

Minutes
Aurora City Council Meeting
Tuesday, February 11, 2020 at 7 P.M.
City Council Chambers, Aurora City Hall
21420 Main Street NE, Aurora, OR 97002

STAFF PRESENT: W. Scott Jorgensen, City Recorder; Mark Gunter, Public Works Superintendent; Mary Lambert, Finance Officer; Marion County Sheriff's Office Deputy Bill Ovchinikoff; Sara Kendrick, City Attorney; Renata Wakeley, City Planner

STAFF ABSENT: None

VISITORS PRESENT: Gayle Abernathy, Aurora; Jim Stewart, Aurora; Stuart Cregger, Aurora; Cynthia O'Brien, Gresham; TJ Gorman, Aurora; Janae Barton, Canby; Corey Barton, Canby; Molly Hertenberger, Wilsonville; Jason Hertenberger, Wilsonville; Dalton Justice, Oregon City; Samantha Justice, Oregon City; Shane Stutzman, Canby; Cindy Stutzman, Canby; Luke Whittemore, Portland; David Stark, Aurora; Tina Zech, Aurora; Jan Peel, Aurora; Hannah Ray Lambert, Canby; Micah Moore, Aurora; Jennifer Sturm, Aurora; Sheila Brownell, Aurora; Rick Brownell, Aurora; Joseph Schaefer, Aurora; Allen Trivitt, Aurora; Annie Harris, Aurora; Christina Leder, Hubbard; Travis Mcrobbie, Canby

1. CALL TO ORDER OF THE AURORA CITY COUNCIL MEETING

Mayor Brian Asher called the meeting to order at 7 p.m.

2. ROLL CALL

Mayor Brian Asher-Present

Councilor Tom Heitmanek-Absent

Councilor John Berard-Present

Councilor Tara Weidman-Present

Councilor Mercedes Rhoden-Feely-Present

3. VISITOR

Stuart Cregger spoke on behalf of the city's Community Action Team that is forming. It aims to provide education, resources and help the community organize in the event of a major disaster. Events are being planned to help residents be prepared. The group wants to work with the city and its next event is scheduled for February 29 at the Pythian Hall. Reverend Cynthia O'Brien introduced herself. She is the new pastor at the Presbyterian Church and started a month ago. The church does several programs, including providing food backpacks for students who qualify for free lunch. It also conducts worship in the park events and participates in Colony Days, Emma Days and local food banks.

4. PUBLIC HEARING

- a) Legislative Amendment—LA 2019-01--Marijuana Retail Uses in the Historic District

Mayor Asher opened the hearing at 7:08 p.m.

City Planner Renata Wakeley gave her staff report and went over the criteria in the city's code. Two additional written comments were entered into the record. Notice of the hearing and the previous one at Planning Commission were published in the *Canby Herald* on January 22. Notice was mailed to owners of commercial properties in the historic district January 21. There were no objections to the notice or the city's jurisdiction over the matter. Minutes of the past commission and council meetings where this was discussed are included in the record. The minutes of the commission's February 4th meeting are in draft form. The council has multiple actions it can take. It doesn't have to take any action because the city is the applicant for the legislative amendment. The recommendation from the commission is for approval. Another option the council has is to continue the hearing at another date and time. Council directed the commission to begin the process. The commission voted 3-2 to approve the amendment after its February 4 hearing. One revision was made from the original proposed amendment, and that was to the hours of operation that would be permitted. If approved, any dispensary would still be subject to a conditional use permit. This hearing is about a proposed use and not design standards. The Land Conservation and Development Commission was required to be noticed and that was done December 13. The State Historic Preservation Office was notified January 22 and a comment was received. The council has to find that the proposed amendment meets goals set forth by the state and the city's comprehensive plan. During the commission hearing, it was asked if a liquor store would be permitted in the historic district. Staff's interpretation was that it would be considered general retail. Liquor stores aren't specifically defined or called out in the city's code, so they would be allowed. She confirmed that interpretation with other planners.

Jan Peel said she's been a business owner in the historic district for the last 17 years. She's also on the Historic Review Board (HRB) and the director of the Aurora Colony Visitors Association. Peel has nothing against dispensaries, their owners or their customers. She objects to having them in the historic district. Aurora is a national historic destination. Much time and money has gone into promoting its historic image. Multiple media outlets have named Aurora one of the top 10 historic destinations in the United States. Marion County Sheriff's Office (MCSO) Deputy Bill Ovchinikoff said he reached out to the Oregon Liquor Control Commission (OLCC) for crime statistics involving dispensaries. He will email that information to City Recorder W. Scott Jorgensen when he receives it. Asher asked Ovchinikoff about how the dispensary in Hubbard has affected crime patterns there. Ovchinikoff said he spoke with the chief of police. There has been no increase in crime or traffic near that dispensary location. Sheila Brownell asked if there have been an increased number of DUIs for persons under the influence of marijuana. Ovchinikoff said he didn't have that information but would provide it when he gets it. Brownell asked if deputies would have to spend more time in Aurora and if it would be necessary to increase police presence. If so, how will the city pay for it? Asher said the city receives a share of state revenues from marijuana sales. Jorgensen said the city will also receive a business license fee. Brownell asked if that would be enough to cover increased law enforcement costs and if the dispensary would necessitate more law enforcement. Ovchinikoff said he would not anticipate a need for additional law enforcement. Wakeley said it is a permitted use, without the statement that additional presence would be required. The council can evaluate its contract for law enforcement. Corey Barton asked if the need will arise for additional law enforcement. Ovchinikoff

said he didn't think so. The industry is highly regulated by the OLCC, which will address and enforce if there is a problem. MCSO Lieutenant Chris Baldrige said dispensaries are handled the same as other businesses. If comment came from the public, officials would work with the establishment. Law enforcement would engage OLCC. He can obtain statistics, but he isn't sure if specific information is available. Dalton Justice asked how many DUIs were made for alcohol last year. Baldrige said he wasn't sure. Molly Hertenberger said she supports the proposed amendment. She is a professional and has medical issues. Prescription drugs are harmful and using marijuana doesn't make her a bad person. CFOs, CEOs and professionals use it and dispensaries are safe places. She lived in Aurora for six years, off of Highway 99. Her husband just got hit by a drunk driver. Alcohol does bad things but marijuana won't kill you. It helped her mother when she was suffering from a terminal illness. Gayle Abernathy said she owns a historic building in the historic district. Her home is zoned commercial in the historic district. She isn't opposed to marijuana stores and was a liquor agent, but is opposed to having dispensaries in the historic district. The district is one of the reasons she wanted to live in Aurora. This process has caused division and hurt feelings. She's sorry to see that. The business owners in the historic district are opposed to having dispensaries. The city should continue branding the town as a national historic district. There are too many things that haven't been looked into. The city isn't ready to make a decision. She called the OLCC. It is having trouble with marijuana. There are many issues with it. There are too many of them and there's a lot to review. This is not a decision to be made lightly. Justice asked if there is evidence that dispensaries degrade historic districts. He drives through downtown Oregon City and it's thriving. Jorgensen said he called city officials in Oregon City and Stayton. There's a dispensary by the McLoughlin House in Oregon City, which is arguably the most historic structure in the state. Stayton has one in its historic district near city hall. His counterparts in those cities told him there have been no issues. Councilor Mercedes Rhoden-Feely said she recently read an article about a dispensary in the historic town of Harrisburg, Pennsylvania. That town is embracing it. Rick Brownell said the dispensaries would be allowed to be 1,000 feet apart. Would there be a need for more than one? Asher said he has concerns, but the council can make changes from the commission's recommendation. Wakeley said the commission made considerations. The buffers in the proposed amendments are the same ones that are currently in place for the commercial zone. Joseph Schaefer said the council has flexibility. Wakeley described the historic district boundaries. A buffer would serve to limit the city to one dispensary if it is implemented. Councilor John Berard said it's 600 feet from city hall to Pheasant Run. Feely said the number of dispensaries would need to be determined by supply and demand. Wakeley said a 1,000 foot buffer seemed reasonable. She wouldn't recommend language that would be specific to any individual property. Asher asked if the square footage could be limited. Wakeley said that would be difficult. She will take guidance from the council but any policy has to be legally sound in order to protect the city. If it is restricted, would the city do the same with other uses? The city is historically plotted, so the lot sizes are smaller. Christina Leeder said the museum has children's programs to teach about the city's unique history. Families come to the museum. She has no issue with having a dispensary in the city, but has seen people in her family have their lives go downhill due to marijuana use. The city should preserve its historic identity. A dispensary can be in another space. It doesn't need to be in the

historic district. Justice asked if the museum was a registered school. Leeder said it is not. But the church is a library and children go to it unaccompanied. She's seen posts on Facebook from people who live in Hubbard stating that there have been more car and property prowlers. David Stark said he is new to town. Most of its visitors are older and grew up with the stigma surrounding marijuana. Justice said he has an affinity for Aurora and wants to abide by the look. He owns a farm that's regulated by the OLCC and picked the city as a location because he can serve the community. Justice wants to work with the city. Jennifer Stern said painkillers can turn people into heroin addicts and people make decisions. It's a legal enterprise. The city is growing. Why stop it? Bill Graup said he was mayor for six years and held that position when the city's marijuana rules were established. The city lobbied for responsible legislation and decided to participate in that process. There are already marijuana businesses in Aurora. People had concerns about having it in the historic district, so that area was exempted. Legal marijuana was new back then. But it's pervasive around the state now. You can get CBD products at Fred Meyer. Hemp is growing all over eastern Oregon. Times are changing and the city needs to be progressive. The city has brought in many businesses and improved its Highway 99 corridor. More metro area professionals are living here now. The town is evolving. Peel asked if anyone talked to any of the city councilors in Canby. Councilor Tara Weidman said she did. The councilor she spoke to thought the dispensaries should be allowed. Not allowing them is costing that city money and it's a lost opportunity. Barton said that was decided by a vote of Canby citizens. Abernathy said she attended the commission meeting, where the allowed hours of operation were changed to 10 p.m. The market closes at 9. The gas station closes at 9 most days and 10 on Fridays and Saturdays.

Asher closed the public hearing at 8:09 p.m.

Wakeley said that what's being proposed is a legislative amendment and it does not apply to any particular property. The council can regulate the time, place and manner of any dispensaries. This is not a discussion about design standards and the council can propose a change to what was recommended by the commission. Weidman said she's on the fence about the issue. She spoke to people and felt like she needed more information.

Weidman respects the HRB and the historic district and what's been done for the feel of the town and to create what we have. She feels an obligation to preserve it. She hasn't heard any concrete arguments about why this would be a detriment to local business. She's heard speculation and feelings. Supporting business is important. She has an obligation to represent the people of the town and takes that seriously. Berard said it's been five years since recreational marijuana was legalized in Oregon. It was new back then and people didn't know what was going to happen. Marijuana is now synonymous with Oregon, like pinot noir and filberts. He feels there are significant guardrails and used to serve on the HRB. That body will ensure that the look and feel conform to the historic district. The OLCC monitors and performs oversight on dispensaries. The sheriff's office is also capable of handling any issues that may arise. He stopped by the dispensary in Hubbard and spent half an hour there. Most of the customers were of his demographic and some were Aurora residents. It's prudent to be open to new things, even in the historic district. Feely said she's the closest residential property owner to the pub. She has children who are 10 and 8 years old and is open to a time, place and manner regulation

stating that a dispensary can't abut a commercial structure that can revert back to residential use. It's a reasonable restriction. People may have their properties convert use and may not want to abut a dispensary. There was a lengthy discussion between Feely, Wakeley and City Attorney Sara Kendrick about specific language to achieve that regulatory purpose. Weidman asked if square footage could be limited. Wakeley said she has concerns with that. The city doesn't do that with other uses in that zone, so she doesn't recommend taking that approach. The city would be picking and choosing types of uses. Some communities limit scaling and that's an option through the site development review process. Floor Area Ratios are for residential structures, but apply to all zones. Kendrick said it would need to be neutral. Asher asked if the business licenses can be restricted. Wakeley emphasized that the city can impose time, place and manner restrictions. Schaefer said the city has discretion and has wide latitude with square footage caps. Wakeley said there are OLCC licensing requirements. She has concerns about the legality of scaling this business. Berard said there are guardrails in place for the historic district. Wakeley said she could solicit how other cities have scaled.

Feely moved to adopt the findings, staff report and legislative amendment as amended by council to include restricting locations abutting commercial properties that could revert back to residential. That motion was seconded by Berard and passed on a 3-1 vote, with Weidman dissenting.

Asher moved for reconsideration. That motion was seconded by Weidman and adopted unanimously.

Weidman asked about hours of operation and said 10 a.m. to 8 p.m. seemed reasonable to her. Wakeley said the council can make changes from the commission's recommendation.

Feely moved to adopt the findings, staff report and legislative amendment as amended by council to include an addition to AMC 16.62.050.A(d) stating that a dispensary may not abut a property which may be a single family residential use right pursuant to AMC 16.62.040 or 16.62.050A and hours of operation from 10 a.m. to 8 p.m. That motion was seconded by Berard and adopted unanimously.

5. AFFIRMATIONS

Berard said it was recently his parents' 70 wedding anniversary and he called his father. Asher wanted to wish Patrick Harris a speedy recovery. Jorgensen said he's worked with many governing bodies over the years. The Aurora City Council just dealt with a very difficult issue and got through it.

6. NEW BUSINESS

a) PGE Presentation on EV Charging Stations

Luke Whittemore said that EVs are increasing in sales and help meet greenhouse gas emission goals. Charging infrastructure is needed and the city may have a good opportunity to have one. There will be an estimated one million EVs in the Portland-

Salem area by the year 2050. He described the different kinds of charging stations. PGE is available to provide technical support for an installation project. Whittemore detailed the steps that would be involved. The upfront costs of a station would be around \$2500 for the station and \$10,000 for installation. There are also operating and maintenance costs, but as a customer, you can set the price for the use of your charger. PGE has a Drive Change fund that provides grants through DEQ's Clean Fuels program to communities. It opens in the spring and he can help the city put its application together. But the program had 64 applications last year and 16 projects were funded. Feely asked what would make an application attractive. Whittemore said the application should emphasize the benefit to the community and listed projects that have qualified. Rural, underserved and communities without charging infrastructure are priorities for the program. He recommends promoting the station once it's installed and having its use be free the first few months.

7. CONSENT AGENDA

- a) City Council Minutes – January 14, 2020
- b) Planning Commission Minutes – January 7, 2020
- c) Historic Review Board Minutes – December 19, 2019

Feely moved to approve the consent agenda. That motion was seconded by Weidman and adopted unanimously.

- b) Travel Oregon Rural Tourism Studio

Jorgensen gave an overview of the program. He attended a meeting at Woodburn City Hall about the concept and the next is scheduled for February 13. Letters of support are being sought to try and establish the program, and he is asking for authorization to prepare and submit one on the city's behalf.

Feely moved to authorize the city recorder to submit a letter of support. That motion was seconded by Weidman and adopted unanimously.

- c) Appointment of Aaron Ensign to the Parks Committee

Weidman moved to approve the appointment. That motion was seconded by Feely and adopted unanimously.

- d) Parks Committee Recommendation on Funding Allocation

Jorgensen said the committee is recommending that the \$5,000 that was previously budgeted for fencing at a dog park be spent improving the entrance to the Aurora Mills property. He's spoken with a contractor who said the work could be done for that amount and also discussed it with the neighbor. The neighbor is supportive, because the driveway is difficult to get in and out of during adverse weather conditions. Weidman asked if it was premature, and if more time should be given for the committee to flesh out potential uses of the property. Asher said a portion of the property is used for parking during Colony Days. Public Works Superintendent Mark Gunter said that it is also used on weekends during the summer when downtown is

more crowded. Berard asked if the area could be made more visibly marked as public parking. Gunter said it is marked during Colony Days. There are no specific plans to make it more visibly marked, but that could be done.

Feely moved to follow the committee's recommendation. That motion was seconded by Berard and adopted unanimously.

e) Discussion and/or Action on Spending Priorities for Marion County Community Prosperity Initiative Funding

Feely said her preference would be for the funds to go towards an expansion of the city's urban growth boundary (UGB). Asher said he wants to see an EV charging station. Weidman said she would like it to go towards park improvements. Berard said he'd like to see the first installment of \$15,000 go towards a charging station. Finance Officer Mary Lambert said there is no line item in the budget to spend the funds this year. There is a place for grants and donations. Berard said he is also interested in the potential UGB expansion. Asher suggested using some funds for crosswalk safety improvements. Weidman asked if they could be used to make improvements to city hall. Asher said that may not count as economic development and tabled the discussion for the next meeting.

f) FY 2020-21 Budget Requests

Feely asked if attorney fees that were previously budgeted could be earmarked for UGB expansion costs. Lambert said they would be included in the general fund beginning balance. They would have to be budgeted as a line item again. Feely said she had proposed in the previous budget cycle that whatever is left over from those attorney fees go to the UGB expansion efforts. Lambert said the line item could be increased the next year. Feely said she would like to do that and budget for the attorney fees again. Gunter said he may request funds for a remodel of the bathrooms on Second Street. He's also requested that funds be put aside every year for larger, more expensive, long-term projects like a new well and improvements to the wastewater treatment plant. Asher suggested that funds be set aside for sidewalk improvements by the post office. Gunter said some development may be happening on empty lots in the area. Jorgensen confirmed that the city just received an application to partition a lot. The development agreement that had previously been approved for that project included provisions for sidewalk improvements to be made. Lambert said that the city's various reserve funds are all set aside for specific uses.

g) North Marion SIT Team Funding Allocation

Asher proposed that \$1500 be allocated to the SIT Team and said there is money in the budget for it.

Asher moved to fund a donation of \$1500 to the SIT Team, with the condition that it be spent in Aurora. That motion was seconded by Weidman and adopted unanimously.

8. CORRESPONDENCE

a) Marion County Letter of Support for Aurora Donald Interchange Project

Councilors agreed by consensus to authorize Jorgensen to compose and submit a letter.

9. ORDINANCES, RESOLUTIONS AND PROCLAMATIONS

a) Resolution 776—2019 Dodge Ram 2500 Promaster Cargo Van Purchase

Gunter said that funds were included in the budget to replace the 1970s Chevy pickup used by the public works department. Part of his job is to maintain its fleet. This particular model of van was chosen because many public works jobs are done outside in the weather. Many of those duties could be done inside the van as part of that process. The van is valued at \$40,000, but the city can purchase it for \$28,000 due to a state procurement bid.

Feely moved to approve the resolution. That motion was seconded by Weidman and adopted unanimously.

10. OLD BUSINESS

a) Granite Terms of Service

Feely asked to table the matter to the next meeting. Council agreed by consensus.

11. REPORTS

a) Public Safety

b) Finance Officer

c) Public Works

Gunter said the RFP for the city's landscaping contract was conducted. The bids went out and were opened January 30. Two were received, and they were from Living Color and R&R Landscaping. The R&R bid came in at \$17,800 and Living Color's was for \$14,340. Living Color is already under contract with the city, so it wouldn't make sense to stop the contract and start another one. The city could just continue with its currently contract. Asher asked if previous concerns had been addressed. Gunter said Living Color had turnover, but now has a better understanding of what is expected. There has been a renewed effort to match those expectations. The city is receiving the services it expects. The city can either go with the bid or continue working under the current contract. He recommends continuing the contract.

Feely moved to extend the meeting to 10:10 p.m. That motion was seconded by Berard and adopted unanimously.

Asher moved to have the city continue its current contract with Living Color. That motion was seconded by Weidman and adopted unanimously.

d) City Attorney

Kendrick said she reviewed Resolution 776.

e) City Recorder

Jorgensen said he attended the rural tourism studio meeting in Woodburn. The next meeting is scheduled for Thursday morning. City staff met with representatives of the Aurora Architectural Salvage project to discuss details pertaining to engineering and stormwater issues. The revised engineering was submitted earlier in the day. He's put

together an updated development project timeline and map and will present it to the HRB, commission and council at all their next meetings. He attended the French Prairie Forum meeting with Asher. The city's representative from SAIF did a site visit, attended the most recent Safety Committee meeting and will also attend the next one. At the request of City Engineer John Ashley, he updated the city's stormwater operations and maintenance agreement and provided it to applicants of pending projects. The agreement with the Historical Society has been signed by all parties. He is participating in a rulemaking advisory committee for the Building Codes Division dealing with the third-party building official issue. The next meeting will be held in March, after the short legislative session adjourns. He placed an order with Canby Sign and Graphics for a Colony Days banner and flags for crosswalks in the city and attended the SEDCOR luncheon with Asher in which the Marion County Board of Commissioners presented their state of the county addresses.

f) Airport

Asher said he attended the recent PAAM meeting with Councilor Tom Heitmanek. PAAM is scheduling a community outreach event August 1 that will include a fly-in and the possible use of the same trolley that the city rented for Colony Days last year. He suggests that the city have an event to coincide with it.

g) Planning

h) Community Outreach

Feely said the SIT Team has been granted its 501C3 status and has \$2500 in matching funds from Salem Health.

Asher moved to extend the meeting for an additional five minutes. That motion was seconded by Weidman and adopted unanimously.

i) Community Preparedness

j) Parks Committee

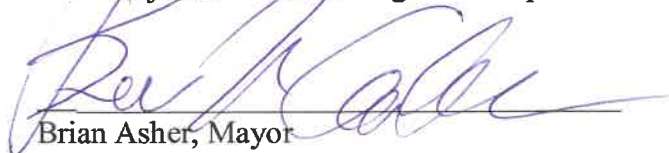
k) Mayors Report

l) Colony Days

There was a discussion about setting a date for the first Colony Days meeting. Councilors agreed by consensus that it should be held February 27 at 6:30 p.m. Asher agreed to host.

12. ADJOURN

Asher adjourned the meeting at 10:15 p.m.



Brian Asher, Mayor

ATTEST:



W. Scott Jorgensen
City Recorder

