



Memorandum

Date: April 17, 2015

To: Members, West Linn City Council

From: Chris Jordan, City Manager *CJ*

Subject: April 20 Meeting

The Council is scheduled to meet at 6:00 on April 20 for both a Citizens Budget Committee meeting and a Council work session. The main agenda items for that evening are:

Citizens' Budget Committee. The Committee will receive the proposed 2015-2017 Budget. To help focus the Committee's review of the Budget, I will be presenting the Budget Message and the highlights of the Proposed Budget. After receiving the Budget, we would encourage the Committee members to schedule appointments with CFO Richard Seals to receive a more in-depth briefing and to have the opportunity to have their specific questions answered. This will assist in focusing the meetings of the Committee.

City Council work session items:

Emergency Operations Overview. The City Council has requested to learn more about how the City responds to emergencies. Police Chief Terry Timeus and Emergency Manager Randy Crebs will present this information to the Council.

Medical Marijuana Update. The City Council imposed a moratorium on medical marijuana dispensaries locating in the City of West Linn when it adopted Ordinance 1620 on April 14, 2014. Staff will explain the impact of the moratorium's expiration on May 1, 2015, and provide the Council with options for regulating medical marijuana dispensaries after May 1. A chart that Clackamas County compiled is attached that compares approaches taken by different cities.

Robinwood Fire Station. This is a discussion item has been placed on the agenda at the request of members of the Council

Regulations Regarding Signs in the Public Right-of-Way. This item is on the agenda at the request of the Council. My understanding is that the impetus for this discussion is the desire of some in the community to place banners in the public right-of-way and the City's sign code prohibits such signage. The discussion will likely focus on the regulations and if there are remedies should the Council want to allow such signage.

The next two meetings of the City Council will be as the Citizens Budget Committee on May 4 and May 6.

Please let me know if you have any questions.

Attachment

ORDINANCE NO. 1620

AN ORDINANCE DECLARING A MORATORIUM ON MEDICAL MARIJUANA FACILITIES AND DECLARING AN EMERGENCY

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are ~~bold lined through~~ and additions are bold underlined.

WHEREAS, Chapter II, Section 4, of the West Linn City Charter provides:

Powers of the City. The City shall have all powers which the Constitution, statutes and common law of the United States and of this State now or hereafter expressly or implied grant or allow the City, as fully as though this Charter specifically enumerated each of those powers;

WHEREAS, the above referenced grant of power has been broadly interpreted to allow local governments to decide upon the scope of their powers in their charter so that specific statutory authorization is not required for a city to exercise its powers, LaGrande/Astoria v. PERB, 281 Or 137, 142 (1978), aff'd on reh'g 284 Or 173 (1978);

WHEREAS, the Oregon Legislature enacted House Bill 3460 (2013), which requires the Oregon Health Authority to develop and implement a process to register medical marijuana facilities;

WHEREAS, House Bill 3460 (2013) directed that persons who operate or are employed by a registered medical marijuana facility would enjoy immunity from state prosecution;

WHEREAS, the Oregon Legislature enacted Senate Bill 1531 (2014) which affirmatively afforded Oregon cities the ability to impose a moratorium on medical marijuana dispensaries to locate within their boundaries until May 1, 2015;

WHEREAS, Senate Bill 1531 (2014) removes immunity from state prosecution for person who is responsible for or employed by a registered medical marijuana facility located in an area subject to the jurisdiction of a city or county that enacts a moratorium prohibiting the operation of a medical marijuana facility;

WHEREAS, the issue of whether a local government determines a certain type of business should operate within its jurisdictional limits is a local government decision, the enforcement of which is subject to the general and police powers of that jurisdiction;

WHEREAS, legal uncertainty surrounds the ability/authority of the State to allow for the location of medical marijuana dispensaries in Oregon cities where to do so arguably violates federal law;

WHEREAS, the City Council has determined that it is in the best interests of the health, safety and welfare of the citizens of West Linn to enact such a moratorium prohibiting the operation of a medical marijuana facilities within the jurisdictional boundaries of West Linn so as to

provide time to examine the range of options surrounding the regulation or prohibition of medical marijuana facilities within West Linn;

WHEREAS, the City Council anticipates that (1) a medical marijuana dispensary may locate in the City before a non-urgency ordinance would become effective, and/or that (2) an existing business may begin selling medical marijuana before a non-emergency ordinance would become effective;

WHEREAS, if medical marijuana dispensaries are established or if existing business are permitted to distribute or sell medical marijuana before the City considers appropriate regulation, such uses might be established in areas that would conflict with the requirements of the Comprehensive Plan, be inconsistent with surrounding uses, or be detrimental to the public health, safety and welfare;

WHEREAS, the City Council desires, on an emergency basis, to temporarily prohibit medical marijuana dispensaries and the sale of medical marijuana at existing businesses within the City;

WHEREAS, West Linn City Charter Section 34 expressly authorizes the City Council to adopt an emergency ordinance for the immediate preservation of the public peace, health or safety upon making a statement declaring the basis of the emergency; and

NOW, THEREFORE, THE CITY OF WEST LINN ORDAINS AS FOLLOWS:

SECTION 1. Moratorium Declared. The City hereby issues a moratorium prohibiting the operation of any medical marijuana facility in any area subject to the jurisdiction of City as it now exists or may be expanded. As used in this section, "medical marijuana facility" includes any facility that dispenses marijuana pursuant to ORS 475.314 or any other provision of Oregon law.

SECTION 2. Enforcement. The City official is charged with enforcement of the moratorium.

SECTION 3. Oregon Health Authority Notice. A copy of this Ordinance shall be forwarded to the Oregon Health Authority by regular mail and by any other such means as required by rule of the Oregon Health Authority.

SECTION 4. Remedies Not Exclusive. The remedies available under Senate Bill 1531 (2014) for a violation of the moratorium imposed by this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law. It is within the discretion of the City to seek cumulative remedies for a violation of the moratorium imposed by this ordinance.

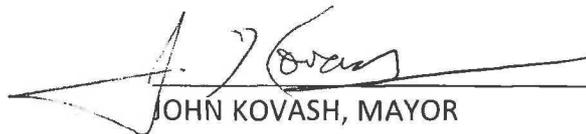
SECTION 5. Severability. The sections, subsections, paragraphs and clauses of this Ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses. If the application to any person or circumstance is held invalid, the invalidity shall not affect other applications of this Ordinance that can be given effect without the invalid application.

SECTION 6. Savings. Notwithstanding this amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

SECTION 7. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections [3-8]) need not be codified and the City Recorder or his/her designee is authorized to correct any cross-references and any typographical errors.

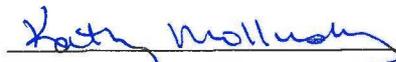
SECTION 8. Effective Date. Conditions in the City of West Linn are such that this Ordinance is necessary for the immediate preservation of the public health, peace, welfare and safety. An emergency is hereby declared to exist because a medical marijuana dispensary could locate in the City, or an existing business could begin selling medical marijuana, before a non-emergency ordinance prohibiting such action would become effective. Therefore, this Ordinance shall be in full force and effect after its passage.

The foregoing ordinance was first read by title only in accordance with Chapter VIII, Section 2(C) of the City Charter on the 14th day of April, 2014, and duly PASSED and ADOPTED this 14th day of April, 2014.



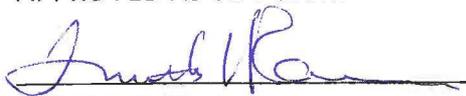
JOHN KOVASH, MAYOR

ATTEST:



KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:



CITY ATTORNEY

locate medical w/rec. retail													
Between dispensaries	2500'					1000'	1000'						
Grow Operations													
Schools	2000'					1000'	1000'						
Requires notices for a medical pot dispensary be sent to property owners within 1000'								Requires notices for a medical pot dispensary be sent to property owners within 1000' prior to opening					
No children allowed in the facility	Minors allowed w/cardholder												
No smoking marijuana in facility	No smoking marijuana												
No smoking clubs in same building	No smoking club in same building												
No Drive Thru facilities	No Drive thrus												
Edibles must be labeled													
No butane extraction	No butane extraction												
Residential areas	100' unless on major hwy or major arterial hwy					200' from any zoned residential R1, R2, R3, R5							
Hours of Operation	10-8pm Mon-Sun						10-8pm						
Requires conditional use permit			Conditional use permit				Conditional use permit						
Zones	Not outside urban growth boundaries					Within central business permitted use. Commercial C2-permitted use	I2-Light industrial C2Commercial						
Light rail transit stops	1500'												
Libraries, parks, treatment center, adults foster care, public	1500'					1000' religious institutions, residential care							

housing and state liquor stores												
Licensed child day care	500'					500' within any publically owned property/parks/City Hall	1000' * daycare facility would be restricted from locating next to a mm disp. once the facility is sited					
Pre-schools	500'					1000'	1000'					
Includes Marijuana Retail Stores	Same restrictions											
In-Home Grows under M91 Control Odor												
Prohibit indoor growers from being near schools												
Tax on Medical pot												
Tax on Recreational Tax												

CLACKAMAS COUNTY 1ST PUBLIC HEARING 4-2-15

CLACKAMAS COUNTY HELD ITS FIRST PUBLIC HEARING ON MEDICAL MARIJUANA DISPENSARIES TIME, PLACE AND MANNER-This is for unincorporated rural parts of Clackamas County Only, all cities draft their own separate ordinances. Details of this draft ordinance is attached.

Ordinance 04-2015 Chapter 8.09.

Please note that this ordinance was necessary by State law SB1531 which allowed Counties and Cities to ban marijuana dispensaries and then put in time, manner and place protocol after the bans sunset day of May 1, 2015.