

**City of Phoenix  
City Council Meeting  
Public Works Office  
1000 S. "B" Street  
Monday, December 15, 2014**

**CALL TO ORDER**

Mayor Jeff Bellah called the regular meeting of the City Council to order on Monday, December 15, 2014 at 6:30 p.m. in the Public Works Office.

**ROLL CALL**

**PRESENT:** Stan Bartell, Bruce Sophie, Karen Jones, Carolyn Bartell, Terry Helfrich, Chris Luz, Jeff Bellah

**Staff Present:** Steve Dahl, City Manager/Recorder  
Janette Boothe, Deputy City Recorder  
Derek Bowker, Chief of Police  
Steve Weber, Finance Director  
Kevin Caldwell, Public Works Superintendent  
Matt Brinkley, Planning Director  
J. Ryan Kirchoff, City Attorney

**PLEDGE OF ALLEGIANCE**

**MAYOR'S COMMENTS:**

**PRESENTATIONS:**

Recognition of Fire Chief Dan Marshall's Service. Mayor Bellah presented a plaque to Fire Chief Dan Marshall honoring his outstanding service over the past 30 years. Chief Marshall announced Division Chief Darin Welburn will achieve the position of Fire Chief as of January 1, 2015.

**CONSENT CALENDAR:**

- 1) Approval of the Amended Minutes of the November 17, 2014 City Council Meeting.
- 2) Approval of the Minutes of the December 1, 2014 Executive Session/City Council Meeting.

**MOVED BY SOPHIE, SECONDED BY JONES, TO APPROVE THE CONSENT CALENDAR.** There was no further discussion.

**ROLL CALL VOTE AS FOLLOWS:**

**Ayes: Sophie, C. Bartell, Jones, S. Bartell, Luz, and Helfrich**  
**MOTION APPROVED WITH SIX AYES**

**ORDINANCES:**

Second Reading and Public Hearing on an Ordinance Amending Title 5 of the City Municipal Code to include a New Chapter, 5.18 – Cannabis Facility License. Mr. Brinkley reviewed the ordinance with a PowerPoint presentation and summarized the background information for the ordinance, as he explained the changes to the second reading of the ordinance. Additionally, Mr. Brinkley presented a map he prepared, outlining where cannabis facilities may not operate.

Councilor Sophie complimented Mr. Brinkley on the research and documentation prepared. Mayor Bellah requested Mr. Brinkley point out where cannabis facilities are allowed. As Mr. Brinkley reviewed the possible locations, he noted the Shoppes at Exit 24 is an acceptable location according to the guidelines set forth in the ordinance. Further discussion followed, as Mayor Bellah opened the public hearing at 6:55 p.m.

**THOSE IN FAVOR OF THE ORDINANCE:**

No one spoke in favor of the ordinance.

**THOSE IN OPPOSITION TO THE ORDINANCE:**

Carol Hoyt, Phoenix, came forward to explain The Greenery was located in a good place and requested expanding the boundary to include medical marijuana facilities.

Tere Knight, Medford, expressed her desire to see The Greenery exist for medicinal purposes for people.

Cory Wiley, Talent, requested the City allow The Greenery to be in business at its current location.

Annie Drager, Phoenix, commented there is a bar across the street from The Greenery to demonstrate her confusion as to why the City would not allow a medicinal business in the downtown area.

Tony Nordheim, Phoenix, inquired why the medical marijuana facilities are not regulated the same as bars. He further expressed that trying to regulate anything too much is not good for anyone.

Jon Cypher, Ashland, commented he likes The Greenery's facility. He further expressed pharmacies should be under speculation, as he paid \$117 for a medicine prescription to be filled and he only had to pay \$.45 for hemp oil, which he would prefer to use. He concluded his comments with questioning what everyone is afraid of.

Carol Rosin, Ashland, commented on an event she attended at a dispensary that displayed an art gallery. She went on to request The Greenery be allowed to operate in the current location and noted that Dr. Emanuel, a physician in Ashland, has requested the same. She further expressed how all over the world people are going back to medicines from history.

Ed Polish, Phoenix business owner, noted he has operated a business in Phoenix for over 25 years, and he feels the City should leave the regulating of this facility up to the State.

Eric Mills, Medford, explained he had cancer removed and uses hemp oil for his condition. He further explained he knows a family with a four-year old suffering from cancer, and he asked the mother if anyone is addressing the medicinal benefits of marijuana where she is being treated and she responded to him that the medical community where she takes her daughter is communicating the benefits. He concluded with noting that The Greenery should be allowed to stay and they were the first medical marijuana facility in the area.

Mayor Bellah closed the public hearing at 7:20 p.m.

#### **COUNCIL DELIBERATIONS:**

Councilor Luz noted the ordinance demonstrates a well thought out approach. He further noted that the ordinance is not a ban, and it is similar to Ashland's and Talent's. He added that the ordinance provides areas for dispensary facilities in certain areas.

Councilor C. Bartell explained that Council has heard from citizens for over a year and that Council decided to put this question on the ballot for the citizens to vote on whether to change the Charter, and the citizens voted not to change the Charter. She further expressed that she feels that approving the ordinance would be disregarding the Charter and the people's votes.

Councilor Helfrich noted 518.010 d of the ordinance has poor wording and it should be removed. He further inquired about the necessity of a police background check, as the State will be performing this. Mr. Brinkley responded that the background checks in other cities are far more extensive than the State. Councilor Helfrich further stated he views production and growing as the same thing, noting he is concerned with the use of the word production throughout the ordinance.

Councilor Jones spoke about The Greenery's location being directly next to a park, which is defined as an area that is not permissible in the ordinance.

Councilor S. Bartell expressed he is in favor of looking at alternatives and he supports the decision of the vote. He further expressed that the Council should table this item.

Councilor Sophie commented that the State rules are in question regarding the 1000 foot rule. He further expressed that this is a federal issue, and the constitution needs to be changed. Additionally, he requested Mr. Brinkley address what would happen with a variance request.

Mayor Bellah commented that the ordinance is well researched and written. He further expressed concern regarding when the moratorium expires, as the decision will go to the State if Council does not provide input for the community with an ordinance in place. Additionally, Mayor Bellah noted he understands that The Greenery is located in the area is not permissible in the ordinance; however, the zoning would seem reasonable if The Greenery was not located there.

Councilor S. Bartell explained he is comfortable with the time, place, and manner; however, he wants to do what the people want and voted for. He inquired how the vote can be abided by. Attorney Kirchoff stated there is no way to make revisions to the ordinance to coincide with the

vote. He further explained that Council would have to abandon the ordinance all together, or have something in place to regulate where these facilities may be located once the moratorium expires. He further added that the ordinance provides a back-up for the City.

Councilor Jones stated that the State legislation has claimed that cities cannot ban the facilities, and the cities that have banned these facilities may have to defend their position in court; however, what is allowed is regulating the time, place, and manner, which this ordinance accomplishes.

Mr. Dahl expressed that Mr. Brinkley prepared an ordinance according to Council's suggestions and it is important for the City to have something in place to argue against a facility opening after the moratorium ends. Further discussion followed.

Attorney Kirchoff noted that the ordinance needs to include a provision for the effective date to begin when the moratorium ends. **MOVED BY SOPHIE, SECONDED BY JONES, TO ADOPT ORDINANCE NO. 958, WITH MINOR MODIFICATIONS AS PRESENTED BY STAFF AND THE PROVISIONS IN THIS ORDINANCE SHALL REMAIN SUBJECT TO AND LIMITED BY THE MORATORIUM CURRENTLY EFFECTIVE UP TO AND UNTIL THE MORATORIUM IS NO LONGER EFFECTIVE, AMENDING THE PHOENIX MUNICIPAL CODE BY ADDING CHAPTER 5.18, CANNABIS FACILITY LICENSE.** There was no further discussion.

**ROLL CALL VOTE AS FOLLOWS:**

**Ayes: Sophie, C. Bartell, Jones, S. Bartell, and Luz**

**Nays: Helfrich**

**MOTION APPROVED WITH FIVE AYES TO ONE NAY**

Mayor Bellah called for a brief recess at 8:10 p.m.

**STAFF REPORTS:**

1) City Attorney's Report:

- a) Attorney Kirchoff explained the judge overseeing the case against The Greenery did not make a decision, and he may decide this week or next.
- b) He announced the Supreme Court hearing on the RVS case has been postponed to January 29, 2015.

2) City Manager's Report:

- a) Mr. Dahl announced the City received the TAP check from Talent earlier in the day. He further noted the meeting with the Phoenix and Talent representatives has not been scheduled yet. Further discussion followed, as Mr. Dahl noted the Talent City Manager requested Mr. Ballard's input; however, that did not work out. Additional discussion followed regarding maintenance issues with TAP and how to address them. Councilor C. Bartell inquired about whether the City has begun the process for using some of the funds to support low income assistance with water bills. Councilor Luz noted he plans to meet with the Finance Director and City Manager to prepare something for Council's approval.

- b) He reported on the meeting he attended earlier in the day with State Representatives at RVCOG and noted that State legislation needs to address measure 91 regarding marijuana. Additionally, he noted that many City Managers in attendance encouraged the State to step up and address growing marijuana. He added that he gave an update on the RVS case proceedings and noted that Senator Bates was unfamiliar with the RVS case. He further added that Oregon City has placed a franchise fee on right of ways in the city and has been fighting with Clackamas County over this issue.
- c) Mayor Bellah announced there is a meeting scheduled in January with the State Representatives and encouraged Council to attend. He also encouraged Council to attend City day at the Capital.
- d) Mr. Dahl announced the Urban Renewal Agency has hired Jim Sharp as the part-time Executive Director. He added that Mr. Sharp has a real estate professional background. Additionally, he noted that Urban Renewal Agency has awarded a grant to 110 N Main Street. He further noted the City is sending out a letter to request condemning the house next to it, as it is not inhabitable. Further discussion followed.

**COUNCIL ITEMS, COMMENTS/REPORTS:**

- 1) Councilor C. Bartell expressed gratitude for the holiday banners.
- 2) Councilor Jones commented on the fire hydrant project by the local Cub Scouts.
- 3) Councilor Jones gave an update on the Green Bag Food project and noted they are one step closer to becoming affiliated with ACCESS.
- 4) Councilor Helfrich expressed he attended Talent’s award ceremony for volunteers and noted there is a large amount of volunteers in the City of Talent and he would like to have more citizens in Phoenix encouraged to volunteer.
- 5) Councilor Luz noted the painting of the mural at Blue Heron Park looks nice. He added that there were approximately 30 trees planted in the Park recently.
- 6) Councilor Luz noted a concerned citizen requested attention to the sink hole/pothole on Main Street in front of Dutch Brothers.
- 7) Councilor Sophie announced the City recently lost one of the pioneers of Phoenix.
- 8) Mayor Bellah commented he spoke with people in Talent regarding the large amount of volunteers and they noted this development has been recent. He added that he would like to hold an award ceremony for the volunteers in Phoenix.

**EXTENSION OF MEETING:**

**MOVED BY JONES, SECONDED BY SOPHIE, TO EXTEND THE MEETING UNTIL 9:30 P.M.** There was no further discussion.

**ROLL CALL VOTE AS FOLLOWS:**

**Ayes: Sophie, C. Bartell, Jones, S. Bartell, Luz, and Helfrich**  
**MOTION APPROVED WITH SIX AYES**

**NEW BUSINESS:**

City Manager Evaluation. Mayor Bellah distributed a summary of the City Manager evaluation and highlighted some outstanding remarks in the evaluation, noting Mr. Dahl is working at an exceptional level. He further noted improvements that were made, the grants that were received, the recruiting of department heads, and the budget being held at a steady level. He added that the

recruitment of the City Attorney is due to his efforts as well. He read aloud the summary and stated Mr. Dahl has exceeded Council's expectations and that Council is overall pleased with his performance. **MOVED BY SOPHIE, SECONDED BY JONES, TO APPROVE THE CITY MANAGER'S EVALUATION AS PRESENTED.** There was no further discussion.

**ROLL CALL VOTE AS FOLLOWS:**

**Ayes: Sophie, C. Bartell, Jones, S. Bartell, Luz, and Helfrich**

**MOTION APPROVED WITH SIX AYES**

The meeting adjourned at 9:02 p.m.

Respectfully submitted,

Attest:

Janette Boothe  
Deputy City Recorder

Steve Dahl  
City Manager/Recorder