

ONTARIO CITY COUNCIL MEETING MINUTES
Monday, April 6, 2015

The regular meeting of the Ontario City Council was called to order by Mayor Ronald Verini at 7:00 p.m. on Monday, April 6, 2015, in the Council Chambers of City Hall. Council members present were Ron Verini, Norm Crume, Tessa Winebarger, Charlotte Fugate, Thomas Jost, Larry Tuttle, and Betty Carter.

Members of staff present were Tori Barnett, Larry Sullivan, Marcy Siriwardene, Kari Ott, Mark Alexander, Jerry Elliott, Dave Van Wagoner, Betsy Roberts, Cliff Leeper, and Mark Saito. The meeting was recorded, and copies are available at City Hall.

Charlotte Fugate led everyone in the Pledge of Allegiance.

AGENDA

Charlotte Fugate moved, seconded by Betty Carter, to adopt the Agenda as amended. Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-yes; Carter-yes; Verini-yes. Motion carried 7/0/0.

CONSENT AGENDA

Norm Crume moved, seconded by Charlotte Fugate, to approve Consent Agenda Item A: Minutes of the Regular Meeting of March 16, 2015; and Item B: Approval of the Bills. Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-yes; Carter-yes; Verini-yes. Motion carried 7/0/0.

PUBLIC COMMENT

William Lopez, Ontario, apologized for his behavior at a previous Council meeting. He had been in a great deal of pain at the time. He invited the Council to an event that would provide information to the Council and Police Chief. He distributed flyers [*copy attached*], and voiced his support for medical marijuana facilities.

Macie Saito, Ontario, invited everyone to attend the annual Treasure Valley Christian School Baked Potato Dinner. It would be held on April 18, 2015, beginning at 5:00 p.m. and it was \$10 for adults and \$5 for children.

Scott Matthews, Emmett, Idaho, wanted to comment on the city attempting to implement spot zoning. At the March 2nd meeting, he had been asked what his zone was, and that confused him. He was told to contact Planning and Zoning to find out his zone, but he knows what his zone is. He gave an answer to them, and they corrected it. That was spot zoning. Footage is from a dispensary that was on their list of questioning for footage to a residence, footage to a child-care center. They knew where he was at. He was registered for almost a year. His renewal was this month. Those footages didn't apply for them. That's spot zoning. Council put in there that they can't have a facility on the same tax lot as a smoke room or a grow site. He was a registered grow site for over two years. They knew where that was at. The surprising one was the smoke room, because it was actually a medication room for Idaho patients. Ron [Verini], Mark Alexander and he had a conversation a while back, and that was one of Mark's concerns, was the Idaho patients. He took the time to call Salem and spoke about the medication room. It would be were an Idaho patient could come in, get their medication, take their medication in our town, where it was legal, and their caregiver could give them a ride back. The medication wasn't taken across. But, in the ordinances they were trying to change, they didn't want a dispensary on the same tax lot as a smoke room or a grow room. There were several other state laws that were in question. Extending the moratorium, the spot zoning, and he believed this current "emergency" meeting was in question. Ron and Charlotte [Fugate] both had mentioned several times that this should have been done six or eight months ago. Three and a half weeks before he could

open, the Council was having an emergency meeting to incorporate a business license for medical marijuana facilities, basically to extend it past May 1st. They had six to eight months to start talking about this. They'd been at the meetings, been invited, asked what did they need to do? It didn't happen. He believed it was morally wrong, and it was unfair to the medical patients in this community. Lastly, about the work session last Thursday, Nicole, the school Superintendent, and Lindsey, he had read the comments in the paper, represented the Drug Free Coalition, after reading it, he thought she was for the dispensary. A dispensary, as they'd talked about before, it joined the growers and the patients. He spoke in Vale to the Superintendent, about kids bringing marijuana to school. With their facility, and the tracking devices they had to have with state ordinance, they could track every plant, every grower, track the plant to what exactly it produces from seed to sale. They could track all the patients. If a child brought in marijuana, go to the parents first. If the parent was a medical patient, they could find out how much product that patient was getting every week. If they were getting a pound a week, they were in business. It was time to look at them. If that parent was only getting four or five grams, it was for medical purposes. Then they'd need to look at the kid, or maybe look at the parent to lock up the product. On the edibles, he agreed. They were not going to do that type of edibles. That's probably something they should have talked about. He did not like the edible program in the packaging, but Oregon was looking into that. They would not do that. They would not allow that, and he wouldn't either. It was child proof packaging. His facility gave good access to the patients, it controlled the growers, and the packaging, and the testing. He believed the Council needed to vote no on this business license, and they needed to go back and vote no on extending the moratorium. Thank you.

Dan Capron, Ontario, opposed all dispensaries. The people coming into Ontario because of the marijuana would not be good people.

Judith Kirby, Ontario, stated she had spoken with the Oregon Health Authority and found some information the Council might like to have: #1, if they allowed dispensaries, they couldn't be grow sites. Dispensaries had to be legal residents of Oregon, but growers did not have to be, nor did consumers. But, if consumers came here with a medical card, they could not legally cross the state line. They had to consume it in Oregon. If they crossed the state line, they were committing an illegal act. The city could not tax, fine, or in any way increase the cost of medical marijuana to cover the costs of the city. The only option was to implement business restrictions and licensing. Rules about so much money per person, as they'd discussed last Thursday, was not going to fly. They were also told that they should wait and have OLCC help with this. There were 40 bills in the Oregon Legislature currently, and it was felt that something was going to come out of the Legislature before they ended, and it would possibly be medical marijuana being merged with OLCC, recreational, and that OLCC would take charge because the Oregon Health Authority did not have the staff to do it. She supported a ban, as she felt that had more legal footing, and she didn't want to spend \$1M chasing their tails because there was no way to enforce it once opened.

John Kirby, Ontario, provided a list of grow sites he was aware of: On 4th Avenue, Four Seasons Gardening Supply, 329 South Oregon, was gardening supplies to "grow your own"; Old School was a place to purchase paraphernalia; a supposed dispensary to go next to the Holland Sew Shop; the Center Twin Theater had a grow site inside; the forklift building, 315 North Oregon was a grow site; 420Ville at 432 North Oregon; the building he occupied, the former JIM building, was a proposed grow site; Blankenship, was a grow site; the building next to Dunbrasky Pediatric Clinic – that was children – was a grow site; the Happy Hippy behind K-Mart, was a paraphernalia shop. The Council was discussing an Urban Renewal Project, but there was one on the way. It wasn't how he'd like to see his city. He wasn't against sick people, and people in pain suffered, but risking the entire city to help a few people in pain was not a good idea. It was the law, it would come, but they needed to control it. Right now, they needed to clamp down on this, slow it down, and let the Legislature work. His comments from Thursday's work session were more true today than they had been then. The grow sites were what was out of control. They could not account for that. Most was leaving the state, much was going underground. Ontario already had four or five in town. It was all confidential information – the Police Chief couldn't get some information. Many of the Council had a platform of Public Safety – that's why they were elected, and this was public safety. He and his wife had been up and down the streets, and among the citizenry that ran businesses in town, he'd not found one person in favor of this. The Council had a task in front of them, but they only thing they had as a tool, was that business license. And, if that was their only tool, use it, and let the Legislature work.

Jeff Pace, Ontario, wanted to remind the City Council of how the County voted: 2 to 1 in opposition to the Measure. Ontario didn't need the bad influence of marijuana facilities, and there would be unintended consequences. He, too, had constant pain, due to an accident, but he still felt that this not something Ontario needed.

Aaron Varela, Boise, stated that per Measure 91, there couldn't be a ban or moratorium on marijuana.

Stormy Ray, Ontario, spoke about the ban on medical marijuana facilities. She supported medical marijuana.

Mike Blackaby, Ontario, stated he'd been in the City of Ontario for generations. He is a business owner and is concerned with having marijuana. There are problems in the school district with children who have marijuana from parents who have marijuana cards, and many insurance carriers would not cover these facilities. Times changed, and Ontario has changed, and they needed other businesses here, but not medical marijuana. He didn't believe it could be controlled, and thought it was a very bad idea.

Teresa Symands, Vale, stated her support medical marijuana to get her medicine, and voiced her agreement with the comments from the earlier speakers, who stated their support.

NEW BUSINESS

Resolution #2015-112: Request to Lease-Purchase Two Patrol Cars

Mark Alexander, Police Chief, presented.

In October, 2013, the Council approved allocating 26.25% of Motel Occupancy Tax to a Public Safety Reserve Fund.

The Police Department needed to replace two patrol cars. Funding for the purchase was proposed to come from the Public Safety Reserve Fund. The Department utilized patrol cars to respond to emergencies and for patrol purposes, and the vehicles needed to be safe and reliable. Currently, there were two (2) 2008 Dodge Chargers that were in need of replacement. Both were purchased in January, 2008, for \$22,470, which had not included the costs associated with equipment and installation. These below vehicles were intended to be taken out of service and replaced during both the FY 2013-14 and FY 2014-15 budget processes, but this action was not taken due to budget constraints.

Vehicle #64 had approximately 111,000 miles with a lifetime repairs and maintenance cost of \$12,478. Recent repairs included a water pump, ignition coil, overhead light repairs, front end parts, fuel pump, brakes, and a wiper delay switch. The most recent repair cost was \$3,263. The vehicle had also experienced engine and engine management repairs and/or replacement needs in 2013.

Vehicle #65 had approximately 123,000 miles with a lifetime repairs and maintenance cost of \$9,459. Recent repairs included front end parts, fuel pump, brakes, and overhead repairs. Recent repair costs sat at \$2,047. Last week, a shutter was noticed in the transmission when engaging it into gear, so the vehicle will likely require some type of transmission repair in the near future.

The Police Department obtained quotes for a three-year capital lease-purchase of patrol cars. The initial cost of two (2) fully equipped cars was quoted at \$64,190, with yearly payments at \$22,051. The Department would like to begin the replacement process now, utilizing funds from the Public Safety Fund for the first year, and allocating funds for the subsequent two years, beginning with the FY 2015-16 budget process.

If the Council declined this purchase as presented, there were other options available. Funding did not have to be taken from the Public Safety Reserve Fund and could be allocated from another funding source, or the proposal would be before them during the FY 2015-16 budget process as a CIP.

Councilor Tuttle asked why this proposal wasn't in the budget.

Chief Alexander stated it had been, as a CIP.

Councilor Tuttle voiced his opinion that this action should go before the Budget Committee, and requested through the upcoming budget.

Charlotte Fugate moved, seconded by Tessa Winebarger, to approve **Resolution #2015-112, A RESOLUTION AUTHORIZING THE LEASE-PURCHASE OF TWO (2) POLICE PATROL VEHICLES FROM THE PUBLIC SAFETY RESERVE FUND**. Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-no; Carter-yes; Verini-yes. Motion carried 6/1/0.

Resolution #2015-113: Child Protection Zones Update

Mark Alexander, Police Chief, presented.

The proposed resolution would modify the current list of Child Protection Zones established under Ordinance #2665-2012. Section 2 (A) of that ordinance allowed additional protection zones to be added by resolution. Modifications were done by addition (*underlined*), deletion (*lined through*), or correction (*underlined*). On June 4, 2012, the Council passed Ordinance #2665-2012, which modified and renewed Municipal Code Title 7, Chapter 6, Sections 1 and 2 relating to Child Protection Zones.

Locations needed to be amended due to inapplicability, address changes, or requests to be added. This resolution eliminated Treasure Valley Community College dorms, changed the address of the Boys and Girls Club of Western Treasure Valley, and added both the STAR Center and Giggles and Grace Early Learning Center.

Councilor Tuttle asked if this was a complete list? Wasn't there a park on the East Side? That wasn't listed. Also, on the old Lindbergh School, he had the Oregon Child Development Coalition; didn't they have children there?

Chief Alexander replied that he thought it was, but Councilor Tuttle's comment was correct. Regarding OCDC did not want to be included on the list. Not every entity which had the option to be included, took that option. Some facilities offered services to parents who were registered sex offenders. So not all locations where children were located, chose to be on the protected list. He didn't have that in writing, but he could obtain that. He was waiting on some other schools, and he believed they would want to be listed, so he'd be back with another update, which would also include the Eastside Kiwanis Park.

Norm Crume moved, seconded by Charlotte Fugate, that the Council adopt **Resolution 2015-113, A RESOLUTION MODIFYING AND ADDING TO THE LIST OF CHILD PROTECTION ZONES**. Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-yes; Carter-yes; Verini-yes. Motion carried 7/0/0.

ORDINANCE #2700-2015: ESTABLISH OMC 22-3-MM FACILITIES BUSINESS LICENSE

Larry Sullivan, City Attorney, presented.

The City Council directed staff to prepare a business license ordinance regulating medical marijuana dispensaries, referred to in the ordinance as "medical marijuana facilities", which was the term used in the Oregon statutes. Ordinance No. 2700-2015 was taken substantially from sample ordinance language prepared by the League of Oregon Cities.

Ordinance No. 2700-2015 required applicants to submit detailed information about the nature of the business for which the license was being sought, along with a \$500 application fee. It authorized the city to conduct background checks on applicants, business associates and employees of the business. It gave the City Manager the authority to grant, deny, suspend and revoke licenses, with a right of appeal to the City Council. Any license granted was in effect for one year and must be annually renewed for an additional \$500 fee.

The ordinance established standards of operation for the business intended to minimize the impact of the business on the neighborhood. It included zoning language that was also included in the draft zoning ordinance being presented to the Planning Commission for a public hearing on April 13, 2015. The purpose of including the same zoning language in Ordinance No. 2700-2015 with an emergency clause was to allow it to be effective by May 1, 2015, in the event that any medical marijuana dispensaries attempted to open on that date despite the City Council's extension of the moratorium until August 1, 2015. If that occurred, the city would be in a position to challenge that business not only based on the city's extension of the moratorium, but also based upon the restrictions established by Ordinance No. 2700-2015.

Persons violating the terms of the license were subject to license suspensions and revocations, civil penalties, public nuisance abatement and other civil remedies, including injunctions.

Following the Thursday work session, some changes had been incorporated. Some language changes were made for clarification.

Page 1, third Whereas from the bottom, the Council requested that the word "potentially" be inserted on the second line.

Last Whereas clause on the bottom of page one, explicitly included a reference to the moratorium passed by Council via Ordinance 2699-2015, and pointed out that the language in that moratorium went into effect on May 1, 2015; it extended the moratorium to August 1, 2015, and made it explicit that if the Council passed this current licensing ordinance, it would be subject to that moratorium; therefore the licensing ordinance wouldn't go into effect until the moratorium had expired.

Page 3, 3-22-4, License Application: second line under subparagraph a), the original sentence read "applications for new and renewed licenses must be submitted to the City Manager". He added the phrase "...on forms provided by the city".

Page 4, 3-22-5, Ordinance Determination: the draft from Thursday read that the City Manager had twenty days to issue a license; that had been changed to 25, based on discussion from Thursday.

Subsection b), under Denial, 3), the previous draft read that "the applicant, principals, employees, volunteers, or persons with a financial interest in the facility, who had been convicted of a non-injury motor vehicle felony". He hadn't discussed that language with the Police Chief. That was language he'd developed. But, following emails between he and the Chief, he suggested that they use the current language from the Oregon Administrative Rules by OHA, and that only denied a license to somebody who had been convicted of a felony for the manufacture or delivery of a Schedule One or Schedule Two Controlled Substance. The language had now been added. That would apply to an applicant, as well as anyone else associated with that business.

Page 4, bottom, Application Fee, 3-22-6, they had discussed the appropriateness of the original \$500 application fee. That had been raised to \$1200 application fee for facilities with five or fewer employees, and an additional \$220 per each individual over the five.

In that same sentence, he added "non-refundable" application fee. It first read a "license" fee, but by changing it to application, the intent was to ensure that if the city denied the application, it would not result in a refund of the fee. It wasn't a license fee, it was an application fee.

Councilor Fugate verified that he was saying if the application was not approved, no money would be refunded.

Mr. Sullivan stated that was correct. That was because all the work would have been done to determine qualification for a license or not. But, the Council could change that. They could make an application fee separate from a license fee. Continuing on -

Page 7, subsection m), in the resolution passed last month, there had been a number of restrictions included in an exhibit attached to that resolution. Exhibit M was one of those, and he had omitted putting it into the ordinance. It was now added. It dealt with blight.

Page 7, third line from the bottom, Location of Facility: Chief Alexander and he had spoken about different types of licenses that were issued by the State of Oregon for child care facilities. Some were certified, some were registered, and some were titled a recorded facility. That facility had a loose application process. Therefore, #6 had been changed to read “within 1,000 feet of a certified or registered child care facility”.

Mayor Verini stated on Page 7, 3-22-12, Location of Facilities, there was also a map prepared, which showed the restricted dispensary areas around the schools and parks.

Councilor Fugate stated the map, the two red circles showed the two dispensaries that had a license. They had to be 1,000 feet from each other. She took the C-2, General Commercial code, [zone], and had those marked. She was proposing that they allow dispensaries only in the designated C-2 areas.

Mayor Verini stated regarding 1-8 on Page 7, what fell within those proposed restricted dispensary area?

Councilor Fugate stated there was a buffer zone around all Ontario schools and parks. She removed the residential buffer because it was not an issue if they dealt with only a C-2 zone. They didn't butt up against any residential areas. The two blue circles were the new additions for protection – Pilgrim Lutheran Day Care and the Star Center. Dispensaries would be limited to only the green shown on the map. It also included the two dispensaries listed.

Mayor Verini verified this meant that #1, within 1,000 feet of a public or private elementary or secondary school, that would remain; #2, within 1,000 feet of a non-commercial facility used primarily for care, education, recreation of minors, such as Head Start, Boys and Girls Club, but not including non-licensed childcare facilities; #3, within 1,000 of a public park, public playground; #4, within 1,000 feet of another medical marijuana facility; #5, the 200 feet of a residential zone was removed because of the type of commercial zone being discussed; #6, within 1,000 feet of a certified or registered child care facility, licensed by the State of Oregon; #7, should be the restriction of the same tax lot as the smoking club or marijuana grow site. He'd defer to Mr. Sullivan. Was that a state law or rules?

Mr. Sullivan replied that the marijuana grow site was; the smoking club was language that many other cities added. It was not mandated by the state. The grow site was mandated. For clarification, of the two red rectangles with the red circles around them, the one on the Southern end of town, was not in the C-2 zone. It was in the C-3 zone, the downtown commercial. Actually, neither facility was zoned correctly – i.e., in the C-2 zone.

Councilor Fugate agreed, and they were not going to allow the one in the downtown area; but the other one on North Oregon, they were working on rezoning that property. It would then qualify.

Mr. Sullivan stated staff hadn't been working on that, as no direction had been given.

Councilor Fugate stated there had been a meeting with Planning and Zoning that day, and they were working on that.

Mayor Verini asked what they were going to do about #7. The marijuana grow site was in.

Councilor Fugate stated grow sites weren't marked on the map; she didn't know where any were located.

Mr. Sullivan stated the cities didn't receive information about the grow sites. He didn't believe they had any way of knowing where official grow sites were located.

Mayor Verini stated if they were running a medical marijuana dispensary, they couldn't have a grow site, via the state rules.

Councilor Crume asked how they'd verify locations.

Mr. Sullivan stated people seemed to find them. When they applied for a license, they'd have to certify that they weren't a grow site, and they'd have to maintain that status. If they were granted the business license, and then were discovered to be a grow site, the city could revoke their license.

Councilor Crume stated there was a problem, then, because one facility certified by the state, was a grow site, and was stating it wasn't the law.

Mr. Sullivan stated he could be reported to OHA, and his license could be revoked. But, it had to be on the same tax lot. If it was on an adjoining tax lot, it wasn't a problem, and there was no restriction in the ordinance that made it a problem if it wasn't on the same tax lot. There was no requirement that it be a certain distance from a grow site. It just couldn't be on the same tax lot.

Mayor Verini stated they were following the state rules on that.

Councilor Fugate stated yes, but with the exception of a smoking club.

Councilor Tuttle asked for a definition of a smoking club.

Mayor Verini believed it was a medicine dispensary location.

Mr. Sullivan stated there were also regulations the state imposed on whether you could enter a place, and just have a spot to smoke anything – tobacco, marijuana, etc., and it was intended to not have a dispensary be a location where there was someplace set aside to consume, by smoking, any type of anything.

Councilor Crume asked how a hookah bar would be legal, where most businesses had smoking indoors was illegal. Mr. Sullivan stated that state imposed some regulations that indicated where they could locate a hookah bar, and those were very strict. But, there were ways to become licensed as a hookah bar in Oregon, but it was very limited. This would not permit that to be on the same site as a dispensary.

Mayor Verini asked if the Council added working such as "a place to consume medical marijuana, or the product used to eliminate whatever suffering occurs in an individual that has a medical marijuana card", rather than putting in a smoking club, would that suffice for a good definition to allow ingestion of product?

Mr. Sullivan stated they hadn't discussed that yet, but on Page 6, Section 3-2-11, subsection e), all of that would be prohibited in a dispensary under that standard of operation. If they wanted to change one, they'd need to change the other.

Mayor Verini stated if they approved the license, instead of scattering the product to more locations, it would be under better control and/or regulations, if located on site, for the consumption of the medicine.

Mr. Sullivan stated they be increasing the likelihood that people with medical marijuana cards, who used the dispensary, would be coming out of that dispensary under the influence of that marijuana.

Mayor Verini stated they'd had an earlier discussion stating if that was the case, the patient would be ingesting the product, and having a caregiver. He didn't think someone wouldn't want to be intoxicated and driving.

Councilor Fugate stated since the health department was supervising the dispensaries, if OLCC was handling this, they'd fine anyone who consumed the product on the premises and left without supervision or someone to take care of them, the dispensary would be liable if there was an accident, or something. That wasn't in this law.

Mr. Sullivan stated there was a regulation that dealt with on-site consumption. He believed the only way that was authorized, was if it was consumption by an employee who had a medical marijuana card that was authorized to consume marijuana while employed.

Councilor Jost confirmed that, under 333-008-1200.

Mayor Verini confirmed that read "consumption and ingestion inhalation or topical application of usable marijuana, anywhere on the premise of the registered facility, except that employee of a registered facility who is a patient may consume usable marijuana during his or her work shift on the premise of a registered facility as necessary for his or her medical condition." Therefore, #7, instead of a smoking club, it would be operation of registered facilities under that 1200 – that would be b).

Mr. Sullivan stated they could remove the words "smoking club", and leave in the language that appeared on Page 6, under e). But, that regulation didn't deal with tobacco products, so that would be added.

Councilor Fugate stated they were licensing for marijuana dispensaries – why are they talking about grow sites in this?

Mr. Sullivan replied they weren't, except to the extent that they were mirroring the state regulations. If anyone submitted an applicator to the city, confirmed to the OHA, but also to the city, that they weren't going to have a grow site in the same location as the dispensary. The city could then revoke the license, instead of just complaining to the OHA. The city had the right to impose restrictions stricter than what the state imposed.

Mayor Verini asked if it was the consensus of the Council to keep the language the same?

Unanimous consensus to keep language the same.

Mayor Verini asked if it was the consensus of the Council to agree with Councilor Fugate to restrict facility locations to the C-2 zone only, in compliance to the designated rules lines out on Page 7, numbers 1-4, 6-8 (3-2-12 Location of the Facility), and with the 200 feet removed due to irrelevance.

Councilor Fugate stated the one dispensary that was located in the downtown corridor would not be eligible to stay there.

Councilor Crume stated it was relevant. He saw plenty of residential areas, and he could see people in those areas being upset. There were a lot of homes butting up against the C-2 zone. He tried to find a better solution than the 200 feet, but couldn't. They should stay at the same level the state deemed necessary for 1,000 from any school, they should afford the same protection for the kids in their own homes.

Councilor Fugate stated that was what this proposal would do.

Councilor Crume replied not from their homes.

Councilor Fugate the state didn't need residential.

Councilor Crume agreed, and wanted to add that to it as a restriction. They, as a Council, should provide the same protection for their homes, as the state deemed necessary for the schools. He might be outvoted, but that was his stance.

Mr. Sullivan stated if they reviewed the handout, titled proposed restricted dispensary areas, every place that was green, was an authorized dispensary area, if they eliminated the 200 foot residential buffer.

Councilor Fugate agreed – and that’s exactly what she meant. Was there a better suggestion?

Councilor Crume stated yes, 1,000 feet from residential.

Councilor Fugate stated that would eliminate any dispensaries.

Councilor Crume stated he was trying to protect the citizens who voted no. They could outvote him.

Mayor Verini stated on SW 4th, the area under discussion, where was Councilor Crume talking about?

Councilor Crume stated it was behind D&B. It was obvious where all the houses were, on *both* sides.

Mayor Verini stated they weren’t opening a dispensary there.

Mr. Sullivan stated anyone could. There were no restrictions – they’d have the legal right to do that, under the state dispensary law.

Mayor Verini disagreed. They had the buffer zones overlapping that property, which wiped out that whole piece.

Councilor Crume stated that was about six blocks long. Each square was about a block and there were six of them. If they didn’t have protection for their own families and homes, anywhere close to what the state required, they’d catch major grief.

Councilor Fugate stated that Mr. Kirby had provided them statistics, and there were listed 519 patients in Malheur County, which was only about 5% of the entire population. She didn’t think they should cut off 5% of the populations. They should have the right to a dispensary. The majority of the patients were between 30-39 years of age, and 55-65, more than the younger generation. The 18-19 year age group, was only .8%. The demographics being looked at, for the age groups, 30-39 or 55-65, were the majority of the medical marijuana card holders. They weren’t potheads and dopers and young kids going out and smoking behind the barn. What was the solution?

Councilor Winebarger asked for clarification – in looking at Section A, under 3-2-12, where it gave the C-2, C-2H, and C-3, she wanted to eliminate the C-2H and C-3 and the Urban Growth Area?

Councilor Fugate stated yes.

Mr. Sullivan stated he hadn’t realized they were eliminating the UGA C-3, which they could do, but there were commercial areas outside the city limits. If they eliminated UGA C-3 so they wouldn’t be authorizing any outside the city limits. Was that the goal?

Councilor Fugate stated yes. They’d have control and it was designated to a certain area of the community. Her goal was to know where they were located, and have the ability to enforce what needed enforcement. The State of Oregon foisted this on us, and it had to be dealt with. Sticking their heads in the sand, and doing nothing, was a terrible injustice to the community and the citizens.

Mayor Verini stated instead of the 200 foot for residential zones, bring it down to 20 feet. That first property owner would be protected from a dispensary. To bring 1,000 feet would eliminate all of the locations, and not accomplish what they needed to.

Councilor Tuttle stated 20 feet was nothing. It needed a 200 foot minimum. That 20 feet wouldn’t provide any protection.

Councilor Fugate asked what they were protecting? What was the goblin?

Councilor Tuttle stated if they had a primary residence and you didn't want a dispensary next to you, that's what you were protecting. You were protecting the place you lived, and that was important to a lot of people. That 20 feet wouldn't do anything, but 1,000 was a bit too much.

Councilor Winebarger asked if that wouldn't be like that for any business? If she had a Head Start going in next door to her residence, but she didn't want the noise from the children, wouldn't it be the same concept?

Councilor Tuttle stated there were restrictions on any business going into anywhere, but particularly on ones which would abut residential areas. This wasn't new or unfounded.

Councilor Winebarger asked why they would need to "protect" our homes from this, when everyone had different views on it. Some might like it, some might not.

Councilor Jost stated he lived in a protected zone, but while 1,000 feet might be too much, 200 feet was not enough. Maybe they should look at between 400-500 feet.

Councilor Fugate stated the zones were already established. It was already a C-2 zone. She marked off the portions of the buffers that were outside the established zones.

Councilor Crume reminded the Council about the spice shops, all Hell broke loose with the businesses and residences in the area, and they acted to ban spice. The green area (C-2) was a location of one of those shops, and the surrounding businesses threw a fit. It was over by Custom Truck.

Mayor Verini stated this was apples and oranges. They weren't discussing pot shops. This was not recreational marijuana. This was medical marijuana dispensaries. They were discussing locations that were limited to the number of people that were actually able to enter the locations. If there were only 500+ in Malheur County who had the cards, and 200 for Idaho, they were limited on the number of people who were going to those locations. Not just any person could enter and purchase recreational marijuana.

Councilor Carter stated she expected the population to grow, the medical marijuana card holders.

Mayor Verini stated he didn't think it would as big a deal as some thought. With recreational marijuana, people would be able to grow their own in their homes.

Councilor Winebarger asked what the difference would be if it was dispensed by a regular pharmacy?

Councilor Crume stated a pharmacy would take a check, credit card, and the money collected went into a bank. A medical marijuana dispensary couldn't do any of those things. The pharmacy wasn't breaking federal law, and a medical marijuana dispensary was, especially if product was taken over the state line.

Councilor Fugate asked about limiting the dispensaries allowed within the Ontario city limits, like maybe only two?

Mayor Verini stated he had no issue with that, but they still had to regulate where they'd be located. If they weren't about to pass this that evening, didn't it open the city up after May 1st for any dispensary to go anywhere?

Mr. Sullivan stated there were two Council meetings before May 1st. The Council could engage in a debate, develop a consensus as to direction on this, pass on first reading, with the understanding it would be back for debate and potential second reading on April 20th, and it would still be in effect by May 1st. If passed on an emergency reading, on the second reading, it eliminated the 30-day waiting period. If done that way, there was a ban in place, if the ban was challenged, with a business license ordinance also in effect on May 1st, even if a court was to rule against the city on the ban, there would still be a business license that a dispensary had to comply with.

Mayor Verini verified there was another opportunity to pass this on the emergency basis, eliminating the 30-day waiting period, but if they didn't pass it, there would be a problem.

Mr. Sullivan stated they would need four people in agreement. There had also been some misinformation that had been in a letter, which indicated you had to have a unanimous vote in order to pass an ordinance on emergency, but that was incorrect. If an ordinance was passed on an emergency basis, it just had to be four of the seven in favor. If they didn't pass anything that evening, on first reading, and they had to vote on something at the next meeting, in order to pass it in one meeting, *that's* when it had to be unanimous. Things from the meeting could be changed for the next meeting. Only requirement there was that the changes had to be clearly identified.

Mayor Verini suggested keeping the suggestions in there, including the 200 foot buffer for residential, and Councilor Fugate's suggestion of the C-2 zone only, and to get this passed on first reading.

Councilor Jost reminded the Council he'd be out for the next work session *and* the Council meeting.

Mayor Verini asked if he could participate by phone.

Councilor Jost believed he would be able to do that.

Councilor Tuttle voiced his approval in moving forward.

Councilor Winebarger asked for a new, larger map, showing all the changes discussed.

Norm Crume moved, seconded by Charlotte Fugate, that the City Council approve **Ordinance No. 2700-2015, AN ORDINANCE ADDING CHAPTER 22 OF TITLE 3 TO THE ONTARIO CITY CODE TO ESTABLISH A BUSINESS LICENSE FOR MEDICAL MARIJUANA FACILITIES, AND DECLARING AN EMERGENCY, ON FIRST READING BY TITLE ONLY, WITH SECTION 3-2-12(A) AMENDED TO ALLOW MEDICAL MARIJUANA FACILITIES IN C-2 ZONES ONLY.** Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-yes; Carter-yes; Verini-yes. Motion carried 7/0/0.

Bid Award: WWTP Dike Manhole Replacement (Warrington Construction)

Betsy Roberts, CH2M HILL, City Engineer, presented.

Six manholes along the center dike at the Wastewater Treatment Plant had suffered significant damage from corrosive gas that formed in sanitary sewer mains. Council approved the engineering design of the project at the December 15, 2014 Council meeting. Money was budgeted for replacement of the manholes in the amount of \$65,000. Bids were opened March 12, 2015 for the Wastewater Treatment Plant Dike Manhole Replacement Project. One bid was received, in the amount of \$138,800, from Warrington Construction Corporation of Oregon.

The bid submitted for the replacement of the six manholes was more than double the budgeted amount originally identified for the project. Budgeting was developed for this project prior to the arrival of CH2M; it seemed apparent from the budget amount that the team conducting the budgeting assumed that city staff would perform the work. The original budget likely was only intended to cover materials and possibly some sewage bypass support. After CH2M arrived, it was concluded that the depth of manhole replacement, the proximity to major power lines, and the challenging soil conditions (structural dike, with ground water) made this a project that needed to be bid out to a specialized contractor. It was felt that the condition of the manholes was at a critical juncture and the project should not be delayed.

CH2M is recommending that the City Council award the project to the apparent low bidder, Warrington Construction Corporation of Oregon. The contract documents contained a Value Engineering clause which could be engaged once the contract had been awarded. In preliminary discussions with the apparent low bidder, it appeared possible to reduce the construction cost through a modification of construction practices, though details had not yet been discussed. CH2M was recommending the City Council direct CH2M to work through a value engineering proposal with the selected contractor and move forward with construction as quickly as possible

under the modified system. Because of the timing, CH2M was recommending the City Council conditionally approve the bid amount as a maximum not to exceed amount so that construction could begin immediately after Public Works review and approval of the value engineering proposal. It was anticipated that at least some cost savings would be realized, though the total amount would not be understood until after the project was awarded and discussion could begin with the contractor.

The current low bid resulted in an additional cost of \$73,800 to the current budgeted amount of \$65,000 without a reduction to the bid price based on value engineering. Total bid: \$138,800.

Councilor Crume asked how Ms. Roberts felt about the bid and whether it was in the ball park or not.

Ms. Roberts replied that that it was a good bid, was in the ball park, and the liner had a lifespan of 50 years.

Councilor Jost asked where it was in the budget.

Kari Ott, Finance, stated it came from capital overlay, but it might take away from some of the other projects.

Betty Carter moved, seconded by Larry Tuttle, that the Mayor and City Council award the Dike Manhole Replacement Project to the apparent low bidder, Warrington Construction Corporation of Oregon, and direct CH2M to begin negotiations with the contractor regarding a value engineering proposal that could result in a cost savings on the project. Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-yes; Carter-yes; Verini-yes. Motion carried 7/0/0.

Notice to Proceed: Well #17 Engineering (Anderson-Perry)

Betsy Roberts, CH2M HILL, City Engineer, presented.

Anderson Perry & Associates were part of the On-Call Professional Services pool selected by the City of Ontario in the spring of 2014. They assisted in the drilling of Well 17, which was completed in the fall of 2013. However, the no pump, control system, or power was installed and the well was not tied into the existing raw water delivery system.

The City of Ontario needed to equip Well No. 17 with a well pump, motor, piping, controls, and a well pump station so that the well could be incorporated into the city's raw water delivery system. CH2M staff and crews would complete some of the pump station work, while professional engineering design effort would be completed by Anderson Perry. Those parts of the work that could not be conducted by staff would be put out to bid (electrical work, for example). The scope of work was based on previous collaboration efforts between city staff and Anderson Perry. Detailed design effort by Anderson Perry was described in the Work Order. This new production well was important to the city to help maintain its reliable water source as the high demand summer months approached.

The City Council could choose to not authorize the Notice to Proceed for Anderson Perry & Associates, Inc., and postpone needed improvements. If authorization was denied, options would include either "No Action" where no improvements would be designed at all or a Request for Proposal (RFP) could be developed and selection of a qualified engineering firm would follow.

Work would be billed on a lump sum basis. Anderson Perry would manage the work identified to the budgeted amount (\$13,500), which would not be exceeded without prior written authorization from the city.

Charlotte Fugate moved, seconded by Norm Crume, that the City Council authorize a Notice to Proceed for Professional Engineering Services for the Design of Well 17 System Connection. Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-yes; Carter-yes; Verini-yes. Motion carried 7/0/0.

CORRESPONDENCE, COMMENTS AND EX-OFFICIO REPORTS

Charlotte Fugate brought up a proposal to direct staff to look into the steps necessary, along with potential costs, to rezone a block of property along Oregon Street from I-2 to C-2.

Jerry Elliot presented some information on issues related to Skyline Farms. He recommended the city enter into a contract with Doug Stipe, and asked Council authority to have a 5-year agreement written up by Larry Sullivan. The city had a working history with Mr. Stipe, and the soil management plan was to keep a minimum disturbance of the soil. He would put amendments into the soil starting next year. Darrel Alred was the other bidder.

Larry Tuttle asked about weed issues.

Jerry Elliott stated that had occurred before his time.

Larry Sullivan stated the weed abatement issue would be in the lease language.

There was a consensus to proceed. Weed control and costs would be explained more.

Tori Barnett had been working on a general business registration application, and a template was in their packet. She asked for Council review and comments by the next meeting, so she could potentially bring back an enacting ordinance. A secondary sheet, which would be internal only, would note the zone and other applicable licenses issued, among other items, which would be incorporated into a data base that she would maintain.

Charlotte Fugate asked if the business license would be listed on the city website.

Tori Barnett stated that the business would have the option of being on the city's website. There was a section on the application for that designation. Also, upon completion and acceptance of the application, a window cling, similar to those issued for Chamber of commerce membership, would be issued for display in their window or another prominent place in the business.

Norm Crume asked that the section requesting the driver's license information be deleted. He also wanted to ensure the money collected for this were to be for administrative costs only.

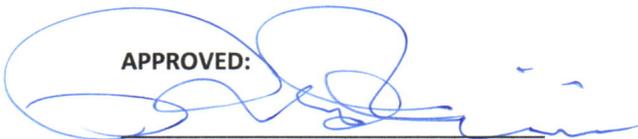
Tori Barnett agreed, and indicated this would not be a money maker. Revenue for this would be placed in a specific line item, which Kari would establish, and would be solely for the collection and future expenditures related to this project, such as postage or the clings. This was not a "license" to operate a business, but merely a "registration" for business identification.

Tori Barnett stated she hoped to bring action back to the Council at the next meeting to declare the golf course equipment as surplus so items could be disposed of.

ADJOURN

Charlotte Fugate moved, seconded by Norm Crume, that the meeting be adjourned. Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-yes; Carter-yes; Verini-yes. Motion carried 7/0/0.

APPROVED:



Ronald Verini, Mayor

ATTEST:



Tori Barnett, MMC, City Recorder