

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

**Tuesday, September 30, 2014**

**1. ROLL CALL, AGENDA UPDATE**

Mayor Daoust called the meeting to order at 7:01pm.

**PRESENT:** Mayor Daoust, Councilor Ripma, Councilor Anderson, Councilor Thomas, Councilor Allen, Councilor Wilson and Councilor White (7:17pm).

**ABSENT:** None.

**STAFF:** Craig Ward, City Manager; Debbie Stickney, City Recorder; Shelby Rihala, City Attorney; and Erich Mueller, Finance Director.

**GUESTS:** See Attached.

Mayor Daoust stated for your information I have a copy of a report from the Oregon High Intensity Drug Trafficking Area (HIDTA) which is a threat assessment report that focuses on Multnomah County and the surrounding counties. This report talks about heroin use, marijuana use, cocaine, controlled prescription drugs, and methamphetamines. It shows the trends on what is happening with treatment admissions for heroin and marijuana use, which counties have treatment admissions and how many drug impaired driving arrests there have been in Oregon from 2008 to 2013.

**2. PUBLIC HEARING / ORDINANCE (Introduced 9/23/2014):** An ordinance adopting a new chapter of the Troutdale Municipal Code, Chapter 3.35, "Marijuana Tax".

Mayor Daoust read the ordinance title.

Shelby Rihala, City Attorney, stated this ordinance is proposing a 5% sales tax on gross receipts on the sale of medical marijuana and 10% gross receipts tax on the sale of recreational marijuana. This is in anticipation of Measure 91 on the November ballot. If that measure passes it contains a preemption clause. The goal or hope of many cities is that by adopting this tax prior to the potential passage of the measure that we would be able to grandfather in the tax if the measure is passed. This ordinance is similar to what has been adopted in several other cities and is an attempt to preserve your ability to tax this product.

Councilor Anderson stated Section 42 of Measure 91 says, "State has exclusive right to tax marijuana. No county or city of this state shall impose any fee or tax, including occupation taxes, privilege taxes and inspection fees, in connection with the purchase, sale, production, processing, transportation, and delivery of marijuana items." If this Council passes this tax tonight, are we putting ourselves at risk for a lawsuit, and will this tax, by the very language I just read, be overturned?

Shelby Rihala replied it is possible to both of those questions. The preemption language has not been tested and it will have to be tested someplace if the measure passes. It could be tested through litigation, it could also be ratified or modified by the State Legislature. There are several cities who believe that even if the measure passes the legislature may act to grandfather in that language or to allow an exception for cities that already have it in. I answer with a probably because I can't guarantee either way, but it is possible.

Councilor Anderson asked in your professional legal opinion is this Council taking an unnecessary risk in terms of the dollars that could potentially be spent in a legal challenge that we would have to pay?

Shelby Rihala replied I certainly don't think it is an unnecessary risk. As we discussed last week, if the City was legally challenged you could simply repeal the ordinance and there would be no legal challenge.

Mayor Daoust stated it is pretty clear that if Measure 91 passes the timing is such that no city could have the right to tax, so the window is open right now for those cities that choose to do so. Whoever is going to challenge this wouldn't just challenge Troutdale, they would challenge all of the cities that are imposing a local tax. The risk is there but it seems low if we can just repeal it and remove ourselves from the threat.

Councilor Anderson stated, Section 58 reads, "Marijuana laws supersede and repeal inconsistent charters and ordinances. Sections 3 to 70 of this Act, designed to operate uniformly throughout the state, shall be paramount and superior to and shall fully replace and supersede any and all municipal charter enactments or local ordinances inconsistent with it. Such charters and ordinances hereby are repealed." With the passage of this it negates whatever we do tonight by my reading, but I am not a lawyer. What is your take on that Shelby?

Shelby Rihala replied in the preemption analysis the court decisions typically focus on whether it is in direct conflict with the state action, or is there language expressly stating that the local provision is to be repealed. Several cities have taken the position, and I agree, that the language is not in direct conflict and you can have a local sales tax and a state sales tax. There is no direct conflict; they can operate jointly together. The other question then is, is there expressed language. Several cities have also taken the position that the language, while it does appear to be expressed, it could also be that "shall" refers to future enactments in terms of Section 42. So the state "shall" have authority, no city "shall" pass. One argument is that that is only referring to future and that would preserve

the cities who have already enacted one; it would grandfather in those. In terms of a preemption analysis the second question is can a ballot measure even do that in terms of repealing a home rule city's enactments. Ordinances are a little wishy-washy; repealing a charter provision is a pretty substantial grant of authority that most city attorneys say that the legislature can't do.

Councilor Anderson stated this isn't a charter amendment, this is an ordinance so it is in the wishy-washy area.

Shelby Rihala replied correct. But in terms of does the legislature or the voters have the ability to do this, it is going to be a question of home rule authority.

Councilor Thomas asked how can a ballot measure override existing state and local laws? I don't know of anything in the past where that has happened. In some cases if you have multiple things on a ballot measure sometimes the whole ballot measure ends up getting tossed out because they are supposed to be specific to one issue. It may be the case here where it is specific to the one issue. That part doesn't concern me as much as getting things in place before a ballot measure goes into effect. I also understand that cities have the right, if they want to, to impose a sales tax. Doesn't that kind of fall into that scenario where we have the authority to impose a tax if we want to?

Shelby Rihala replied yes. Cities have the ability to tax. There is a wide variety of case law in terms of the fact that cities have this ability.

Mayor Daoust stated this does fall into the home rule authority. If we were to pass an ordinance that said we will not allow recreational marijuana use or sales within our city that might conflict with what people are voting on. That may be what they are referring to here, because the State of Oregon is going to tax, local cities can tax. That is not necessarily opposite.

Shelby Rihala replied exactly. The state hasn't occupied the field of regulation such that cities have no room to be there; the two can operate jointly. In terms of preemption language, it is a home rule question because it is not clear where that boundary is going to be.

Mayor Daoust stated there is a lot of uncertainties with all of this. The whole marijuana arena has so many uncertainties coming in the future that it really is hard to predict how things are going to turn out. Whether it would do us any good to tax or not tax, it is kind of a question in my mind of taking advantage of an open window that is given to us right now. Maybe it will do some good for the city.

Councilor Anderson stated I get that Mayor. I just can't get there debating the merits of Measure 91. The merits in front of us are whether we want to tax the substance prior to the vote of the people. Shelby, can you explain how the state shared revenues work with this?

Shelby Rihala replied the way the ballot measure is proposed is that 40% would go to the common school fund, 15% to Oregon State Police, 20% to addictions services, 10% to cities and 10% to counties. For the first year of operation the cities and counties portion goes on a per capita distribution, after that it is based on the number of retail, wholesale and grow operation facilities in the city.

Councilor Anderson stated at our last meeting Mayor Daoust and Councilor Allen pointed out, in my estimation correctly so, that the cost of enforcement will go up if Measure 91 passes. Hypothetically, if the citizens of Troutdale wanted to procure marijuana in 2017 and we pass this tax and Wood Village does not have a tax, the citizens of Troutdale would go to Wood Village to get their marijuana drive back through Troutdale where our officers have to enforce any DWI's and we wouldn't have the revenue to support the extra enforcement. Would I be accurate?

Shelby Rihala replied that is a policy question, but it makes sense.

Councilor Thomas stated looking at it the other way it doesn't seem like we would get a lot of revenue from the state at 10% to help with the enforcement. Either way enforcement costs will go up.

Shelby Rihala stated if Troutdale has no facilities then you will get no revenue under the state policy. The timing of this is based on the presumption that Measure 91 will pass. If Measure 91 doesn't pass this ordinance will still apply to medical marijuana, which the State Legislature has expressly said that cities have to allow. That will be a discussion at the next legislative session in terms of the kinds of restrictions, and can cities outright ban them. But in terms of the taxing that hasn't been addressed by the legislature at all. If Measure 91 fails, this still sets you up for taxing medical marijuana and should the legislature wish to impose a tax next legislative session on medical marijuana we would also preserve our authority right now to be grandfathered in should that happen.

Councilor Thomas stated we still have the issue with the medical marijuana that we tabled for a year and this might resolve some of that issue at the same time.

Mayor Daoust stated we learned some interesting things at the League of Oregon Cities (LOC) Conference last weekend. We learned that the State of Washington has what you could call a 75% tax rate. They raise 25% at the producer level, another 25% at the wholesale level, and a third 25% tax at the retail level. That is what I understood is happening in Washington, and they are still receiving applications for medical marijuana facilities and retail locations. It is an ambitious market. There have been a lot of projections on the millions of dollars that are going to come into the cities and states because of that. Colorado's tax rate is 25%. They have a wholesale tax rate of 15% and they add another 10% at retail. However much tax revenue marijuana generates, you could say that it is money that would have otherwise ended up in the black market. So what we are trying to do is capture some of that money that would be in the black market. That is one way to look at this. It is true that other cities are talking about a 5% to 10% tax rate. Most of the cities are in that ballpark. I understand that Fairview will be looking

at a 100% tax rate. If we are allowed to change the tax rates later there could be some leveling between cities with consideration as to what is going on in all of East Multnomah County to try and not pressure the market into certain locations. If we have a lower rate than Fairview we may need to talk amongst the cities and try to level out the playing field a little more so that one city doesn't get more pressure than the others in terms of who locates in our city. In talking with most of the Mayors in the Portland Metro area they are focusing around the 5% to 10% just like we are.

Shelby Rihala stated to the question of can we raise the tax in the future, that is also going to be an uncertainty as of right now. If it is grandfathered in and either a court or the legislature affirms our ability to implement the tax but says that it is grandfathered in, it would be very unlikely that we could raise the tax, but it would make sense that we could lower it. At this point raising the tax seems less likely than lowering it.

Councilor Allen stated this last week has been full of discussion and I appreciate those that have shared constructive viewpoints with me. There are strong opinions on both sides. I have gleaned the following from those discussions. Upon legalization I expect usage to rise approximately 20%. Due to a number of factors and the lack of good data nobody really knows. I also expect to see an increase in abuse. There are social and health issues similar to other altering substances when taken in excess or in combination with performing physical tasks. This will no doubt have a negative impact on our city regardless of whether or not this tax is approved. Measure 91 has a shared revenue taxing aspect and some already have concerns of it being too high. This matters because if you tax too high then the hopeful impact of reducing illegal sales is dampened. This hopeful impact is also reduced if demand increases faster than supply. Whereas legal sales are likely to attract more customers, illegal sales are more likely to attract violence and free samples, or more problematic drugs. It is uncommon to see theft connected with marijuana, whereas theft is commonly linked to other types of illegal drugs. When it comes to a city tax, I see increased overhead for the city and we will need to create a mechanism to collect the tax. I wish the problem of substance abuse didn't exist. The fact is that it does and I think the city tax may have more down side than up.

Councilor Wilson stated marijuana is already out in the black market, you can't make it any deeper than it already is. I think this will be a mechanism that will cause less because you can't drive it any more than it is already driven. This is a gateway drug and it is going to be a problem for the city. We are going to need a way to address it and a tax on it will help to address that issue for training and other things that our police force may need. I don't see it going any further in the black than it already is because you are legalizing it at this point.

Councilor Ripma stated whether the legalization is going to cause more or less usage, even that is speculation. Marijuana has been illegal my whole life and that hasn't stopped anybody from using it. The idea that it might cause this or that is speculation. You are entitled to your opinion. If what you meant by causing more problems, if you mean legalization I can't deny it, I can't prove it or argue against it. But if you mean taxing, putting a sales tax on it, I say we would be doing wrong by our citizens if we don't pass it

now while we can. We can always repeal it if it's a problem but we probably couldn't enact it later. That is why I am supporting it. I am glad the Mayor brought it forward quickly and we are having this special session. I can't prove or disprove that it is going to be good or bad or bring in revenue or not, but we have a window and I think we wouldn't be doing right by the citizens if we didn't try. If we don't pass it tonight we won't be able to later.

Councilor Anderson stated I appreciate that Councilor Ripma but we aren't going to know the answer to this until probably November 12<sup>th</sup>. What if the citizens of Troutdale vote to legalize marijuana only to find out that two weeks prior the Troutdale City Council decided to put a preemptive tax on it, what are we going to tell people? You say we owe it to the citizens, what if they vote to legalize it? We don't know.

Councilor Ripma stated I actually have no guess as to whether the people here would vote for it or not. Whether we impose the tax is still independent of that. Just because they want it legalized doesn't mean they are against having this modest tax, in my opinion. It will help revenue if there in fact is any revenue derived from it. If it turns out we don't need the money we can always repeal it. Everyone is flying kind of blind on this. I see no harm in imposing the tax on the chance that it will help.

Councilor Anderson stated in the world of the free market if you place a tax on something in one city and there is no tax in another city, the vendors of the product are going to go where they can get the best deal and make the maximum profit. That is what this is; this is capitalism. If we have a 5% or 10% tax and Wood Village has 0% and Fairview has 100%, where are the marijuana sellers going to go? Probably Wood Village where they are on record saying that they want to make this part of their economic development. Again, it comes back to what I said earlier and what Mayor Daoust and Councilor Allen pointed out, there is no denying that the cost of enforcement is going to go up. As Councilor White pointed out there has been a 45% increase in DWI's in Seattle. It costs more money to enforce and if we pass a tax we are not going to get the revenues. We will get them for a year or two, but we are not going to get them in year three and beyond. We need to pause and think about that and not debate the merits of Measure 91, we will have time to do that on the 20<sup>th</sup> of October when the ballots go out all the way up to the 4<sup>th</sup> of November; that will be the time and place for that discussion. Are we taking an unnecessary risk by putting a tax on it? Are we opening ourselves up for a potential lawsuit? And, if we do impose a tax we are putting ourselves at a disadvantage on enforcement that everyone says will cost more money. No matter how we feel about the issue itself, that is not the question here, the question is what do we do with it if it passes? Lets take our activists hats off and put our business hats on and think about this from a business perspective.

Mayor Daoust stated I am thinking of it from a business perspective. I have to respectfully disagree with some of your assumptions. I don't think locations of where potential sellers could be will be directly related to a 5% to 10% sales tax. They are going to go wherever they are needed to go. If we have sites in Troutdale where we allow them, I don't think a 10% tax is going to keep them out when you look at the millions of dollars they are going to make selling marijuana. As much as we think a 5% to 10% tax may be restrictive, I

really don't think it will be when it comes to locating sellers. One thing I do know is that the people in this city are more concerned about public safety and law enforcement than they are about whether we put a 10% sales tax on marijuana. If we, as a Council, said we will let this go and we will not collect our own taxes which most of would go towards public safety, I would agree with Councilor Ripma, I think even if our citizens do vote to approve recreational use of marijuana it is not related to the fact that we can tax what they buy. I don't think the two are related; it is two completely different arguments and two separate issues. I don't see the down side there. I don't see the connection that you are making. You are making the connection that if people want recreational marijuana they don't want us to tax it; I don't see that as an argument that our citizens would make. I think our citizens would make the argument, those that want to pass it, let us have our marijuana but protect us also; give our police some more funds to do their job. I don't think they are exclusive of one another.

Councilor Allen stated your statement makes a lot of sense to me when we are talking retail locations. Ms. Rihala, what would be the combined tax of the state and local tax if we pass this?

Shelby Rihala replied I actually can't answer that because the state tax is at a per ounce rate as opposed to gross revenues. The tax is \$35 an ounce on leaves, and it is taxed differently for flowers, and differently for oils. But \$35 an ounce is the highest tax rate.

Councilor Allen stated what I am thinking about is at what point is the tax high enough that instead of going to retail locations you just go to the same person you are seeing today? You are more likely to be able to control what else is sold at a retail location, whereas the person you are seeing today maybe that is all they sell and maybe not.

Councilor Wilson stated Washington set a 75% tax and the people are still lining up to open up retail stores. Obviously that is not a deterrent, so if the amount is 45% I don't see how that is going to be a deterrent.

Councilor Ripma stated this is all speculation. The reason I am favoring going forward with this is because it preserves our options. We can debate this after we find out how it works. If we don't pass this now we won't be able to. The down side risk is small. If we find ourselves faced with lawsuits we can repeal it. But we can't do it if we don't pass this, and we have to pass it tonight if we are going to do it. It is the way to preserves our options, and then consider all of the ramifications that you are bringing up as possibilities; I can see that they are possibilities. But we won't have the chance if we don't act.

Councilor Allen stated so you are saying if it doesn't go well we rescind it.

Councilor Ripma replied exactly. Or if it turns out to be worse; it could turn out that retail space causes more problems, users and growers don't, and we still get revenue. There are all kinds of scenarios that wash the opposite way of what you were speculating Councilor Anderson, but we won't have the chance to adjust to what the circumstance ends up being if we don't act.

Councilor Anderson stated I get what you are saying Councilor Ripma. And Mayor your argument was very articulate and passionate and I too commend you for bringing this forward because we need to have the discussion. We have a limited window, I understand that. I am listening to what everyone is saying.

Mayor Daoust opened the Public Hearing at 7:40pm.

Diane White, resident, stated I attended two sessions at the LOC Conference pertaining to marijuana. One was on the potential legality in the State of Oregon and the other one was the State of Washington and where they are at. The City of Kirkland, Washington adopted dispensaries as it was written and thought they would be fine. As time progressed, and they were trying to figure out location dispensaries and ramifications of adoption itself, they were finding that it was basically a moving target. They are having to continuously adjust without seeing the whole ramification from the whole picture. I am recommending that you do impose a tax because Washington is going to be dealing with that learning curve for quite a while and I think we are too. Hearing all of the lawyers talk at the LOC Conference, they have no clue what is going to happen or how it will all settle and how it will work out. I do like the idea of the Mayor partnering with our sister cities and imposing a tax. We could even allocate 5% to public safety and 5% to public health. When gambling became legal we began to see all the repercussions of people that have gambling issues and how it affects their family. We are going to see a lot of that here. We are not going to be able evaluate the consequences of legalized marijuana; we just don't have that data and we are not going to know. If we do impose a tax we can designate a portion to public safety and public health for things that we can foresee at this time. Like was said it can be rescinded later if it is a burden, hardship, or has intended consequences that we can't foresee at this time. Just knowing that we have no clue what is ahead of us, I recommend that we adopt the tax and we can always rescind it.

Paul Wilcox, resident, stated at the first reading of the ordinance last week, the Mayor and at least a couple of Councilors seemed to indicate that the main purpose of the tax is to discourage marijuana retailers, both recreational and medical, from locating in Troutdale. If the idea is to send a strong, unequivocal message that marijuana outlets are not welcome in Troutdale, perhaps the tax rate should have been much higher, such as 50% or even 100%. However, the 10% and 5% rates may be sufficient since nearby Wood Village will not be levying a similar tax, shifting sales one mile west. The argument was also presented that the tax was needed to fund the possibility of additional workload on local law enforcement. The deficiency here is that nowhere in the ordinance is it stated that the funds collected are specifically earmarked to support local law enforcement, address mental health issues, or any other negative impact of local retailers. In other words, taxes collected will end up in the general fund. Of course Section 42 of Measure 91 specifically prohibits cities and counties taxing marijuana sales, so any local ordinances passed prior to the vote would undoubtedly be challenged in court in the event that the measure passes, particularly in light of the fact that revenue-sharing with the cities and counties is an integral part of Measure 91 itself. Section 44 of Measure 91 spells out how the state collected taxes will be distributed. On the law enforcement front, 15%



is allocated to the state police, 10% to city law enforcement, and 10% to county law enforcement according to the relative population initially. My reading of paragraph B seems to indicate that in July 2017 half of the city and county allocation will be dependent upon the actual number of retailers in each city and county. This would result in a reduction of state shared revenues if a city did not have any licensed retailers.

Marianne Daoust, resident, stated over the past ten years I have had quite an opportunity to become involved in research on topics related to addiction, addiction centers and insurance provider issues with kids and teens going into treatment. I also sit with parents in a group in East Multnomah County called Parents of Addicted Children Together (PACT). In that group we share a lot of information and we welcome people in the community who are having challenges with family members or children who have become addicted. The reason that Mayor Daoust has the High Intensity Drug Trafficking Area Report is because I handed it to him before he came to the meeting tonight. There is plenty of information to show that drug use does increase and has increased especially when they went from medical locations to what are now full-blown recreational legalization. There are all kinds of issues that they are starting to track in the State of Colorado. I feel there are so many unanswered questions with this issue and I can't help but think that we are rushing into this. I feel like we are being reactive tonight. I understand there is legal pressure to decide whether you should tax or not, but I think there are so many issues that are going to be unresolved. I would like to ask the attorney, what about the feds? Marijuana is illegal, so what do you know about what could happen and what kind of risk is there to the city to move forward?

Shelby Rihala replied right now the Federal Administration is taking the position through memos and policy guidance that they are not going to take any enforcement action against any state that has legalized recreational or medical marijuana. This is subject to change with the administration; it is what we are going off of now but it could change in the future. In terms of the risk to the City, I see very little in terms of the federal enforcement. One of the speculations is that if the feds decided to go after cities it would be through the form of grants, specifically cop grants, law enforcement type grants. If there was a city that was seen as supporting marijuana use or encouraging it they might withhold grant money from them. I think that is hypothetical and far in the future in terms of where this administration is right now. The consensus among city attorneys is that there is very little risk of that. Again it is something that you could change in the future if the feds took a position that a tax was encouraging the use.

**Marianne Daoust stated I think the reason that you are saying there is no risk at the feds** is because it is highly unlikely that they have the resources to enforce this. From what I understand that is part of the problem they are having in Washington; people are not coming out of the woodwork to enforce this because they don't have the resources. All of these retail shops and everything else will fall on the local economies. There is plenty of data in this report to highlight the increased substance abuse, addiction, and treatment centers that are basically lining people up specific to marijuana. This is an important report because it showcases all drugs. I find it premature to be having this conversation. I think we have a lot more work to do as a community before we just act as though we are legally

required to do something or not. I know that we can make money off of it and I know that the cities will make money off of this, but I don't necessarily ethically think it is the right thing to do. It is only because there are so many issues, including youth access. We have a community full of drug policies. Mt. Hood Community College has a drug policy, they also have a no smoking policy. The Metro region has policies that require high density housing in certain areas, so there is also the additional problems of planning with high density locations and how people are living in these dense areas and where are they going to smoke? In their backyards and homes. If you are 21 and older and you are not a parent, you probably will be a parent. The access to children will increase, I believe. Most of the parents in East Multnomah County who are in these groups will tell you that marijuana is a gateway drug; it is everywhere. So are so many other drugs. I encourage people to take a look at this report. It highlights not just marijuana but everything else that police on the frontline are dealing with, and the parents. It is a serious matter and I think you need a task force; a committee of people that can analyze and look at this. I think it is too soon. I know you feel like you have to do this tonight. I wish we had more time and I wish things were different. I wish we were talking about something that was pro public health and safety; an initiative that I can feel really good about. I don't feel good about any of this and I doubt any of you do either. I think we need to do a little more homework. I would ask each of you to take a look at this report and see what your police are dealing with on a daily basis. You think you are going to make money? The cost of addiction services is very high. We have people in the community that don't have health insurance. Even with health insurance addiction services are very high. State budgets are already being drained by these services. I want you to be aware that it is not a simple discussion about taxes tonight. It goes very deep into your community. There are good people out there affected by drug trafficking. It affects our schools. I wish you could take more time before you decide on this. I wonder if you could do nothing and what would happen.

Councilor Allen asked does this report show a raise in all drug use or just in marijuana use?

Marianne Daoust replied this is a very comprehensive report. What I made a copy of was just the marijuana section.

Mayor Daoust stated what it does show is a raise in heroin use.

Marianne Daoust stated there are arguments being made that the criminal justice system can't house people or they don't have enough space. The criminal justice system doesn't have space because, I believe, the increase in other drug use. There are so many drugs out there that we are not going to lock people up for marijuana. Please read this. There is plenty of evidence to show the effects of drugs on our community.

Mayor Daoust closed the Public Hearing at 7:56pm.

Councilor White stated my main reason for taking a very serious look at this issue is the fact that we have the state's largest high school within our boundaries. I really think Troutdale should do anything in its power to keep marijuana out of the hands of those

kids. They are our biggest risk group. Several of the cities are going with the stance that they were going to follow their oath of office which says they would not violate state or federal law and they would not allow marijuana to be sold within their city. We have to ask ourselves tonight if that is something we want to look at doing. Is this tax simply a deterrent? If that is your reason for voting for this maybe we take it a step further and say Troutdale is a bedroom community with two big schools, Mt. Hood Community College and Reynolds High School, and maybe we just make a statement to the world that says we don't want it in our town. I am okay with that. As far as working with the three cities, I know that Fairview is pursuing a 100% tax. Wood Village unfortunately has a charter problem and they are not able to impose a tax at all, so they have chosen to go the opposite direction and embrace the revenue stream. I say we keep it out of Troutdale. I think it will degrade our city. It will lower our property values and I think we should set the example and keep it out of our city limits.

Councilor Thomas asked is Gresham looking at this?

Mayor Daoust stated they do have a sales tax ordinance but they are setting it at 0% for now.

Councilor Ripma stated the tax is not to make money, at least that is not why I am voting for it. It is not to promote marijuana. I am sure that there are a lot of good reasons to keep it illegal and not pass Measure 91, but we are the City Council for Troutdale and we need to try to thread this line and do what is best for the City. We are not voting for this tax to promote marijuana or to make money. Those of us who favor it have our reasons but mine is to preserve an option. It would be nice if we could have focus groups and discussions, but either we act now or we will lose our ability to have that flexibility to decide whether it is a good thing or not. That is not our doing, it is not artificially imposed, it is just a creature of state law and the way this initiative is written and the way the system works. We are not doing right by the citizens if we don't pay attention to that. Act when we can and preserve our options, preserve our home rule rights, and for that I am afraid it means passing this. I don't think any of us are happy about it, but it is the right thing to do.

Mayor Daoust stated addressing what Councilor White brought up, we will actually have a much more affective way later when we deal with the moratorium we have in place right now. As a Council we will most likely decide before May 2015 what we want to do as far as any restrictions on outlet stores that sell marijuana. That is when we can decide to nail it down and if we so chose to say that we don't want it in our city, that will be the time that we do that. This is just a 10% sales tax. We have a lot more work in front of us to deal with this marijuana issue than just tonight. We have to deal with a much bigger issue before May of what we want to do with locations and how many locations we have in the City. That is when we will address it.

Councilor Thomas stated I was under the impression that under the moratorium we couldn't actually stop them from locating in Troutdale. Personally I am not in favor of marijuana, but when I look at this we need a way to help recover our costs. We can say

it is all dedicated to police, but considering that most of our general fund is used to support fire and public safety, that is pretty much where it goes. How do we take care of the additional resource needs that will be needed to direct people to the resources that Ms. Daoust was talking about? That is all police and staff time and right now we only have a couple of School Resources Officers mostly funded by the school district but we help offset some of that. Those are people that we are going to need to have in the schools and other areas to help funnel these people to organizations that can help them. The City isn't set up to take care of them. The only real viable option that we have in the City is to direct them to the County and other resources that are available, but that takes resources on our end to put that stuff together so that we have the people there when they encounter the situations to try and help. Nobody is going to get help if they don't want it.

Councilor Anderson stated to the argument that we don't want it in our town. As individuals we can say that, as a governing body we can't, it's not our place. If we say something like that we stand a very high chance of being litigated against and losing. Who can say that though are the property owners in the private sector. They can determine who they want in their buildings; they do now and they will always have the ability to do so. Secondly, and this is very important to point out because we are talking about the broader issue then Measure 91, polls have shown support of this measure eroding especially in the last month. It is a steady erosion of support for this issue. We all know about off-year elections and voter turnout in off-year elections and who turns out and who doesn't. Let's keep that in mind, I certainly am.

Councilor Allen stated I can attest to what Councilor White said, as this becomes more prevalent it becomes more accessible to children. In my own family my daughter was given a medical marijuana cookie and it was a multi-dose cookie and she ended up in the emergency room. It does have an effect.

Mayor Daoust stated we can determine our use of the tax funds. I saw an example at the LOC meeting where the City of Beaverton took on a drunk driving program that they fund. If we feel it is important in Troutdale that we do something at the high school level to prevent as much as we can, or have some kind of a program ourselves, maybe we can think about stuff like that if we have our own local tax.

**MOTION: Councilor Wilson moved to pass an ordinance adopting a new chapter of the Troutdale Municipal Code, Chapter 3.35, Marijuana Tax. Seconded by Councilor Ripma.**

**Councilor White asked would you consider a friendly amendment? One of the things I learned is that in Washington by taxing medical marijuana at a lower rate they were creating a market. It is very easy to get a medical marijuana card. People are buying the medical marijuana and then reselling it. My amendment would be to make both the medical marijuana and the non-medical marijuana taxed at 10%.**

**Councilor Wilson stated I think right now we need to be in-line with the other cities. I would not accept the friendly amendment.**

Councilor Thomas stated you can make a formal amendment.

**MOTION TO AMEND:** Councilor White moved to amend the motion adopting a new chapter of the Troutdale Municipal Code, Chapter 3.35, Marijuana Tax, amended to have the tax on medical marijuana be equal to the tax on non-medical marijuana. Seconded by Councilor Thomas.

**VOTE ON MOTION TO AMEND:**

Councilor Wilson - No; Councilor Ripma - No; Councilor Anderson - No;  
Councilor Thomas – No; Mayor Daoust – Yes; Councilor White – Yes;  
Councilor Allen – Yes.

Motion Failed 3-4.

**VOTE ON MAIN MOTION (without the amendment):**

Councilor Wilson - Yes; Councilor Ripma - Yes; Councilor Anderson - No;  
Councilor Thomas – Yes; Mayor Daoust – Yes; Councilor White – Yes;  
Councilor Allen – Yes.

Motion Passed 6-1.

**3. ADJOURNMENT:**

**MOTION:** Councilor Thomas moved to adjourn. Seconded by Councilor Ripma. Motion passed unanimously.

Meeting adjourned at 8:11pm.

**Doug Daoust, Mayor**

**Approved October 14, 2014**

**ATTEST:**

**Debbie Stickney, City Recorder**