

MINUTES
Troutdale City Council – Regular Meeting
Troutdale City Hall – Council Chambers
219 E. Historic Columbia River Hwy.
Troutdale, OR 97060-2078

Tuesday, March 10, 2015

1. ROLL CALL, AGENDA UPDATE

Mayor Daoust called the meeting to order at 7:00pm.

PRESENT: Mayor Daoust, Councilor Anderson, Councilor Morgan, Councilor White, Councilor Allen, and Councilor Wilson.

ABSENT: Councilor Ripma (excused).

STAFF: Erich Mueller, Finance Director; Debbie Stickney, City Recorder; Ed Trompke, City Attorney; John Morgan, Planning Director; and Mark McCaffery, Planner.

GUESTS: See Attached.

2. CONSENT AGENDA:

2.1 RESOLUTION: A resolution recognizing the completion of a public water line improvement by Swift Transportation and accepting it into the City's Fixed Asset System.

MOTION: Councilor White moved to approve the Consent Agenda. Seconded by Councilor Allen. Motion Passed Unanimously.

3. PUBLIC COMMENT: Please restrict comments to non-agenda items at this time.

None.

4. PUBLIC HEARING / ORDINANCE (Introduced 2/24/15): An ordinance amending Chapters 1.020 and 4.700 of the Troutdale Development Code by amending the permitted use section of the Town Center Overlay Zone to allow Urban Agriculture Uses, along with a related amendment to the definitions, and amendment to the Town Center Overlay Zone Purpose Statement.

John Morgan, Planning Director, stated this is your second hearing on this ordinance. I think the Council is aware that these amendments will allow urban agriculture to be a permitted use in the Town Center Overlay Zone. Agriculture is generally not a permitted use in our commercial or residential zones (meaning large scale agriculture not gardens and that kind of thing) but this would allow that type of use as a permitted use in the particular zone. You held your first hearing on February 24th, so tonight the action requested is to hold the second hearing and adoption of the ordinance.

Councilor Allen stated the last time we discussed this there was some concern about the number of animals that might be permitted based on the 10,000 square feet or 10% of the property. Has there been any further thought on that?

John Morgan replied we didn't do any subsequent research on that.

Councilor Allen asked so what are we talking about? Are we talking about possibly 7 acres?

John Morgan replied if you take into account the size of the one particular parcel it could be; 10% of that. I don't think it is 70 acres. You might ask the representatives of that corporation. I think it is substantially less than you're suggesting.

Councilor Allen stated I was wondering, is it about 1 cow for every 2 acres and 150 cows if it's a feed lot. Do we have to add any words in here...

John Morgan interrupted and stated you could limit it. It gets really difficult. I remember Polk County adopted a SEU standard, which is a sheep equivalent unit. They literally measured livestock by SEUs; pretty arcane. If you want to put some limitation on the number of cows, which is probably one of the more offensive things as well as pigs, we certainly can do that. We can craft language that would implement what you intended.

Councilor Allen stated I don't think in this particular case I'm too concerned about it, but laws have a tendency to outlast their initial intended purpose, so that is why I am asking about it.

John Morgan stated this is one of those ordinances that we might do well to see it adopted as is and if problems arise it can always be amended down the road; adding restrictions rather than trying to create additional restrictions now.

Councilor Allen stated the only concern that I would have is with a feed lot where they are doing high density animals.

Ed Trompke, City Attorney, stated I think the intention of the ordinance wouldn't allow that. I think the land owner would come to the planning staff before starting anything to talk about it. There has been some discussion over the months and there is nothing of any size that is being proposed at this point and time. I think that they would come and

ask if they proposed anything more than a very small scale limited amount of agriculture. We have a good working relationship with the folks.

Councilor Allen stated I am not concerned at all about the particular uses that are planned, it is just the unforeseen future.

Ed Trompke stated part of the issue in keeping it as general as we can at this point is that agriculture really isn't used in urban commercial areas. There are other agencies that review land use ordinances that cities adopt and we don't want to make it so specific that it attracts attention to it in ways that probably aren't at all necessary. It is better to just leave it in its current form.

Mayor Daoust opened the Public Hearing at 7:10pm and asked, is there anyone here that would like to speak to us on this ordinance?

No testimony received.

Mayor Daoust closed the Public Hearing at 7:10pm.

MOTION: Councilor Morgan moved to adopt an ordinance amending Chapters 1.020 and 4.700 of the Troutdale Development Code (*the ordinance amends the permitted use section of the Town Center Overlay Zone to allow Urban Agriculture Uses, along with a related amendment to the definitions, and amendment to the Town Center Overlay Zone Purpose Statement*). Seconded by Councilor White.

VOTE: Mayor Daoust – Yes; Councilor White – Yes; Councilor Allen – Yes; Councilor Wilson - Yes; Councilor Anderson - Yes; Councilor Morgan – Yes.

Motion Passed 6-0.

5. PUBLIC HEARING / ORDINANCE (Introduction): An ordinance amending Chapters 1.020, 3.126, 3.163, 3.173, and 4.720 of the Troutdale Development Code by allowing medical marijuana facilities as a conditional use in the General Commercial, Light Industrial and General Industrial Districts and prohibiting these facilities as a conditional use in the General Commercial District within the Town Center Overlay Zone.

John Morgan, Planning Director, stated in 1988 the Oregon voters approved medical marijuana as an allowable activity in the State of Oregon. During the 2013 Special Session the Oregon legislature passed HB 3460 allowing the establishment of dispensaries for distribution of marijuana directly between growers and buyers. The dispensary acts more like a broker in between. There were a number of reasons the legislature felt that was appropriate to do, and they said that marijuana dispensaries are allowed uses in all jurisdictions in commercial and industrial zones outside of a circle of

1,000 feet around public and private schools. But they gave local governments the authority to adopt more restrictive provisions, and that is why we are here before you tonight to consider the possibility of adopting ordinances that create more restrictive provisions for the establishment of these dispensaries.

We just learned today that Wood Village, which is not pursuing any course of action and is allowing State law to stand, has received permits for the first dispensary in Wood Village. In the case of this community you adopted a moratorium which expires in May which is why we have been pushing this ordinance fairly quickly through the Planning Commission (PC) and now on to the Council in order to establish these regulations. At the PC a number of people spoke and had a variety of concerns. One of the things that we had to establish is what we are looking at is more restrictive than state law, but there is the ability to fully prohibit medical marijuana or medical marijuana dispensaries. That is not an allowable option under the provisions. What we are doing is asking for your intent on having more restrictions. I am going to turn this over to Mark McCaffery, our planner, who has drafted the ordinance and has been shepherding it through to go through some of the details for you.

Mark McCaffery, Planner, stated the PC recommended a conditional use permit as a requirement for these facilities within the General Industrial (GI), Light Industrial (LI) and the General Commercial (GC) districts. So in those three districts a medical marijuana dispensary would need a conditional use permit; it would not be permitted outright. The PC added a definition for medical marijuana facilities in Chapter 1 of the Troutdale Development Code (TDC), and added a definition for parks, which currently does not exist in the TDC but does exist in the Troutdale Municipal Code (TMC). In addition they amended the definition for a school to include colleges. The PC also recommended that these facilities be prevented from being located within 1,000 feet of a city park, and added a restriction on facilities from locating within the Town Center Overlay (TCO).

If you refer to the maps in your packet (Exhibits D and E of the staff report), you can get an idea of how these buffers and restrictions impact the City of Troutdale land wise. In Exhibit D you see each of the proposed buffers, both the school buffer which is the state mandate and the proposed 1,000 foot buffer around the parks. In the southern area of the City there is a school buffer around Mt. Hood Community College that wouldn't otherwise be there unless the school definition in the TDC is amended to include accredited colleges and universities. You can see that there is almost a natural line where the railroad tracks are and above that is where we find our GI, LI and GC zones and that sort of eludes back to the proposal to allow these facilities as a conditional use in those zones. Exhibit E (of the staff report) shows the remaining tax lots and zones when both the restrictions and proposed buffers are applied.

I want to touch on the requirements. If this was an ordinance today and we were allowed to accept applications they would need to adhere to the provisions under each zone, including any zoning overlays that may apply. They would also be required to submit for a pre-application conference, which is standard for a conditional use permit and site and design review process. The conditional use permit is a Type III procedure which would

require approval from the PC. It would also require a current and active registration of the business as a facility from the State of Oregon, mainly the Health Authority, and also a current City business license would be required.

To recap, the proposed text amendments to the TDC would allow medical marijuana facilities as conditional uses in the GC, LI and GI districts on tax lots that are not within 1,000 feet of a school or a park, or within the TC Overlay. These proposed text amendments also add a definition of the actual facility, a definition of parks, and an amended definition of schools to the definition section of Chapter 1 of TDC. Staff finds the amendments to be consistent with the applicable criteria in the City's Comp Plan, the TDC and the Oregon Revised Statutes, and staff recommends approval of the Troutdale PC recommendation to adopt the proposed amendments.

Councilor Morgan asked how many times did it take to finally come to a conclusion/recommendation from the PC, or did it pass the first time?

John Morgan replied the PC went through several iterations of motions. I think it was the third or fourth motion before they finally reached agreement on what to bring forward to you. Certainly the PC was split in its philosophies and its perspectives on this.

Councilor Morgan asked do you feel that we have a consensus? I know that you guys uphold their recommendation.

John Morgan stated it was a well deliberated process. Consensus, I couldn't characterize the PC's action taken by motion as otherwise, that they reached agreement.

Councilor Wilson stated in our industrial area there are some gymnastics places, daycares, and some of the buildings down there don't have sealed ceilings. What do we do about those folks down in that area?

Mark McCaffery replied with the conditional use permitting process, and also with the current site and design review, we believe we will be able to review the use. The PC will be looking at the use and the adjacent properties and building to see if the proposed facility can exist without impacting the health and welfare of nearby properties. When a use has specific qualities to it that require additional review they usually become conditional uses so they get that extra review.

John Morgan stated two things can happen. The one important thing is that the PC has the authority to attach conditions of approval to mitigate potential impacts. So case by case those kinds of circumstances can be looked at. It is also important to understand what we are talking about here. We are not talking about a smoking bar by any means. A medical marijuana dispensary is not a retail storefront. It is a fairly discrete office in which people are only allowed in if they carry a valid Oregon medical marijuana card. They acquire their marijuana there as prescribed and they may not consume it on the premises, it can only be consumed in their home. This is not an active location where consumption

of marijuana takes place, it is simply the distribution, as those in the industry would say of the medicine, and the medicine goes home to be consumed.

Councilor Wilson stated even with cigarettes in a store there is still an odor from the packaged cigarettes. Is there an odor that comes from the packaging of this?

John Morgan stated I actually went into a facility in Portland just to get some idea, and everything was in glass jars with sealed lids. Frankly I didn't smell anything in there because of that sealing that took place.

Councilor Wilson stated as the glass jars are opened up is it a raw material inside?

John Morgan replied yes it is.

Councilor Wilson stated so there has to be some kind of odor.

Male stated most owners will run ozone generators or carbon scrubbers for you out of respect.

Councilor Wilson stated I think what I was referring to were the buildings in that area that don't have complete walls to the ceiling.

John Morgan stated that is where that conditional use process allows the PC to look at those circumstances and maybe require an ozone generator or scrubber or something like that. Any potential area of congregation of populations that we want to protect in the area you can attach those conditions. If those conditions cannot be successfully attached, meaning there is the right in pretty extreme circumstances to deny the conditional use permit if it is just not practical to attach conditions of approval.

Mayor Daoust asked are the Columbia Gorge Premium Outlet Stores in or out of an acceptable location to locate a medical marijuana facility?

Mark McCaffery replied they are in the TC Overlay.

Mayor Daoust stated so they would be excluded also.

John Morgan stated that was a consideration of the PC because the original proposal didn't specifically call out the TC Overlay, it just used the 1,000 foot buffers. Part of that iteration of motions going back and forth brought that in as a way to resolve some of the concerns.

Councilor Anderson asked at the PC meetings what was the ratio of the testimony in favor of and opposed to?

John Morgan replied it is hard to characterize because some people didn't understand what was on the table. I would say my major characterization of what was heard at the

PC was a request to protect the downtown. I don't recall anybody who actually got up and opposed the notion of having medical marijuana. What people wanted was to protect certain districts, primarily the downtown.

Councilor Anderson asked what other districts did they want to protect?

John Morgan replied protection from children generally; making sure that appropriate buffers were maintained.

Councilor Morgan asked would including the TC Overlay suffice the concerns of the downtown problem?

John Morgan replied yes, definitely.

Councilor Morgan asked so then why the need for redefining schools as universities or colleges in a city that is not in our jurisdiction?

John Morgan replied a couple of things come into play. One is what was realized is that without this definition of schools including colleges and universities the commercial area at the corner of Stark and Troutdale Road would be eligible for dispensaries and the sense was that was not appropriate.

Councilor Morgan asked even 1,000 feet from a park?

John Morgan replied yes. By measurement there is a fair amount of that commercial land that is more than 1,000 feet away from that park; it is a little southeast of that location. It took expanding the definition in order to fully exclude the Troutdale Market Center area from eligibility for a location of a dispensary, which was something the PC wished to do. The question of the park exclusion, adding the definition of parks helped clear up some confusing language. The original proposal had been speaking to Mayors Square and is that a park or not? By changing or really emphasizing a better definition of parks we have resolved that issue of saying yes it is a park. Even with that, while it effectively excluded downtown there were other areas like to the west along Historic Columbia River Hwy. as you moved west of 257th, and the Outlet Mall that kind of fell out of that 1,000 foot buffer so using the TC Overlay mopped all of that up and created a cleaner boundary where effectively this says these facilities are allowed north of the railroad tracks.

Mark McCaffery stated the school buffer also transcends city boundaries, so some of the schools represented on the map are actually in different jurisdictions.

Councilor White stated I know we have a lot of future plans for parks and I predict someday that College Park will actually be deemed a park. What happens then?

John Morgan replied remember your underlying zoning still has to be in place, zoned commercial or one of the two industrial zones. So College Park or other new parks likely are going to be in neighborhoods where there is no commercial zoning, hence it's not an

issue. That's not to say a circumstance won't come up and the provisions because they are in the text will apply, and if new parks are created that 1,000 feet buffer gets drawn around that. You can say protection is built in because it is actually a standard that will grow as parks or schools are located. However, once a medical marijuana facility is located, if there happens to be a new school built within 1000 feet it doesn't negate their ability to be in business. Once you are in you are in.

Mark McCaffrey stated that is defined in each of the sections that are being amended.

Councilor White asked the business that Councilor Wilson mentioned, which is a children based business that is located in our industrial area, other than our existing code did you plan any additional protection for that business?

John Morgan replied no. There is nothing here that got into a very broadened definition of school or park; you can get daycare centers, karate studios and all kinds of things. The line was drawn by the PC of what they felt was probably a practical boundary. It is up to you to make that decision.

Mayor Daoust stated well except that it would have to go before the PC.

John Morgan replied everything goes before them that is a conditional use.

Mayor Daoust stated that is the protection.

Councilor White asked was that the only business in the industrial area? Do we have any daycares in that area or any other similar type of business?

Male (from the audience) replied you do.

Mayor Daoust opened the Public Hearing at 7:30pm and asked, is there anyone here that would like to speak to us on this issue?

Tammy Sessler, resident, provided a handout to the Council (copy included in the packet). In February we attended the PC meeting and once we were there we realized that they were only talking about dispensaries. In our neighborhood we have a home that for eight years has been growing and distributing as a caretaker for people with marijuana cards. Originally we thought this was going to be addressed, but when we left the meeting we realized it is not being addressed. There are fourteen homes in our cul-de-sac, there are nine children that are under the age of 18, and there are a lot of grandparents that have a total of sixteen grandchildren that we watch for daycare. We have this guy who grows, processes, and distributes marijuana to anybody it seems like. There seems to be no limitations to him. There is nothing that the police can do because there are no regulations for him. He just recently started a new crop and the fans are already going and it blows smell out of his house and the neighbors smell it all the time. They say it smells like a skunk; it's a weird smell. So besides hearing the fan they smell it. He smokes marijuana; we know its legal but the people that come to his home smoke it with him. You can go

online and see so many YouTube videos; he is proud of all the people that come and get stoned with him at his house. Everybody in the neighborhood smells that also. He makes honey oil and he uses butane gas to do that. And besides, there are a number of cars and foot traffic coming in and out of our cul-de-sac. He doesn't have a business license and he doesn't have to have one to be a caretaker, but yet he sales merchandise out of his home because he has a clothing line that goes with his marijuana name that he's so famous for. So he doesn't have a business license, he is not being regulated regarding the people coming in and out of the neighborhood to see him, but yet if some of the rest of us had a business, according to the Troutdale Home Occupation Regulations we couldn't have people coming to our home. Why can he do it? Would you want this living next door to you? We have lived with it for eight years. The City is proposing a 1,000 foot buffer for schools and parks, what about residential neighborhoods where there are children? Is a caretaker considered distribution? Is it a dispensary? He is doing all of the aspects of it; he is growing, processing and he is distributing all in that one home. Does the City have plans to address this? Does it fit into what you are going to vote on on March 24th? If you don't have plans, who can we go to because as residents of Clara Court we are frustrated. You are looking at regulations for dispensaries, but you have people like this house in our neighborhood where there is no oversight. Can people just move to Troutdale, buy a home and start doing the same thing that he is doing and it doesn't even fit into the criteria of a dispensary? There is no point of even having these ordinances if people can just do like this guy does in our neighborhood.

Councilor Anderson stated thank you, and you are right. I think this is one of those unintended consequences. Ed, caretakers and dispensaries, you are the legal expert, I personally don't see any distinction between going up to a home and getting my medical marijuana verses going to a business that we are zoning into the industrial area potentially and getting my medical marijuana. I have issues with the guy selling shirts, a business license concern. I have a lot of concerns with this quite frankly so I would love to hear what you have to say.

Ed Trompke replied this proposed ordinance will deal with some of what you are talking about but not all of it. In response to your first bullet point (on the handout in the packet) "medical marijuana is grown, processed and distributed in the residential home". This ordinance addresses the distribution and says that it can only take place in the approved areas/zones and not within the buffers. So it would have to stop from the house.

Tammy Sessler stated he says these ordinances won't touch him.

Ed Trompke stated it does not address growing it; that is a state regulation. At some point the City may be able to address growing marijuana in residential neighborhoods, but at this point I am not sure the City has the authority to do it. The only thing that is regulated is just tonight there was an ordinance adopted about some urban local agriculture, it doesn't allow any scheduled drugs to be grown on that particular commercial kind of property. That was excluded from that ordinance. The other is processing, some people just chop it up, that is one kind of processing. But when you are talking about producing honey oil with combustible butane gas that is an industrial use, that is not a commercial

or residential use and that ought to be in a light industrial or heavy general industrial place. It ought to be unlawful now and it ought to be something that the City can simply not allow under the current regulations because it is an industrial use.

John Morgan stated my understanding is that the original 1988 law allowed people to grow for their own consumption if they are licensed – if they have a medical marijuana card they can grow for their own consumption. That expanded then to allow growers to grow for a limited number of consumers and they could transact between themselves. My understanding is this operation probably is one of those kinds of operations where it is limited to certain people that are tied together by different medical marijuana cards. It is my understanding that this can happen; it is not a business because no money changes hands. That is not to say that this is operating within the requirements of the Oregon Health Authority or local law. I know our police department is having a difficult time enforcing this.

Ed Trompke stated we were debating this in the office so I looked at the zoning code, so I am going to put it back on the zoning code which says that any kind of hazardous processing using hazardous materials is limited to either light industrial or general industrial. Clearly to me butane is a hazardous material. I don't know if you have any direct proof it is going on.

John Morgan stated my understanding on this whole situation is it is a law enforcement issue. It clearly appears that this operation goes beyond what state law allows as well as our local law and our police department has not been able to tackle it.

Ed Trompke stated there has to be probable cause; there has to be evidence that he is making the stuff on site and if there is not then they may not feel comfortable going in or they may not be able to get a search warrant. There may be other things going on behind the scenes that we don't know about here tonight. My thought is that this is something that is currently not allowed, using hazardous materials like butane or any of the other solvents they use to dissolve the THC from the plant material. I would certainly be willing to talk to the police department with you to see what they can do if that is in fact going on. You may have to sit with your neighbors and get some cameras and some other things and take action. The community has to do all of this in order to help out the City to enforce its regulations and I know the City will do that to the extent they can under the conflicting state regulation. The other piece of this is I know that the legislature is concerned about the combustible butane and honey oil being processed because that will become lawful in Oregon and at that point I think the state is looking at state laws to regulate where that sort of stuff can be done and it will be required to be within an industrial areas or there will be some authority given to cities to specifically regulate it to put it in those kinds of areas out of houses; it doesn't belong in houses. Things are changing right now and I am trying to monitor what is going on with the legislature but they are not saying anything. They won't tell anybody exactly what is going on. I am sure we are going to get something from them but I don't know what yet at this point and time. You should talk to your state legislators. I will talk with the Chief when he gets back in town.

Mayor Daoust stated I have talked to the Police Chief about your particular situation, and in earlier discussions the police needed more information about the number of visitors that come and go, license plate numbers and that kind of information. What you have presented here may be more information than we had before when the Chief talked about it, especially with the hazardous materials. We can take this up again and discuss it more fully.

Ken Sessler asked is there anything on these websites that would represent probable cause or does it have to be something that is seen from the outside?

Ed Trompke replied probable cause is developed through a lot of different things. You can count how many people are going in and out, you can take down license plate numbers then the police can check that against the medical marijuana registry and see whether or not those folks are in fact card holders who have their card with him. They can go there and look and see because he has to have the cards present on site so they can't have two, three or five people growing for them. There are a lot of regulations that the police can start to check on but they need to know every person and what they are doing, how many plants are there and they can go in and check on that and it has to match with the number of cards. Probable cause, this would be one element. These things can help so save them along with the website material.

Joe Teeny, resident, stated I also live on Clara Court and I want to second everything they said. This has certainly become a nuisance to us as a neighbor. He knocked the power out to 300 homes. I don't know if you all have permitted the electrical work that has been done to accommodate all of his fans, lights, etc., but if you have it is impacting the neighborhood in a negative way. That is just another example of the impact on our neighborhood. I have two kids and I am standing right there with Tammy and Ken and saying it doesn't belong there. I like what you are doing; I like that you are restricting the regulation as far as selling and distribution of the product outside of the areas you've proposed. I thank you for that. I would strongly support that, but does that actually extend to these home grows, the distribution side of things and how is that enforcement going to roll out. That is something I would like to know; how do you plan to enforce the rule and make this guy stop distributing. Those are the things you have to think about. As with anything there are unintended consequences. I would like to encourage you to write something into your proposal that would give you the option to pull a permit if you get complaints. If you have a business that comes in and is distributing and causing problems in their community and you receive complaints, I think the Council needs to have the ability to yank that permit.

Mayor Daoust stated you added one more thing to the list, the permitted electrical work. I also lost electricity due to that house.

Councilor Morgan asked under this new law doesn't it allow for anybody who wants to to grow marijuana in their home?

Ed Trompke replied the new recreational law goes into effect on July 1st and it allows people to grow a certain number of plants and possess 3 ounces of marijuana (inaudible due to background noise).

Councilor Morgan asked (inaudible due to background noise) under recreational is it against the law to distribute your own plants to someone else who is of age?

Ed Trompke replied I read BM 91 but it has been a couple of weeks and I don't remember whether or not a person can sell it, but I know that under the City code if you are selling that part doesn't kick in until January 1st. It will be lawful to grow it but not to transfer it for six months.

Councilor Morgan asked so you could give it for free in your home?

Ed Trompke replied well, yes, but after January 1st you would be allowed to sell it but at that point you do become a business and ordinary business regulations kick in and you would have to comply with zoning which means if you have a home occupation you can't have people coming to your home to transact business.

Councilor Morgan stated unless it is permitted...

Ed Trompke stated and that would require it to be in the right zone.

John Morgan stated that is an important point. Dispensaries are licensed by the State of Oregon for a particular purpose and the regulations that you are considering tonight limit dispensaries to only certain geographic areas. The issue brought up tonight of doing this out of a person's home is irrelevant to what is on the table. We know that OLCC is promulgating rules right now; the legislature is messing with this. The PC talked about adding some recreational dimensions to this work and the sense was that we have no idea what the landscape is going to look like later this year after this legislative session gets done and after OLCC does its work. Until then it just seems a fools game to try to write things right now; we just don't know how it's going to work.

Councilor Morgan asked and the state law allows for caretakers; people to grow other people's marijuana with their cards at their home?

John Morgan replied yes.

Kelly Broomall, resident, asked if I am a homeowner and I have a card for medical marijuana, and I can also produce medical marijuana for other people who have a card, is that being monitored by anybody?

Councilor Morgan replied the state.

Kelly Broomall asked so then I have to have some kind of a permit or a license for that correct?

Councilor Morgan replied not if you're a caretaker.

Kelly Broomall asked so then who is monitoring it?

Ed Trompke the state is supposed to be. They require that the medical marijuana card be kept at the grow site.

Kelly Broomall stated that is fine, but who is monitoring me, is it the city, the state?

Ed Trompke replied it is the state, I believe the health division is regulating it at this point.

Kelly Broomall asked so where are these people coming from that are going to monitor this? Who is going to oversee that and make sure that it is being done?

Mayor Daoust stated we are aware of the state law and what is going on. That is the circumstance on Clara Court.

Kelly Broomall asked so I can do the same thing and I'm okay as long as I am not using chemicals to produce anything?

Ed Trompke replied I wouldn't say you are okay. It is a complaint driven system. I think the health department doesn't have enough people to do any investigation.

Kelly Broomall replied that is my point.

Ed Trompke stated but OLCC is taking control of it this year and I think we will see different things happening by the end of the year as the new law kicks in. OLCC is a whole lot different from the health department in terms of their enforcement techniques and the number of personnel they have. I would expect things to change radically.

Norm Thomas, resident, stated this whole idea of having home based businesses essentially selling marijuana, I would classify that as a dispensary. The city should require a business license because there is a potential of lost revenue. There have been ordinances added to charge a fee on medical marijuana that exchanges hands. They should also be required to follow the same standards as everyone else. When you do a business license there are fire and safety requirements; most of these grow operations would have to make upgrades. The other side is traffic. I know when my wife ran a daycare center we looked up the laws and that was okay because you can have the parents come and get their kids, but for any other type of business you can't have people coming to your home, you had to go to them. It is important that we protect the neighborhoods. If you have a business they should be required to be licensed through the city so that it can be monitored. You cannot collect a tax on something you don't know. I thought the idea with Measures 91 and these others was to bring all these things out into the open so they could be standardized, monitored, and make sure the product they are selling fits the requirements necessary to be sold. This needs to fit that same category.

If folks come in and say because I have a card I can be exempt from everything else. I believe that when the state doesn't speak the City has the right to say we need to clarify this for Troutdale to protect not only our businesses downtown but also the residential areas in the City.

Mayor Daoust stated we have had a lot of testimony on residential thoughts that really are not directly related to the ordinance we have in front of us. The way I boil down what I've heard so far is, is there the ability to deal with business licenses for residential medical marijuana growers. That is the question, I think. I don't know that we can. I don't need an answer right now but I think that is the basic question that has been presented to us by the residential folks.

Kelly Bloomall asked so if I am growing for more than myself why wouldn't you require me to be licensed?

Mayor Daoust asked that is the question. We may have to look into that. There is a reason we don't require a business license right now.

Councilor Morgan stated this specific example we have been talking about, though it is legal to grow marijuana for people, the concern is that what he is doing is not legal. The question I would have, and I think the state answered it by doing dispensaries, is that you wouldn't have people operating them in your home regardless of being grown for recreational use. You would have them for dispensaries. Is that not the intent of having dispensaries, to not having people grow in their home and sell it?

Ed Trompke replied I think the theory right now is that they are not selling; for medical marijuana it is not supposed to be more than covering the cost of production. There is not supposed to be any profit so it's not a business. That is the theory behind no business licenses.

Councilor Morgan asked so when recreational comes soon, there will be no need for people to have a marijuana home business. There might be cases but the dispensaries are to get rid of that; drive them out of the shadows and into a regulated entity.

Ed Trompke replied right, but dispensaries are particularly for the non-profit medical aspect. The retail outlets will be for the recreational. So far the legislature is keeping them separate. It is confusing to talk about it because it is really easy to talk about a dispensary and be thinking recreational. That is why we are trying to be careful here and not propose regulations or city ordinances that anticipate what the legislature is doing this session and what OLCC is doing because we have no idea. We do know that what OLCC comes out with is going to be very comprehensive and it is very possible that the state is going to merge the two (medical and recreational) or it may not. We really don't know; they are talking about it both ways.

Councilor Morgan asked how would they propose a business tax for something that is in nature not supposed to be for profit?

Ed Trompke replied there is currently, in the city code, an exemption from the business license requirements for non-profits. It is hard to draw the line. Are you going to tax Girl Scouts selling cookies by Safeway? It is a very difficult problem to address as to how to draw the line between the Girl Scout cookies and something else.

Mayor Daoust stated we have the full authority to implement the ordinance that is before us. There is no grey area with the ordinance we have in front of us related to the zoning and the areas that we will allow medical marijuana facilities in the city; we have the full right to do that as a city.

Councilor Anderson stated this Clara Court issue is an unintended consequence and I think we all feel pretty strongly that something needs to be done we just don't know what. After we hear more public testimony tonight on the issue before us, can the PC and planning staff take another look at it and ask the question is this really doing what we want it to do and are there any unintended consequences? This is going to be the first of many issues related to Measure 91 that we are going to have to face and it is a work in progress. The state doesn't know how they are going to regulate it and they don't know who is going to regulate it. To your point sir, if I have a card that says I can grow plants for three people who is going to stop me from growing for thirty? Who is going to enforce it? That is a great point and I wish I could answer the question but it is not in the preview of what we have in front of us. But what is this ordinance and we have two weeks before a second reading. I would like a real stringent look at it from all of us and the PC, not to necessarily change anything and not to debate the merits of the ordinance, but to make sure that everything that the PC intended, from what they heard from testimony, is covered.

Mayor Daoust stated I admire that request and my gut agrees with that but we are on a tight timeline here with this ordinance to get things done before our moratorium expires.

Councilor Anderson stated we have two weeks.

Mayor Daoust stated but this is a much bigger issue for the PC to handle in a two week period, and there is a lot of related issues to what is being brought up in residential zones.

Councilor Anderson stated maybe they have; I wasn't at all of the PC meetings.

John Morgan stated this needs to pass two weeks from now if it is going to be effective before the end of the moratorium. I would suggest that you let this one through, but then initiate a deliberate process that has adequate time to look at all of these issues. The fact that the PC took multiple motions to get to a conclusion shows the complexity of this issue. Frankly, I don't think they can in any way look at it in two weeks, it is too big. Plus we really need the guidance that is going to come out of the legislature and OLCC to know where we go with this.

Councilor Allen stated my feeling was that the PC vetted this very well; I was quite impressed. It wasn't all one-sided, all sides were being heard and vetted back and forth. It was very thorough. I would agree with John Morgan that probably the best thing to do is let this go and work on any further actions that we might need to do.

Michael Jacobson, resident, stated I have worked in this area for 21 years now and I want to address the PC. In advance I am sorry if I offend anybody, but you keep talking about kids and the safety of kids and somebody asked the question is there any daycares or something beyond the line and these two guys hesitated, no offense. One shook their head no. My son takes gymnastics over there; there are gyms over there and there is daycare stuff over there. I know its politics, and I know that the state did what the state did and the people did what they did, but in the community of Troutdale I would hope that you guys would kick it back and make the boundaries a little bit larger and put them as far north as you possibly can. Everybody knows Colorado, Washington, all of the medical marijuana places end up being recreational. Go to Washington and go around to the facilities and people are smoking it. My sister died from several kinds of cancer and she used medical marijuana; it has its purposes, I won't dispute that. But for you to keep mentioning kids like you are really concerned, well then prove it. Make them as far north as you possibly can. I worked in that industrial area so I know there is space way away from these people, away from the gyms and away from all that stuff. Please look at it again and don't try to hide that there is not something there; that really makes me upset. The people that vote for you, it is going to make them upset. And the people that pay taxes, and we operate a business, and it makes me upset to see people that are employed or volunteering for the City and they are not one-hundred percent honest. My point is, look at everything really close before you approve stuff. Where the shopping center is, if you follow that area around the airport that first industrial area is where all of the kids are. I think 1,000 feet beyond that is not going to hurt anything. It is not going to limit the guys that want to open up their business and it is not going to hurt the City. I know we can't fight the state but you can put limitations on it.

Councilor White asked what daycare are you referring to in the industrial zone?

Michael Jacobson replied there was a daycare right next to the gymnastics place and there is Back-to-Back, and then across the street there was another gym for kids.

Councilor Morgan stated there are 217 people in the City of Troutdale that have medical marijuana cards. A lot of them use public transportation. What would you say to them when they are trying to go get their medical marijuana? Kids and livability are one thing, but people that use it for medicine.

Michael Jacobson replied I would say we are trying to go green. Where I work you are supposed to fill out these forms for carpooling and bicycling and anything you can do to reduce the carbons. I don't think it would be that difficult to get a bus route going down there. It is a main throughway. All of the work that Troutdale is having done right there is going to make it easier.

Mayor Daoust stated in relation to the industrial park in question, Ed did you have a comment about that?

Ed Trompke replied no. I was just going to say that this is an evolving set of rules. The Council moved forward with this process because a window of opportunity for regulation opened. There really wasn't an opportunity to regulate the medical aspect of it, then the recreational came along. I would look at this as an interim step to do some reasonable regulations and take into account all sides of this and then as the laws develop more in the next nine months or so we will be able to respond appropriately and the City Council can then consider whether to take more steps and if so what.

Michael Jacobson stated I understand that. You are telling me you have trouble developing a city ordinance because medical marijuana cards, then make a city ordinance and make the fine so stiff. If you go to Washington, or I have relatives in Colorado, it doesn't matter, if you are growing plants in your house whether it is being distributed or selling, people are out in the streets smoking it. You can't smoke regular cigarettes at a bus stop within so many feet, so pass \$1,000 fine for the first offense if you get caught smoking out in public. I am not going to take real kindly to somebody coming up and blowing that in my face. Make it a huge fine in the City of Troutdale to deter the people so it doesn't affect the businesses. It is going to turn recreational in my opinion and that is why they are doing the stepping stone. But make it so the people don't interfere with the other people that don't like having it around them.

Mayor Daoust stated I would like to address your first comment regarding the industrial park. Since we are talking about zoning and where we can allow medical marijuana facilities, and we are also talking about businesses that deal with children in that industrial area, I would like to address that area and the latitude we have to add that on to a restricted area. Does the planning staff have any comments on that?

Mark McCaffery stated I wanted to clarify that childcare facilities and kindergartens in both the GI and LI zoning districts are actually conditional uses themselves, so they underwent a similar process to what we are proposing for the medical marijuana facilities. When we think of having it have the opportunity to get agency input and ultimately PC review and approval, those factors of neighboring businesses and adjoining properties come into play to see if the use that is being proposed is acceptable to the surrounding area in a way that measures for health and welfare.

Mayor Daoust stated so part of the conditional use permit that they would have to go through, one of the criteria would be the effect on neighboring businesses. There is still an avenue to look at the impact on adjacent businesses.

Councilor Anderson stated I was merely going to clarify because I want to make sure that satisfies your objections to the property in question.

Michael Jacobsen stated I understand what he is saying, and I understand that if people don't pay attention it is going to be allowed. I think it would be safer and easier for

everybody concerned if you would just expand the zone that way 500 more feet and then encompass that 1,000 feet boundary. You would still have plenty of room in the industrial area to open up your shops.

Councilor Wilson stated our PC is very active and makes sure that all criteria is met before they issue a conditional use.

Michael Jacobsen stated I pull permits, I operate a business in the City of Troutdale so I am very familiar with some stuff and I actually know some of the short cuts that the inspectors and PC take. You are supposed to have fire inspections and this and that and I know things get lost and skipped. All I am saying is with no brain work you put the line 500 more feet and make the 1,000 feet and there is nothing in question. It is less work and less money. You are always trying to cut back on hours and city overtime, this is a no brainer. It is less work because the line is there, it is already defined and it is yes or no and you don't have all of the additional paperwork. I am not trying to offend you for not doing your job, I am not at all trying to do that. I am just saying some things get overlooked. There are politics involved with the state, cities and people and you have to find a happy medium in the situation we are in.

Ed Trompke stated the question that was just asked is it possible to push it out further. My recollection is that the statute allows for the reasonable regulation. One of the things in the statute is 1,000 feet from schools which is maybe not a binding boundary but it is interpreted by many of us who have to try to write these kinds of things as being just about right. If you push it further you run the risk of having a court saying that goes too far. As I said before this is more than what you have now for regulation and it is something that we have a very short window of time to prepare and adopt it. It can be modified some later.

Michael Jacobson asked why do we have a short amount of time?

Ed Trompke replied the City adopted a moratorium about a year ago and we have one year from that date to get all of the ordinances in place. The City has since adopted a tax on marijuana and is now adopting this ordinance to regulate a reasonable regulation on the areas where it can be used. If we don't have it in place by that point and time the legislature has said you can't do it.

Michael Jacobsen stated so you are saying no to amending the boundary line because you are in fear of the courts, but you can't add if it is a kids facility like kids gymnastics, taekwondo, or anything like that. How would a court not uphold that if you had it in your city regulations? It is hard for me to believe that you had a whole year and didn't investigate where the kids were and what impact it had in doing this. I know you are under pressure from the state and I know you are limited in what you can do. I know the politics.

Ed Trompke stated I think the problem is that if you were to draw circle of very many feet around any place where kids may be indoors or outdoors then you are probably prohibiting it in the whole city and that is not something that is going to happen.

Michael Jacobsen stated if you go to the industrial park you are not going to find a kid in an 18-wheeler. There are tons of areas down there where you can put a shop and there are no kids within the 1,000 feet; it's over a 1,000 feet. All I ask you to do is look into stuff.

Mayor Daoust stated I will give my take on what the PC dealt with. To be realistic, and compared to what other cities in Oregon are restricting, it was kind of a given that you would consider 1,000 feet from schools; in fact I think the legislature said that. We added 1,000 feet from parks. Nobody told us to do that. I think the PC agreed to add on 1,000 feet from parks thinking that kids congregate in parks. Any additional restrictions, if I could paraphrase what the city attorney said, would put the City in a tougher situation to defend that criteria according to what other cities in Oregon are doing. We went so far by adding 1,000 feet from parks and adding the Town Center Overlay. We added two additional things beyond what the legislature said. I understand what you are asking, it is just another step beyond what most cities are doing, and then what is the criteria. Are you saying the criteria would have to be daycare centers, gymnastics centers? You start to get into a greyer area as to how to define that criteria. It is easy to define 1,000 feet from parks. When you start focusing on one particular area of the City you know that it will impact other areas of the City. There are other gymnastics places and other daycare centers within the City. It is a more complicated criteria to add onto what we have already added on. That is my personal take. I agree with you personally, but I think what we have in front of us is a defensible, logical ordinance that the PC vetted. If it were up to me that additional line may make sense, but it is just harder to describe and defend.

Taney Staffenson, resident and PC Chair, stated I agree with quite a bit of what you (Mr. Jacobsen) said. We did do a lot of research. I am at the gymnastics facility three times a week so I know where it is and I know the kids who are there. It is not that we are not aware of these things. We are aware of them, we are just trying to figure out the best way to accomplish what we have to do. I have heard the PC mentioned a number of times so I am sure you have questions for me.

Councilor Anderson stated we give you a lot of things. The guidelines for reviewing the Development Code for instance. You dealt with this issue, in reading the minutes, watching the testimony and attending one of the work sessions, about as professionally as it could be done. You are to be commended. I am excessively proud of the people that we have appointed to the PC. They do have our citizens' best interest at heart. They take issues like this and they dig into them. They have done a great job with this and I trust them. It is not perfect, but we have to walk that fine line between what is legally challengeable and what we are trying to accomplish here. I think the PC threaded that needle very well.

Taney Staffenson stated we took public testimony at a January work session, then we had the hearing where we took more testimony. Most of the testimony was pretty passionate and kind of put us in a tuff spot. There was a question about the vote and the motions at our last meeting. That was a legislative hearing and we are allowed to speak to each other and have contact outside of ourselves, but we elected not to do that. We

elected to hear the testimony and just talk to people in the community and deliberate when we got into the room. In a nutshell nobody really knew what anybody else was thinking and sometimes when that happens you end up with some split decisions and you have to work through them and that is what we were trying to do. We were trying to make a good decision at that time based on what we heard. There was also a comment about schools. Although the college is in Gresham that really doesn't play into the boundary issue. When we looked at that we looked at the Author Academy, CAL Learning Center, Phonics Factory, a number of charter schools in the area that send their kids at a very young age to Mt. Hood Community College. Additionally, Reynolds High School uses that facility, Corbett uses that facility and East Side Soccer uses it. It may not be the same for other colleges, but this one in particular in our opinion has a lot of school activities take place there because of the track, stadium, fields, and the pool.

Mayor Daoust asked was it ever talked about or considered that gymnastic training centers or childcare centers would fall under the definition of a school?

Taney Staffenson replied we did not go that far.

Councilor Morgan asked isn't there a state statute or definition on school that is pretty clear?

Ed Trompke replied yes, but I believe this goes further; it's a broader definition.

Councilor Morgan stated that is my point; we are already stretching it.

Taney Staffenson stated we had substantial legal advice and we also looked at many other municipalities and what they had done.

Councilor White stated I agree with Councilor Anderson's comments; you guys did the heavy lifting on this one. I saw the struggles. Having to come up with a definition for a park for example. Mayors Square was being challenged as to whether or not that was actually a park. Same with the college, which as you mentioned has kindergarten aged children going to it. College Park, it's not actually a park. I saw the difficulties that you guys went through. I know this gymnastics thing came in late. The question I have is do you see a solution for that issue? That is the missing piece I see. I see that as the piece we need to add to this ordinance.

Taney Staffenson replied I don't know that we can add it but I do believe that we have some flexibility within the conditional use criteria that we have.

Councilor Morgan asked what does that mean?

Taney Staffenson replied all of these fall as conditional uses and there is a series of criteria that have to be met by the applicant.

Councilor Morgan stated so you are saying if a marijuana dispensary applied they wouldn't be granted because of the certain criteria.

Tanney Staffenson replied I didn't say that. I said that depending on the location and the application there is conditional use criteria that could come into play.

Councilor Morgan asked in this scenario, the one down by Back-to-Back in that area, that specific location?

Tanney Staffenson replied we would look at the criteria.

Councilor Wilson stated I see the struggle you would have here because if someone else opens up a new facility in a newly developed area of the industrial area the line is going to need to be pushed further out and I think that is where we are going to run into problems if we keep moving the boundary. I think the solution of conditional use is going to take care of that whole industrial area now and then as the Port of Portland develops the rest of the industrial area other schools, daycares, or other kid related facilities will pop up and then you are going to just have to apply that same thing instead of continually moving the line down the road. I think that is what you are talking about, correct?

Tanney Staffenson replied yes.

Councilor Anderson stated under the conditional use provisions the Council is the ultimate appellant body. If somebody doesn't like what the PC says or does they can appeal it to Council. So under the conditional use there is another barrier.

Mayor Daoust stated I realize that the conditional use permit process could work. My question is how legally defensible, or not, would the City Council be if we arbitrarily drew the line in a different location? If we just arbitrarily included the industrial park, how defensible, or not, would that be if we added that into this ordinance?

Ed Trompke replied I am going to quote Justice John Paul Stevens who recently said, the Constitution doesn't protect people from stupid laws. So you can enact stupid laws, but I don't know that arbitrarily drawing a line would do that but you need to have what are called legislative facts. There has to be reasons that are rationally related to the law that you adopt and they have to be well-articulated reasons. That is in contrast to the conditional use permit route that is in this document in front of you, which says that either the PC or this body as an appellant group has to look at the facts and you have to apply the facts to the law. When you make a decision on that there is a lot of discretion on how you interpret what satisfies the law, which facts do. You can have two very similar cases going one way on one and another way on the other. The review at a higher level is for substantial evidence; is there substantial evidence to support your decision. So there is still a lot of discretion in it because in any kind of a hearing there will be evidence both ways and it will be which evidence either the PC or you decide to rely upon to make your decision. Again, there is still a lot of discretion involved in the quasi-judicial process of a conditional use permit. All you have to do is follow the law and pick the facts that you think

are more important under the circumstances, so you have a lot of discretion. I think that all of the issues that have been raised are easily addressed under the system that is before you in the ordinance with a quasi-judicial decision system for a conditional use permit. You could go out and arbitrarily draw a line, but it has to be rationally related to your decision and frankly I don't know that you need to do that. The system that is proposed to you does it pretty well and it gives you a lot of discretion down the road based on facts.

Frank Windust, resident of Corbett and Troutdale property owner, stated the town houses that I developed ten years ago, I kept five of them and sold the rest. One of them that I sold sits between two of them that I kept. In the last three years I have lost three tenants because they said there is drug activity going on next door. Sunday night there was another episode there again at that same unit that has cost me three tenants. The police showed up at midnight and hauled the 21 year old kid in. That is the second time that I am aware of that they have hauled him in. The other tenants said they have hauled him in before. He is a drug dealer but the police can't prove it. I have personally had the Chief down there and said here is the house where we have the problem. All of the tenants there know what is going on; they can smell the drugs. Just yesterday I got notice from two more tenants, each of the tenants that live on both sides. The police have been there so many times you can't believe it. Sunday night the two officers from Multnomah County came and they grabbed this kid, threw him in the car and hauled him in. They can't prove anything, they claim they can't go into the house. The story I just got the day before yesterday is that they went up to the wrong townhouse, up the hill behind, and they grabbed a guy out of there and he said he is going to turn in a complaint in against the police. He was sleeping and they broke into the house and drug him out and he wasn't even involved in this thing because the police got the wrong address, but they tell us they can't go into that house down below. So that is where I am at. I've lost three tenants in three years and now I have two others that just gave me their notice. One of these tenants owns a business on top of the hill in Troutdale. They are a young couple with a 6-month old baby and they are fed up with it and they don't want to live next to this guy. They say cars come and go all night long and someone runs out and hands something through the window. The police have been notified so many times. The officer that heard about it the other night said we are going to put an end to it. I will believe it when I see it. This police force at night, they don't do anything at night. They are understaffed or whatever.

Lathen Gorbett, Oregon Resource Group, provided a handout to Council (copy is included in the packet). I broker transactions and consult clients for real estate exclusively for cannabis. We are talking about having good regulation, which is really important. Putting up buffer zones and these kinds of things, and we are talking about politics. Politics is actually the key thing to pay attention to because there is zero evidence that putting buffer zones around schools or other dispensaries does anything for safety or usage. They are all just political. Buffer zones were created so we could get this law passed essentially. I think buffer zones around parks are not a terrible idea. I think that when you have a city that is designed like Troutdale they are not a bad idea because it is really hard to say which districts do we want to put this in. Do we want to regulate neighborhoods, where do we want to put manufacturing? But putting them farther out doesn't protect anybody.

So if we are putting laws into place for protection and safety verses I don't like it, those are two different things so you have to pay attention to that. Honestly, this is pretty buffered, a little bit more than what I thought it was going to be but it's really not bad especially for a city like Troutdale that is this small. The gentleman that spoke earlier that said all of the Washington medical dispensaries turned into recreational, that is simply not true. If you go to downtown Seattle there are no recreational dispensaries. You have to go about a mile outside of downtown to find one; they are all medical inside of downtown Seattle. Washington is also the state to follow as far as what not to do. Oregon really is kind of the model for the rest of the country, and I think Troutdale is actually doing a really good job from what I have seen.

Right now the people who use this as medicine are getting it for cheaper than I have ever got it twenty years ago; it is very inexpensive. Removing this house growing; I can grow tobacco and sell it to my friends, I can grow tomatoes and sell them to my friends, and make beer and sell it to my friends. There is a reason why most people don't do it; it is not very convenient and it is kind of going away and you are going to create a regulated market for people to go get it very inexpensive, \$8 grams. The recreation market will probably push it closer to \$20 per gram. You are going to have two different markets.

When you are taking the sickest among us, stage four cancer patients, parents of children with epilepsy, people in incredible pain, people with PTSD, and you put them out into a poorly lit industrial park to go get what they consider their medicine because they don't want to take the oxycodone that is sold at Walgreens right next to the school, that just becomes sort of ironic. I think the PC did a really good job here in that they created boundaries that will most likely eventually become more lenient over time, but it does give it a start.

The first page of my handout has a good example of what a lot of dispensaries look like. It is very well regulated. People put a lot of money into these. Some of my clients have put upwards of \$500,000 just into a dispensary for filter filtration, marketing, waiting room, security, etc. When people invest that kind of money into a facility they are not interested in just setting up and being a toxic entity in the community. They are interested in making money and creating a tax revenue for the community they are part of. This market is full of really good smart entrepreneurs who are trying to be good members of the community. You have some toxic people to and they will go away. There are 130 dispensaries in Portland, most of them will go away; the market will do it. A regulation again doesn't help anything. If you look at some of the comparisons people have made – convenience stores, pharmacies and liquor stores. Pharmacies that is a personal issue; you are serving things out of there that are toxic things where cannabis is not. But liquor stores and convenience stores if you look at the loitering issues, it is typically not outside of liquor stores. People go in get their liquor and they leave. A lot of times it is the convenience stores. If you go to any medical dispensary in Portland there is nothing; it looks like you are going by a natural dog food store or anything else except for the fact that there is a green cross. These are not problematic contributions to society. Again, I can't push that enough. The reason that I do what I do for this industry is because I am advocate for it first and I saw an opportunity with my real estate license to make a career out of it. I am not doing this

for my own financial well-being, I am doing it because I think that it is a good thing and if it is well regulated and you get the right people involved I think you can have a good thing for your community.

Mayor Daoust asked how do you feel about our ordinance?

Lathen Gorbett asked do you have any additional taxation?

Councilor Morgan replied 5% and 10%.

Lathen Gorbett replied I think you are managing it really well. When I look at your buffer zone map/area map it is what is expected.

Councilor Morgan stated there were two things you said, you mentioned a not well-lit...

Lathen Gorbett interrupted and stated in industrial/commercial zones, yes.

Councilor Morgan stated we wouldn't know what it would look like until it was there.

Lathen Gorbett stated until it was there, sure.

Councilor Morgan stated second of all, if it was mitigated or taken care of the transportation, it would be a place that could be well traveled right.

Lathen Gorbett replied sure.

Councilor Morgan stated and thus would take care the lighting issue and the transportation issue.

Lathen Gorbett replied yes. I think having them somewhere along a busy corridor, well lit, something that a cop could easily drive by and see. It is not a fully cash operation now; it use to be a cash only business and that was really the only safety hazard because you are exchanging cash and then you have to worry about what time can I take the cash out the back door, how much can I have on me at any point. There are ways around it now, however, there is still a lot of cash. The biggest safety issue really is the cash issue. So when you are putting them out in the industrial zone, people typically are not going to go in and rob them for the pot, they are robbing them for the cash. But it is becoming less of an issue, and when you have a well-lit area it becomes a lot less problematic.

Councilor Morgan stated but by your own admission you said security cameras, and secure locations.

Lathen Gorbett stated you still have to go from the door to the car. Security cameras don't stop people they just record them.

Councilor Allen stated you do have to have a medical marijuana card in order to go into a dispensary.

Lathen Gorbett replied absolutely.

Mayor Daoust called for a break at 8:55pm and reconvened the public hearing at 9:08pm.

Paul Wilcox, resident, stated although “recommendation” is the default word used when the PC forwards their opinion to the Council, I wouldn’t characterize this action taken by the PC as a recommendation or endorsement of the listed changes, but closer to a suggestion that these are some ideas that you might want to consider. None of the restrictive additions to the code had unanimous support. Of course, the Council is free to adopt any, all, or none of the proposals submitted by the PC, as well as add further restrictions if they so choose. There was considerable discussion by the Commissioners following the public testimony. One factor that may have hindered their progress was that one Commissioner was absent, creating the potential for tie votes, which did occur. Also on the table were “failure to act” and “no recommendation”. The individual opinions were also quite varied. Councilor White attended the entire meeting, so he can confirm how divergent the positions were. Councilor Wilson was also in attendance for most of the meeting. I don’t presume to speak for the individual Commissioners, but my personal opinion is that two of the Commissioners would have preferred Troutdale adopt Cave Junction’s policy and prohibit dispensaries entirely on the basis of their violating Federal law. A major problem with that approach would be that the Council would be in effect “picking and choosing” which jurisdiction’s laws apply. Another two Commissioners, again, in my opinion, would have accepted the state mandate as sufficient. Although I don’t generally like sports metaphors, in the end they ended up throwing up their hands and punting. Support for this so-called recommendation is accurately summarized in the statement accompanying Commissioner Woidyla’s vote, “I think just to get this burden off our backs, I’ll vote yes.” Between the public testimony and the Planning Commissioners I have not heard a compelling argument why restrictions should go beyond what is required by the state, which is 1,000 feet from K-12 schools, and 1,000 feet from other dispensaries. The most common argument seems to be about town “image”. This is a very subjective basis for disallowing a business. If someone wanted to open a barbecue joint on main street and located his smoker adjacent to the sidewalk in front of the restaurant, that would be more of a public nuisance than a storefront with a green cross in the window. I would make the same request to the Councilors that I made to the Planning Commissioners, and that is, that the pros and cons of these additional restrictions be evaluated impartially, and not based upon one’s personal opinion of the product involved, but rather determine the perceived threat to the public verses unreasonable restrictions on a business. I wanted to go on record as opposing any restrictions beyond those mandated by the state per HB3460 regarding medical marijuana dispensaries.

Councilor Morgan stated you were at the PC meeting and you saw the votes that happened. I heard Frank say something to the effect that well my recommendation is that we take no action, which couldn’t be done under the procedures that were outlined and

allowed. It did seem like it was very polarizing. It appeared that it was a very lightening rod issue and some of the votes were about what should happen or what could go wrong, is that your take or understanding of the PC meeting?

Paul Wilcox replied this whole presentation is to make the point that what came from the PC as a statement basically, I don't think accurately reflected what went on in that meeting.

Councilor Morgan stated I concur. Ed, can we adopt what Cave Junction did and just prohibit it on the premise of a federal offense? That seems to be a more intellectually honest conversation as opposed to regulating it to somewhere in Washougal.

Ed Trompke replied I don't know. Especially because the Attorney General of the United States has given a letter to at least two states, and maybe more, that if the voters have adopted a law that allows the recreational use of marijuana that the federal laws won't be enforced in that state.

Councilor Morgan stated but it wouldn't preclude us from doing that would it?

Ed Trompke replied it is a good question. Would it preclude you, possibly not. My concern would be that by prohibiting medical marijuana, which is all this addresses, it could violate the Americans with Disabilities Act or the Americans with Handicaps Act if a person could show that they couldn't reasonably obtain their medication because of the City's action. That would be a factual issue that would have to be tried in a court. It seems overly expensive to try to litigate.

Councilor Morgan stated but that could be argued if we moved it so far north by the airport.

Ed Trompke replied potentially that same argument could be made.

Mayor Daoust stated thanks Paul. Just to clarify what you were trying to say at the end, the PC recommends approval of the ordinance as described in the Final Order attached as Exhibit A. So the ordinance we have in front of us, I have no reason to think that that statement is not true. So the PC is recommending approval regardless of how their meeting went and how many arguments they had.

Paul Wilcox replied on the face of it. But then you do have one Commissioner saying he voted yes just to get it out of their hair.

Councilor Allen stated my experience has been that there were strong emotions on both sides of this issue and what happened at the PC is fairly similar to what has been happening in the town, and what we have before us is a compromise between groups of people that have strong emotions.

Mayor Daoust closed the Public Hearing at 9:18pm and stated that there will be a second hearing on this ordinance on March 24, 2015. For those of you who testified tonight if you

have new comments they are welcome, but you do not need to repeat the same testimony given tonight.

6. STAFF COMMUNICATIONS

Erich Mueller, Finance Director, reminded the Council that on March 17 there is a work session scheduled. Would the Council like the work session to start at 6:30 or 7:00pm?

Council agreed to have the work session start at 6:30pm.

7. COUNCIL COMMUNICATIONS

Councilor White stated Dave Fronmeyer passed away yesterday. He was a legend in Oregon. He was the keynote speaker at the last League of Oregon Cities Conference. I am glad I had the opportunity to hear him speak. He was a very impressive man.

Councilor Allen stated last week when we had our work session I was hoping that it would be more of a work session. It felt like it was similar to previous meetings that we had and it was more of a presentation. I agree with Councilor Ripma that numbers were brought up that I hadn't actually seen before. I would like to receive a detailed accounting of what made up the numbers in the charts. Obviously, if we presented that there must be details that drove those numbers and I would like to see that.

Erich Mueller replied that information is going to be prepared and will be provided in your packet for the 24th.

There was concern expressed by Councilor Allen that receiving the material on the Friday before the meeting isn't sufficient time to review the material. Council discussed what information Councilor Allen was asking for.

Erich Mueller stated I am preparing the information related to accounting for the transfer of employees and the payment for positions, which is what we are contracting for, to answer part of Councilor Ripma's request to understand how the personnel piece of the function works, and also the cost numbers from the County related to the personnel costs to get to the 82% of what that total contract cost is represented by the employee piece, and then the other portions. Councilor Anderson had also suggested a comparison column of the different scenarios to include the current cost, the proposed cost with the Multnomah County Sheriff's Office, and a cost under the expected labor agreement with Troutdale Police Officers Association if the contract isn't implemented. I understand there is a desire for more detail and I am going to attempt to provide that in a manner that is understandable. I also understand now that you would like the information earlier so that there is opportunity to review it.

Councilor White asked could you provide more information on the lease agreement as well?

Erich Mueller replied I expect to have the finalized lease document as part of the packet.

Councilor Wilson stated this Saturday the Mayor and I are going to go on a television program with Rob Canfield to talk about the possible merger with the Sheriff's Office and our Police Department. It will run the following Saturday prior to our meeting on the 24th.

Councilor White asked aren't we still in negotiations on that?

Councilor Wilson stated we will be talking about the reasons for the merger.

Councilor White asked is that a wise move?

Mayor Daoust replied it is just public outreach answering questions that Rob Canfield may propose so people understand what we are going to be voting on.

Councilor Morgan stated and the staff report provides pros and cons for all of these things. It is not just one-side all for or all against.

Councilor Wilson stated we discussed this at our last work session. It is the same thing that we all have information on. All Rob wanted us to do was to come on and talk about what is going to happen on the 24th.

Councilor White stated Erich Mueller just pointed out that we just gained some ground on the lease.

Councilor Wilson stated we are not talking about the lease.

Councilor White stated be careful.

Councilor Anderson stated Erich Mueller just stated that on television.

Councilor Allen stated mostly we have been talking about the pros, but there are cons.

Councilor Morgan stated as there are in every major decision.

Mayor Daoust stated it falls into the category of transparency.

Councilor Allen stated we just need to weigh it out fairly.

Councilor Wilson stated we discussed at the meeting needing more information out there to everybody. We are going to get more information out there for people to make decisions on.

Councilor Morgan stated I had an excellent weekend supporting the Troutdale Police in the 41° Columbia River for the Special Olympics. We raised almost \$300,000 for the Special Olympics.

Mayor Daoust stated there was a Government Affairs Quorum last Tuesday at Persimmon hosted by the West Columbia Gorge Chamber of Commerce and the Gresham Chamber of Commerce. I, along with the Mayors from Wood Village and Fairview talked about what is going on in our three cities.

Yesterday the Urban Renewal Agency negotiation team met. We have some things that we need to discuss with Eastwinds so we will be scheduling a meeting with them soon.

At the East Multnomah County Transportation Committee (EMCTC) meeting yesterday that Councilor Allen and I attended we discussed the Troutdale Airport Master Plan, TRIP and Gresham Vista.

I want to ask the Council for permission to put in ad in the Outlook's annual Drug Free Community Section. The cost is \$190.00. We have participated the last two years.

Council agreed.

Thursday there is an East Metro Economic Alliance Board meeting that I will be attending.

Thursday evening the State of the City Address and Volunteer Recognition Event will be held at 7pm in the Sam Cox Building at Glenn Otto Park.

8. ADJOURNMENT:

MOTION: Councilor Anderson moved to adjourn. Seconded by Councilor Wilson. Motion passed unanimously.

Meeting adjourned at 9:35pm.

Doug Daoust, Mayor

Approved April 14, 2015

ATTEST:

Debbie Stickney, City Recorder