

City of Phoenix
City Council Executive Session/Meeting
Public Works Office
1000 S. “B” Street
Monday, July 20, 2015

SCHEDULED EXECUTIVE SESSION CANCELLED

CALL TO ORDER

Mayor Jeff Bellah called the regular meeting of the City Council to order on Monday, July 20, 2015 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
Jeff Price, Police Lieutenant
Steve Weber, Finance Director
Kevin Caldwell, Public Works Superintendent
Matt Brinkley, Planning Director
J. Ryan Kirchoff, City Attorney

PLEDGE OF ALLEGIANCE

MAYOR’S COMMENTS:

Mayor Bellah noted the case regarding franchise fees with RVS, and the ruling is in favor of Phoenix. Additionally, he explained a review of the City Manager will be rescheduled for the following meeting.

UPDATES/REPORTS:

- 1) Phoenix Urban Renewal Agency – Jim Sharp gave a brief update on the recent activities taking place at Urban Renewal. He distributed a handout of his executive report he prepared. He took questions from Council, as he explained the progress made regarding the Plaza project on Main Street.
- 2) Parks Commission – Councilor C. Bartell announced the sprinkler nights held on Tuesdays has started. She also noted the Dog Days of Summer event will be held on Saturday at Colver Park. Additionally, she requested the Parks Committee be listed on an upcoming agenda to submit their recommendations to Council. Mr. Dahl confirmed that this agenda item will be on an agenda in August.

PRESENTATIONS:

Update on Laws Regarding Marijuana by Ryan Kirchoff. Attorney Kirchoff explained the latest marijuana regulations that affect the City of Phoenix; however, there is nothing in the recent legislature preempts laws that are in place in the cities in Oregon. The laws primarily affecting Phoenix are regarding taxes. Further discussion followed, as Councilor Sophie noted the League of Oregon Cities is preparing an ordinance template for cities regarding the latest legislation. Councilor S. Bartell expressed his concern for the citizens being allowed to vote on whether to ban outdoor growth. Further discussion followed.

ORDINANCES:

Second Reading and Public Hearing of an Amendment to the Phoenix Land Development Code Establishing Special Standards Regulating Time, Manner, and Place of Cannabis Cultivation in All Land Use Districts in the City of Phoenix. Mr. Brinkley briefly summarized the recommendation from the Planning Commission for an ordinance regulating homegrown cannabis from non-medical purposes. He explained there are no regulations regarding time, place, and manner of recreational marijuana cultivation. The area of primary concern is residential areas. He identified the areas of concern regarding outdoor and commercial cultivation in residential zones. As he outlined the background for the conclusions made by the Planning Commission, he noted the regulations being considered in surrounding cities in Southern Oregon. He further explained the Planning Commission's recommendation considers a legitimate medical need for cultivation that increases the limit of square footage of plants. Further discussion followed, as Mayor Bellah opened the public hearing at 7:28 p.m.

THOSE IN FAVOR OF THE ORDINANCE:

- 1) Charles Smith, Phoenix, expressed he approves of all of the recommendations, except for the square footage limitations for medical marijuana cultivation.
- 2) Robert Ruth, Phoenix, explained he is in favor of regulations, and he expressed his disdain for the odor of marijuana cultivation, whether inside or outdoor. Additionally, he brought forth the results of a poll taken in his neighborhood asking whether the respondents approve or oppose the personal growing of marijuana in Phoenix. Mayor Bellah noted there were 33 respondents in total with one approving medical in house only, and one approving all growth, the rest was in opposition.
- 3) Donna Ruth, Phoenix, stated she is opposed to any legalization of marijuana and does not condone any growth of marijuana indoors or outdoors. She further added that cultivation should be performed outside city limits and distributed at dispensaries. She commented she is concerned that a house in her neighborhood is being used for commercial marijuana cultivation.
- 4) Lupe Flores, Phoenix, expressed she concerned about the youth in the community and is opposed to cultivation of marijuana within city limits. She added if there is a medical need, they should go to a dispensary.
- 5) Vance Hickin, Phoenix, explained he favors banning marijuana cultivation within city limits.
- 6) Diana Nelson, Phoenix, commended the Council for the manner in which this issue has been dealt with. She added she favors banning marijuana cultivation within the City.
- 7) Pam Wurzell, Phoenix, stated she is opposed to any type of growth of marijuana in the City. She requested all cultivation be limited to indoor growth with proper filtration systems. She

also expressed concern for how the cultivation will be regulated. She added she does not feel it is appropriate for the right to grow marijuana supersedes the right to free from odor, rodents, and the potential of theft. She further added if a person has a medical need for marijuana, they should go to a pharmacy or dispensary like everyone else that needs medicine.

- 8) Jorene Mudrell, Phoenix, she agreed with everyone else who has suggested banning marijuana within the City. She noted she has a relative that has a medicinal need for marijuana, so she understands both sides; however, she added those in medical need can go to a dispensary. Additionally, she expressed that the individuals in the community that live in the neighborhoods of marijuana growth should not have their rights imposed upon.
- 9) Ken Walters, Phoenix, came forward to complain about the odor of the growth site next to his house.
- 10) Patty Hickin, Phoenix, expressed roosters and horses are not allowed within the city limits, and she doesn't understand why the odor that is disruptive to community members would be allowed.

THOSE IN OPPOSITION TO THE ORDINANCE:

- 1) Sarah Westover, Phoenix, gave her brief background information and explained she uses medicinal marijuana to treat her epilepsy and migraines. She further explained she grows for herself and six other patients who are all over the age of sixty. She added that she has heard concerns regarding limiting the amount of plants, and the reason for the need for a large amount of plants is due to the limited time that outdoor plants can grow, as it is necessary to grow enough to harvest for medicinal needs for the entire year. Additionally, she addressed a question raised regarding why an individual doesn't grow for themselves, rather than having someone else grow for them. She explained that many patients are senior citizens that do not have the knowledge, the resources, or the skills required for cultivating marijuana.
- 2) Carol Hoyt, Phoenix, expressed she cannot say she is on one side or the other regarding regulating marijuana cultivation. She spoke with Mr. Brinkley to better understand the ordinance. She added she is a medical marijuana user and she understands that there needs to be some level of restriction. She inquired whether it was possible to simply limit the amount of plants to growth for one individual, which may not cause the disruption in other people's lives in the community.
- 3) Carol Ann Cruger, Phoenix, explained she is a medical marijuana user and there is research being performed regarding all of the medicinal uses for marijuana. She added that forcing to growing indoors is too restrictive and possibly cost prohibitive to growers with the amount of their electric bill.

Mayor Bellah gave a brief summarization of the process Council has undergone to provide the best result for the community regarding marijuana. He recessed the meeting for a short break at 8:09 p.m.

CITIZEN'S COMMENTS:

- 1) Estelle Voeller, Medford and Lee Lull, Talent, came forward to speak about the critical climate and announce an upcoming regional summit on October 13-14, 2015 at the Inn at the Commons in Medford. They explained the event is being put on by Southern Oregon

Climate Action Now. Additionally, they distributed flyers for the event along with an endorsement form for the event.

COUNCIL DELIBERATIONS:

Mayor Bellah noted Council has the option to approve the ordinance as is, suggest modifications, or decide this is not the direction the City would like to take. He added the primary concern is to do what is the best for everyone in the community. Further discussion followed, as Councilor S. Bartell commented he is uncomfortable with any outdoor growing and he feels that all outdoor growth and commercial cultivation should be banned.

Councilor Helfrich explained he does not want commercial cultivation within residential areas and he is comfortable with the ordinance as is. He inquired about the zoning clearance. Mr. Brinkley explained everyone in the City desiring to cultivate marijuana should come into the Planning Department to apply for a zoning clearance, whether it is grown indoor or outdoor. Further discussion followed.

Councilor Jones commented that this ordinance eliminates many home from being able to grow outdoor in her neighborhood, as there is not enough room to in her backyard to be 30 feet away from the fence. She further added that this ordinance my need to be amended down the road, but it is a good place to start.

Councilor Luz thanked the Planning Commission for the work that went into the ordinance. Additionally, he noted the primary concern is the odor of the marijuana and he feels this ordinance would be a sufficient way to discover if these regulations will alleviate the issue.

Councilor C. Bartell commented she appreciated both the Planning Commission's work and the concerns voiced from the citizens. She added that she is unsure whether the outdoor limitations in the ordinance would be enough to alleviate the issue of odor. She added she supports indoor growth; however, outdoor growth should be banned.

Councilor Sophie commended the Planning Commission for their efforts. He expressed the ordinance addresses most of the issues, and it is possible that the limitations on outdoor growth would accommodate those concerned about the odor. He further added that if the ordinance needed to be amended, it would be appropriate to amend it if citizens are still continuing to be dealing with the odor. He added that 10 feet tall may be a problem; however, he is comfortable with the rest of the ordinance.

Mayor Bellah commented he is proud of the ordinance, as it shows the City is attempting to allow everyone to have their own rights within the community and it is reasonable for all citizens. He further added he is pleased with the ordinance as a start and addresses many issues; however, it may need to be modified over time. Further discussion followed. **MOVED BY SOPHIE, SECONDED BY JONES, TO ADOPT ORDINANCE NO. 966 AS WRITTEN.**

Councilor S. Bartell inquired whether amending the ordinance to address commercial marijuana cultivation by banning it within the City is too large of an amendment to pass as amended, rather than modifying the ordinance to come back to Council for approval. Discussion followed, as Mr. Dahl noted there is a moratorium in place addressing commercial cultivation and Council has the

option of addressing the commercial growth after more regulations come from the State. Additional discussion followed.

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, Luz, Helfrich, C. Bartell, Jones and S. Bartell

MOTION APPROVED WITH SIX AYES

COUNCIL DELIBERATIONS (continued):

Councilor C. Bartell inquired about enforcing the commercial grow that the Planning Commission is aware of. Mr. Brinkley noted this was only recently discovered and is being addressed. Mayor Bellah called for the vote.

ROLL CALL VOTE AS FOLLOWS:

Ayes: Sophie, Luz, Helfrich, and Jones

Nays: C. Bartell and S. Bartell

MOTION APPROVED WITH FOUR AYES TO TWO NAYS

Mayor Bellah suggested the City Manager bring an implementation plan before Council at the upcoming meeting on August 3, 2015.

CONSENT CALENDAR:

- 1) Approval of the Minutes of the June 15, 2015 City Council Executive Session/Meeting.
- 2) May 2015 Financial Report.
- 3) Bear Creek TDML Project FY 2015/16. **MOVED BY LUZ, SECONDED BY HELFRICH, 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

NEW BUSINESS:

- 1) Discussion on MWC draft report. Mayor Bellah requested everyone review the report carefully and suggested holding a study session by early August. Further discussion followed, as Council's consensus was to schedule a workshop for the following week.
- 2) Special City Allotment from ODOT for Cheryl Lane. Mr. Dahl explained this item is for Council's approval to apply for a \$50,000 grant. **MOVED BY SOPHIE, SECONDED BY JONES TO APPROVE THE APPLICATION FOR A GRANT FROM ODOT.** 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

STAFF REPORTS:

1) City Attorney's Report:

- a) Attorney Kirchoff announced the court ruling was in the City's favor regarding the franchise fees from Rogue Valley Sewer. He explained the court's findings and noted he will be contacting RVS to recover the unpaid fees.

2) City Manager's Report:

- a) Mr. Dahl announced he will be meeting with Joe Strahl to discuss combining a response to the MWC's report with the other affected cities.
- b) He commented he is looking forward to attending The Dog Days of Summer with his dog, Olive.

Councilor Luz inquired about the demolition of the building on 1st and Main Street. Attorney Kirchoff replied that Council will be holding an executive session on this topic.

Mayor Bellah commented the following meeting Council will be discussing the City Manager in an informal evaluation in executive session.

COUNCIL ITEMS, COMMENTS/REPORTS:

- 1) Councilor C. Bartell inquired about having the Parks Commission on the next City Council Agenda.
- 2) Councilor C. Bartell announced she brought a brochure regarding being a Bee City.
- 3) Councilor S. Bartell inquired about the surplus at the end of the year in the General Fund. Mr. Weber replied the surplus is expected to be approximately \$100,000. Councilor S. Bartell inquired about an analysis regarding the surplus and how the surplus should be used.
- 4) Councilor Sophie reported on the transportation billable funds. Further discussion followed.
- 5) Mayor Bellah commented on an article he read regarding dispensaries in Washington, noting that they haven't figured all the regulations that should be associated with medical and recreational marijuana as of yet.

The meeting adjourned at 9:14 p.m.

Respectfully submitted,

Janette Boothe
City Recorder/Assistant Finance Director