

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL

January 19, 2016

The minutes of the proceedings of a regular meeting of the City Council of the City of Coos Bay, Coos County, Oregon, held at 7 p.m. in the Council Chambers at City Hall, 500 Central Avenue, Coos Bay, Oregon.

Those Attending

Those present were Mayor Crystal Shoji and Councilors Fred Brick, Mark Daily, Jennifer Groth, Stephanie Kramer, Mike Vaughan, and Thomas Leahy. City staff present were City Manager Rodger Craddock, City Attorney Nate McClintock, Finance Director Susanne Baker, Library Director Sami Pierson, Community Development Director Eric Day, Public Works Director Jim Hossley, Fire Chief Mark Anderson, and Police Chief Gary McCullough.

Flag Salute

Mayor Shoji opened the meeting and led the Council and assembly in the salute to the flag.

Public Comments

Ken Folker, Coos Bay: Thanked public service employees and veterans for their service; and suggested the Governor of Michigan step down due to the water quality issues. Blair Holman, Coos Bay: Presented a petition and requested funds be budgeted as a public safety issue to improve the Nutwood Avenue roadway at Koosbay Blvd.

Councilor Vaughan entered at 7:05 p.m.

Consent Calendar

Mayor Shoji reviewed the consent calendar which consisted of 3a: approval of the minutes of January 5, 2016; 3b: acceptance of the December 2015 accounts payable and payroll check registers; 3c: acceptance of the December combined cash report; 3d: approval of the annual system development charge revenue and expenditure report; 3e: acceptance of a Coquille Tribal Community Fund grant for purchase of National Fire Protection Association (NFPA) compliant fire hose, and; 3f: acceptance of the Urban Renewal Agency (URA) annual financial report for fiscal year FYE 2015. Councilor Kramer moved to approve the consent calendar approving the minutes of January 5, 2016, accepting the December 2015 accounts payable and payroll check registers, accepting the December combined cash report, approving the annual system development charge revenue and expenditure report; accepting a Coquille Tribal Community Fund grant for purchase of (NFPA) compliant fire hose, and accepting the URA annual financial report for FYE 2015. Councilor Brick seconded the motion which carried with Mayor Shoji and Councilors Brick, Daily, Groth, Kramer, Leahy, and Vaughan voting aye.

New Council Business

No new council business was presented.

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Presentation on the City Audit for Fiscal Year Ending 2015 by Auditor Tara Kamp

Finance Director Susanne Baker stated Pauly, Rogers and Co., P.C. were retained to perform audit services for the City of Coos Bay; briefly explained the audit process. Tara Kamp of Pauly, Rogers and Co., P.C. stated the City of Coos Bay's audit for fiscal year ending June 30, 2015 (FYE15) was completed and the Council had the document before them. The first component of the audit was of the financial statements to verify compliance with generally accepted accounting principles, the second part of the audit was to ensure compliance with Oregon Municipal Audit Law, compliance with Oregon Budget Law and testing of bids and quotes. The third part of the audit process for FYE15 included a review of federal grant awards and expenditures with no exceptions noted.

Ms. Kamp commended the Finance Department noting they were a leader in the industry with their use of technology for business processes and efficiency and often refers other clients to call the City of Coos Bay for process changes. Ms. Kamp noted the Statement of Auditing Standards 114 (SAS 114) required communication with management of the results of the audit; resulted in an unmodified opinion or clean audit; and "no management comments"; stated based upon the audit and testing, financial statements were fairly presented, there were no difficulties in performing the audit, no disagreements with management or the accounting, and adjusting entries were completed together with staff. Councilor Groth asked the impact of GASB 68 regarding future bonding. Ms. Kamp stated in her discussions with bonding agencies they had stated to her that the pension liabilities were already considered in the past and the results were not a surprise. Mayor Shoji asked what additional monitoring activities could be completed as noted in the audit wherein Ms. Kamp said the current practices were sufficient and should continue to be reviewed and noted in the minutes as was the practice. Mayor Shoji complemented Finance Director Susanne Baker and the Finance Department staff for a consistently excellent audit. Councilor Groth moved to accept the FYE15 City audit report in compliance with SAS 114. Councilor Daily seconded the motion which carried with Mayor Shoji and Councilor Brick, Daily, Groth, Kramer, Leahy, and Vaughan voting aye.

Presentation of Semi-Annual Bay Area Chamber of Commerce Activity Report

Rick Skinner, President of the Bay Area Chamber of Commerce (BACC) provided information on BACC's various committees and boards; noted the 2016 Chamber Directory would be available later this month; and was complimentary of the background and qualifications of Timm Slater. Other updates included information on the Chambers efforts to promote tourism, Chamber operations, and staff and director activities. Mr. Skinner announced Barry Winters would be the 2016 BACC President. Mr. Rob Taylor asked if the Bay Area Chamber of Commerce would support marijuana businesses. Mayor Shoji stated this was not the time for the Bay Area Chamber of Commerce to address the issue.

Consideration of Appointments to the Budget Committee

City Manager Rodger Craddock noted there were three openings on the Budget Committee. Applications were received from Harold Folker, Steve Horne, and Joseph Monahan requesting consideration for appointment. Councilor Groth moved to appoint Harold Folker, Steve Horne, and Joseph Monahan for three-year terms ending December 31, 2018. Councilor Daily

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seconded the motion which carried with Mayor Shoji and Councilors Brick, Daily, Groth, Kramer, Leahy, and Vaughan voting aye.

Review of Medical/Recreational Marijuana Businesses

City Manager Rodger Craddock stated during the December 1, 2015 Council meeting, City Attorney Nate McClintock provided the Council an update on legislative changes in Oregon in regards to medical and recreational marijuana; also provided the Council clarification on the City's home rule authority, specifically the Council's ability and options to regulate marijuana related businesses within the City. The Council postponed further discussions on the topic until its meeting on January 1, 2016 and announced it would take written comments from the public in the interim. At the time of authoring, this report staff received seven written public comments which were provided to Council.

At the request of Council, staff researched oaths of office taken by elected officials in other jurisdictions and if their oaths were similar to Coos Bay's. There were 242 incorporated cities in Oregon. Staff found nearly all city charters required an oath of office similar to Coos Bay. Based on the Oregon Health Authority's (OHA) website, there were currently 335 registered dispensaries in Oregon. The majority of cities in Oregon did not have registered medical marijuana dispensaries. Based on information found on OHA's website, registered dispensaries were found in 63 of the 242 incorporated cities in Oregon. An additional ten unincorporated areas were home to registered dispensaries. In Coos County, there were four registered dispensaries; two in North Bend, one in Charleston, and one in the unincorporated area known as Bunker Hill. Mr. Craddock suggested Coos County was similar to the rest the State in that the majority of incorporated cities did not have registered dispensaries within their jurisdiction.

Mr. Craddock provided the Council with a list of Oregon's incorporated cities with the number of dispensaries registered in the ZIP Code of the corresponding city along with a matrix listing the seven regulated (requiring registration and/or licensing) marijuana activities under current Oregon law. The activities were separated into two categories - medical and recreational. The matrix included the State's regulating authority for each of the activity categories as well as whether or not the activity would require a business license if conducted in the city limits of Coos Bay and Coos Bay's relevant Lane Use Rules (e.g. in what zones could the activity take place if a business license was granted). Moving forward, the Council had the following options:

1. Do nothing. Rely on the City's business license ordinance which required the business to comply with local, state, and Federal law. Since the production and sale of marijuana remained illegal under Federal law, the City would not issue a license for any business growing, processing, or selling marijuana or its derivatives. A business operating in Coos Bay was required to have a business license.
2. If it was the Council's desire to ban state-registered and state-licensed marijuana activities from operating within the City, the Council could enact an ordinance banning any of the state registered and/or licensed activities (with the exception of medical marijuana grows) from operating in the City, but the ordinance would be referred to the voters at a statewide general election meaning an election in November of an even-numbered year.

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3. If the Council wished to allow marijuana businesses, other than commercial marijuana growing, the current business license ordinance could be amended to allow for the issuance of a business license to any business that complies with local and state law. Should this be the desire of the Council, the Council may want to have staff and the Planning Commission consider adding some time and place restrictions, as other cities had done, above and beyond those listed in recently amended state laws. The Council should consider providing specific policy direction to staff and the Planning Commission in this case.
4. If the Council wished to allow commercial marijuana growing within the City limits (currently precluded from occurring as this type of agricultural use outright prohibited in the City's adopted land use rules), the City's land use rules would need to be amended. The process, as prescribed by the State, would involve the Planning Commission, City Council, Oregon Department of Land Conservation and Development, and the public and would take a minimum of six months to complete.
5. The Council could refer the question of amending the City's business license ordinance to allow state-registered and state licensed marijuana activities to operate within the City (within the confines of the City's land use rules) to the voters. Should the Council choose to do so, the matter could be referred to the voters in the November 2016 general election.
6. Should the Council move forward with Option 5, the Council may want to consider imposing a local tax. House Bill (HB) 3400 provided the ability for cities to adopt an ordinance, which must be referred to the voters, imposing a tax or fee of up to 3 percent on the sale of marijuana items by a retail licensee. However, per HB 3400, if a city adopted an ordinance prohibiting the establishment of any recreational marijuana licensees or any medical marijuana registrants in the city, the city may not impose a local tax under this provision of the legislation.

Councilor Leahy asked City Attorney McClintock his advice regarding the oath of office sworn by Council Members. Mr. McClintock stated the oath of office required the Council uphold the United States and Oregon constitutions which were in conflict with regards to permitting marijuana. Regardless of the decision there would be a conflict with one of the constitutions.

Ken Folker, Coos Bay: Recommended lifting the moratorium and adopting option 3 or 4 and was not opposed to a local tax. Jim Deatherage, Coos Bay: Suggested the State's rules were sufficient and to accept what had already been adopted; stated people needed access to safe medical marijuana dispensaries; and there was already a vote which allowed medical and recreational marijuana. Rob Taylor, Bandon: Stated the Chamber of Commerce was created to prevent over regulation of government and suggested the City was already in violation of immigration and Second Amendment rules and Coos County was a sanctuary county. Stated he had seen elderly in the marijuana dispensaries and they welcomed a safe place to procure their marijuana and option 3 was his choice. John Cauthorn, Coos Bay: Stated he had medical conditions which made sleep difficult and requested medical marijuana dispensaries be allowed. Stephanie Eaton, Coos Bay: Worked at the Stonies dispensary and made a living wage for the first time in her life and supported dispensaries; encouraged more opportunities for children in Coos Bay; was disappointed in the local schools; and viewed marijuana as a resource for

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improvements to better the community. Jason Heffner, North Bend: Stated there were already too many laws that govern marijuana and there did not need to be any more for marijuana. A dispensary did not sell to underage children and kept people from having to obtain it in an alley. Robert Metcalfe, North Bend: Owned Stonies dispensary in North Bend and supported all of the small independent growers and would like to get rid of the marijuana black market; estimated up to \$6,000,000 in revenue would be brought into the community if the independent growers could go to Stonies in North Bend. Stated he supports local growers by paying the highest price in the area and wanted a legal dispensary in Coos Bay. Councilor Daily asked if growers could grow for other people and Mr. Taylor stated the growers had to register with the City. Marcella Simerly, Coquille: Stated she was a cannabis nurse and was concerned with the black market, untested market, and their selling to anyone who had cash. Suggested following the state rules, regulations, and guidelines; and believed there had been many wars over drugs and would like to see it stopped. Gene Landrum, Coos Bay: Stated he knew the rules well, had been in the wine industry for many years, appreciated the Councilor's oath of office; and would like to sell recreational marijuana at his Coos Bay location.

Councilor Brick stated he was a 52 year old who has never used marijuana and does not have a problem with a dispensary. If there was excess grown it should allowed to be taken to a dispensary and the State already had addressed many concerns with regulations. Councilor Groth stated those who testified inferred an urgency wherein there seemed to be sufficient dispensaries already surrounding Coos Bay; the laws were in flux and did not see a reason to be on the vanguard; and would be most comfortable with option 1, doing nothing. Councilor Kramer stated she agreed with Councilor Groth about the sense of urgency and would not object to action; would support requiring a city business license; and would want to limit the number of dispensaries. Councilor Vaughan was in favor of option 3, did not believe there was an urgency, and opted to move forward. Councilor Leahy stated after the work session he had sufficient time to drive to Stonies, go into the dispensary and inquire about marijuana, drive home, and then arrived before the Council meeting began which evidenced marijuana could be obtained easily. Councilor Daily stated he had a conflict because the voters voted him onto the Council and he has to uphold Federal and State Constitutions; suggested option 5 and 6; and personally thought it would be a good idea. Mayor Shoji stated there should not be a limit on the number of dispensaries if approved, not to permit grows, and agreed with Councilor Daily on supporting option 5 and 6.

Councilor Daily moved to refer the question of amending the City's business license ordinance to allow state-registered and state licensed marijuana activities to operate within the City to the voters in the November 2016 general election. Additionally, refer to the voters to impose a local tax or fee of up to 3 percent on the sale of marijuana items by a retail licensee. Councilor Kramer seconded the motion which carried with Mayor Shoji and Councilors Daily, Kramer, Leahy, and Vaughan voting aye and Councilors Groth and Brick voting nay.

City Attorney's Report

No comments were given.

City Manager's Report

City Manager Rodger Craddock stated the AFSCME labor union negotiations have begun.

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Council Comments

Councilor Brick thanked the employees at Bay Area Hospital regarding his care as a result of a recent injury. Councilor Groth stated there would be a no-cost training at South Slough on February 25, 2016 on green coastal infrastructure. Councilor Kramer was pleased the South Empire Blvd project had begun. Mayor Shoji stated on January 27th both the Coos Bay and North Bend Mayors would be at the Bay Area Chamber of Commerce Business Connection lunch. Councilor Vaughan stated the Liberty Theatre would be having a fundraiser on January 22nd.

Adjourn

There being no further business to come before the Council, Mayor Shoji adjourned the meeting. The next regular Council meeting was scheduled for February 2, 2016 in the Council Chambers at City Hall.


Crystal Shoji, Mayor

Attest: 
Susanne Baker, City Recorder