

CITY OF ALBANY  
CITY COUNCIL WORK SESSION  
Municipal Court Room  
Monday, April 25, 2016  
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: Councilors Bill Coburn, Floyd Collins, Bessie Johnson, Rich Kellum, Ray Kopczynski, and Dick Olsen

Councilors Absent: None

BUSINESS FROM THE PUBLIC

None.

TIME, PLACE, MANNER OF OPERATIONS FOR RECREATIONAL MARIJUANA BUSINESSES

City Attorney Sean Kidd provided background information. Council passed an ordinance last November which banned all business aspects of recreational marijuana. Based on state law, the issue will be referred to the voters in November. The ordinance did not address medical marijuana businesses. Medical dispensaries are regulated under the Albany Municipal Code but there are no regulations for medical marijuana processing. Today, he would like to talk about time, place, and manner regulations for recreational marijuana businesses in the event that the ban is not passed by the voters.

Kidd said state law states that both medical and recreational marijuana businesses may not be located within 1,000 feet of a school and that medical marijuana businesses may not be located within 1,000 feet of each other. The state went the other way with recreational marijuana businesses, stating that local regulations cannot require them to be more than 1,000 feet apart. The City's regulations for medical marijuana dispensaries are that they cannot be located within 300 feet of a residential zoned property with exceptions for property located within Light Industrial, Heavy Industrial, or Industrial Park zones.

Kidd said there are several options for time, place and manner regulations and he will offer some options just to get the conversation going. Council could apply the same regulations for recreational marijuana businesses as are in place for medical marijuana businesses but remove the industrial zone exception. Regulations could also be added to redefine how the distance is measured, such as property line to property line, and/or state that the distance is from any property that contains a recreational marijuana business to any property that contains any residential zoning.

In response to a question from Konopa, Kidd said Council could regulate medical dispensaries and processors any way it deems fit. It would be possible to remove the industrial exception or ban all new medical marijuana facilities; however, those already in place would be grandfathered in.

Councilor Rich Kellum asked if the grandfathering would apply to the business or the people running it. City Manager Wes Hare said grandfathering is based on use, not ownership. If the business closes for more than a year, it is no longer considered to be a conforming use and loses non-conforming status.

Kidd reviewed discussions he has had with the League of Oregon Cities (LOC) related to time, place, and manner regulations for recreational marijuana. The LOC was not aware of any cities that had yet placed those regulations, and said they would be coming out with model rules in late May or June. He suggested Council might consider waiting to see that model before adopting their own regulations. The LOC also expressed concern that cities adopting regulations for a ballot measure that hasn't occurred could receive pushback that they are trying to influence the vote. He noted that if the ban is voted down, the Oregon Liquor Control Commission (OLCC) would not issue licenses until January 2017, giving about a month and a half to allow cities to adopt time, place, and manner regulations.

Kellum said he would like to have the regulations drafted even if they are not adopted prior to the election. He is concerned about being so ambiguous that people spend money and purchase property for an operation that will be disallowed. Kidd said he understands the concern; however, he noted that in that situation, the person would be making an investment on something the City has already stated is illegal, which is a big risk.

Councilor Ray Kopczynski said that in his view, it all comes back to the need to be reasonable. He would like to see maps showing where businesses would be allowed under various regulations. Kidd reiterated that there are countless options and that it would be helpful if staff had some direction regarding what criteria Council would like to see with the maps. Again, he is not making recommendations, but potential ideas could include that recreational marijuana businesses could not be located within 1,000 feet of each other; within 1,000 feet of the public library; and/or within 1,000 feet of a public park, playground, or recreational facility like the Boys & Girls Club or the YMCA. Konopa said she understands the intent, but some of these ideas could be more cumbersome for staff to enforce.

Kidd said the resolution and ballot title could come to Council in May; however, there is concern that once the resolution is adopted, staff will be very limited in what information they can give to Council due to the Secretary of State manual on what staff can say about ballot measures. Following brief discussion, Council indicated that they would like to see the resolution in May even though it may not be adopted at that time.

Hare referred to the LOC model ordinance process which, he said, is essentially a research function where they try to look at unintended consequences and issues that cities might be concerned about. They give a sense of what is possible under the law and what is likely to be challenged to help guide local decisions. This doesn't have to slow the local process, but he thinks it may be a good idea for Council to consider that model ordinance. Kellum suggested that Council could share their ideas with the LOC so that they could be included in the information shared with others.

Konopa asked Councilors to state what information they would like to see come back.

Councilor Floyd Collins said he would like to see a flowchart showing both recreational and medical marijuana businesses, the state rules, and rules the Council might consider.

Councilor Dick Olsen said he would like to see marijuana businesses regulated the same as beer, wine, and hard liquor businesses.

Kopczynski agreed with Olsen but said he doesn't think that is realistic. He would like to see the flowchart suggested by Collins, as well as colored maps with multiple overlays showing the ramifications of some of the potential decisions.

Planning Manager Bob Richardson asked if the concern is location or impacts. Kopczynski said his concern is location; he wants a map so that someone who wants to open a business has more certainty about where that can potentially be done.

Coburn liked the idea of a map with overlays that increasingly black out areas where the use would be disallowed based on various restrictions. He agreed that we need to be left with a map that shows where businesses could possibly locate that could be shared with those who are interested in opening a business.

Kellum and Johnson agreed with what has been requested.

Kidd commented that cities are allowed to adopt reasonable time, place, and manner regulations; but they cannot disallow through zoning what the voters have said they want to be allowed.

Kidd said another question for the Council is whether they would like to adopt an ordinance that places a 3 percent tax on the sale of recreational marijuana on the November ballot. Kopczynski said the current state tax of 25 percent will go to 17 percent next year, and he doesn't think voters would balk at having a local tax of 3 percent, which the City could use any way they choose. Following brief discussion, it was agreed that this should come back to Council for further discussion and consideration.

#### ACCEPTING JEFF CHRISTMAN'S RESIGNATION FROM THE TRANSIENT LODGING TAX (TLT) AD HOC COMMITTEE

MOTION: Collins moved to accept the resignation and send a letter of appreciation. Kopczynski seconded the motion, and it passed 6-0.

#### APPOINTMENT TO THE TLT AD HOC COMMITTEE

MOTION: Kellum moved to accept the appointment of Steven Reynolds to the TLT Ad Hoc Committee. Kopczynski seconded the motion, and it passed 6-0.

#### BUSINESS FROM THE COUNCIL

None.

Albany City Council  
April 25, 2016

CITY MANAGER REPORT

Public Works Engineering and Community Development Director Jeff Blaine advised that an open house for the Gibson Hill/Crocker intersection options would be held May 19, 4:00 p.m., at City Hall. He said that staff from the cities of Albany and Lebanon met to exchange drafts for the IGA related to the canal, and that would likely come to Council in June. He referred to the Local Improvement District (LID) on Crocker and stated that the developer and Benton County have paid their portion of the assessment and that the park property should be transferred to the County sometime this week.

ADJOURNMENT

There being no other business, the meeting was adjourned at 5:10 p.m.

Respectfully submitted,

Reviewed by,

Teresa Nix  
Administrative Assistant

Wes Hare  
City Manager