed timeline to develop their transportation project improvement list. Staff would like to include two of the Hill Street phases, as well as a third project from the Capital Improvement Program that they believe would score well. She requested general approval with some flexibility. There was general agreement.

NEXT MEETING DATE

Work Session: October 12, 2015  
Regular Session: October 14, 2015

ADJOURNMENT

There being no other business, the meeting was adjourned at 11:15 p.m.

Respectfully submitted,

Reviewed by,

Teresa Nix  
Administrative Assistant

Wes Hare  
City Manager