

**CITY OF JOHN DAY
CITY COUNCIL MINUTES
JOHN DAY, OREGON**

March 24, 2015

Adjourned Meeting

COUNCILORS PRESENT:

Ron Lundbom, Mayor
Steve Schuette, Council President
Gregg Haberly, Councilor
Paul Smith, Councilor
Louis Provencher, Councilor
Lisa Weigum, Councilor
Donn Willey, Councilor

COUNCILORS ABSENT:

STAFF PRESENT:

Peggy Gray, City Manager
David Holland, Public Works Director
Richard Gray, Police Chief
Valerie Luttrell, Dispatch Manager
Damon Rand, Police Sergeant

GUESTS PRESENT:

David Grant Benton, 679 W. Main Street, John Day
Glenn E. Palmer, 116 NE 7th Street, John Day
Judy Schuette, 864 NW Bridge Street, John Day

Agenda Item No. 1 – Open and Note Attendance

The John Day City Council meeting opened at 7:00 p.m. Mayor Ron Lundbom noted that all Councilors were present.

Agenda Item No. 2 – Approval of City Council Minutes of March 10, 2015

The minutes of the March 10, 2015 adjourned meeting were included in the agenda packets and were presented for the Council's approval.

Mayor Ron Lundbom noted a spelling error on page 2, state should have been spelled stated. Councilor Steve Schuette made a motion to approve the minutes of March 10, 2015 as amended. Councilor Donn Willey seconded the motion, the motion passed unanimously.

Agenda Item No. 3 - Appearance of Interested Citizens

Mayor Ron Lundbom welcomed those in attendance and asked everyone to please sign in. He asked if there were any additional items that anyone would like to add to the agenda. There were none presented.

Agenda Item No. 4 – Enter into Executive Session under ORS 192.660(2)(f) to consider information or records that are exempt by law from public inspection

Mayor Lundbom stated the City of John Day will now meet in executive session. The executive session is held pursuant to ORS 192.660(2)(f) for this session, to consider information or records that are exempt by law from public inspection.

Representatives of the news media and designated staff shall be allowed to attend the executive session. All other members of the audience are asked to leave the room. Representatives of the news media are specifically directed not to report on any of the deliberations during the executive session, except to state the general subject of the session as previously announced. No decision may be made in executive session. At the end of the executive session, we will return to open session and welcome the audience back into the room.

Mayor Lundbom asked for a motion from the Council to move into executive session under ORS 192.660(2)(f).

Councilor Donn Willey made a motion to move into executive session under ORS 192.660(2)(f). Councilor Steve Schuette seconded the motion, the council moved into executive session at 7:02 p.m.

Those attending the executive session included Mayor Lundbom; Councilors Schuette, Willey, Provencher, Smith, Haberly, and Weigum, City Manager Gray, Sergeant Damon Rand, Dispatch Manager Valerie Luttrell, Public Works Director David Holland. Police Chief Richard Gray attended the executive session via telephone.

Councilor Steve Schuette made a motion to move out of executive session; Councilor Donn Willey seconded the motion, the motion passed unanimously. The John Day City Council moved out of executive session at 7:25 p.m.

Agenda Item No. 5 – Review and Discuss Ordinance No. 15-163-01, an ordinance of the City of John Day establishing time, place and manner regulations concerning medical marijuana dispensaries; and declaring an emergency

City Manager Gray encouraged the members of the audience to pick up a copy of the draft Ordinance No. 15-163-01 located on the back table for their information. Mayor Lundbom informed the audience who wished to speak, that they would need to be recognized by the Mayor and will be limited to five minutes.

City Manager Gray read the background information provided in the agenda for this topic for the members of the audience as follows:

The Oregon Legislature enacted House Bill 3420 (2013) which requires Oregon Health Authority to develop and implement a process to register medical marijuana facilities. It also directed that persons

who operate or are employed by a registered medical marijuana facility would enjoy immunity from state prosecution.

However, the issue of whether a local government believes a certain type of business should operate within its jurisdictional limits is a local government decision, the enforcement of which is subject to the general and police powers of that jurisdiction.

In 2014 the Oregon Legislature enacted Senate Bill 1531 which reaffirmed a city's authority to adopt reasonable time, place, and manner restrictions on medical marijuana activity. The law also gave cities the option to adopt (by May 1, 2014) a one-year "moratorium" on medical marijuana dispensaries, thereby removing criminal immunity from any person operating a dispensary during the moratorium period.

On April 22, 2014 the John Day City Council believed it was in the best interests of the health, safety, and welfare of the citizens of the City of John Day to enact such a moratorium prohibiting the operation of medical marijuana facilities within the City's jurisdictional boundaries and adopted Ordinance No. 14-161-02, an ordinance of the City of John Day declaring a moratorium on medical marijuana facilities, the moratorium expires May 1, 2015.

On February 4, 2015 John Day City Council received by electronic message a draft copy of Ordinance No. 15-163-01 for their review and consideration establishing time, place and manner regulations on medical marijuana dispensaries.

On March 16, 2015 the John Day City Council received PDFs of zoning maps showing three different restrictions (1,000', 750' and 500') for "Youth Development Activities" as defined in Ordinance No. 15-163-01.

City Manager Gray referred to the three maps on easels that showed 1,000', 750' and 500' restrictions for "Youth Development Activities". She explained that each map also showed 1,000' restrictions (state statutory requirement) for real property comprising a public or private elementary, secondary, and/or career school attended primarily by minors.

The schools were identified as follows:

- Nazarene Church (Sonshine School)
- Families First/Head Start
- Grant Union Jr./Sr. High School

Youth Development Activities which are identified as follows:

- John Day City Park/Swimming Pool
- Grant County Fairgrounds
- 7th Street Sports Complex
- Young Life Cornerstone Church
- Public Library
- Riverside Mobile Park – Private Park

City Manager Gray stated the John Day City Council has to decide the following:

1. Should the John Day City Council continue prohibiting the operation of medical marijuana facilities and place a prohibition on the establishment and location of medical marijuana facilities/dispensaries within the City of John Day;
2. Should the John Day City Council establish “reasonable” time, place and manner regulations on medical marijuana activity. If so, the Council needs to decide what are “reasonable” restrictions for Youth Development Activities and do you want to limit medical marijuana dispensaries only to the commercial zoning districts.

City Manager Gray stated the John Day City Council would like to hear from the public and asked the members of the audience for their comments.

Mayor Lundbom asked Grant County Sheriff Glenn Palmer for his views. Sheriff Palmer stated he was not in favor of any of this stuff being legalized and would like to see a prohibition flat out across the board. Medical marijuana was a screw up from the beginning; there were only suppose to be a couple of thousand of the medical marijuana cards distributed; but it went up to 50,000 cards being distributed. Sheriff Palmer stated it is flat out of control, all the marijuana grows we’ve had from 2006 to 2012 in our national forest is the kind of stuff we’ve been seeing and we will continue to see that kind of stuff. He stated our community has better things to do than drugs and that was his personal opinion and asked the Council to place a prohibition on medical marijuana dispensaries.

Judy Schuette, 864 NW Bridge Street, John Day stated she would also like the Council to consider an outright ban. Mrs. Schuette stated even though the previous election was for recreational marijuana, it would be very much similar if it was broken down to medical marijuana dispensaries. The vote went down in Grant County 65% - 35% and she felt it was pretty resounding indication that we don’t want that in our community. Mrs. Schuette stated she has seen it and knows that it is very prevalent and she truly believes that if medical marijuana dispensaries were allowed in John Day that it would open the door for more abuse. Mrs. Schuette stated she felt the Oregon Medical Marijuana Program is probably the most abused Oregon program ever attempted. She stated she has been struggling and thinking that this is just her own personal opinion; however, she stated she does not believe the need is there. She stated if somehow you can find the number of legal outlets for people who need legitimate medical marijuana, I don’t think you could justify opening a medical marijuana dispensary, she thought the need was filled. Mrs. Schuette stated she doesn’t know that but in looking at some of the other county’s statistics and they got what they need and they don’t need dispensaries and I don’t think we do either and again she thought it just opens the door.

David Grant Benton, owner of the local bowling alley stated he was here to just listen. Mr. Benton stated moving from Tennessee to Central Oregon in 2006, he stated he was shocked to see how open people were using marijuana. He was not around it and doesn’t smoke it, his wife doesn’t smoke it and he doesn’t want it around his children. He thought there would be a little bigger crowd here tonight.

Grant County Sheriff noted that we are seeing heroin starting to make a big push in John Day. He stated it is cheaper than meth and prescription drugs and informed the Council of a traffic accident outside of Prairie City where the people involved were using heroin. He also stated that people coming in for their urine analysis (UA) who are on probation/parole have been testing positive for heroin.

Councilor Steve Schuette asked Grant County Sheriff Glenn Palmer if he knew how many providers there are within the County. The response was there are quite a few in Grant County, but he couldn’t tell him how many there are within John Day.

Dispatch Manager Valerie Luttrell asked if anyone has heard of anyone who has a medical marijuana card that needed to find a grower; she stated she has never heard of that and thought we have plenty of growers within the County.

Mayor Lundbom gave an example of a local citizen who needed medical marijuana for her illness, it was noted that she can find what she needs from a local grower and does not have to go to a medical marijuana dispensary to find what she needs. He asked if that changes anyone's opinion knowing that she doesn't need a storefront to get the marijuana.

Councilor Lisa Weigum, who is also the Grant County Prevention Coordinator, stated it is the ease of availability by having a storefront. Like you go to Radio Shack or the beer pub, it's the advertising.

Councilor Paul Smith asked John Day Police Chief Richard Gray for his thoughts. Police Chief Gray stated there are several places within the County that grow the marijuana for medical use. They can donate funds to the grower for the power or water bill but they can't necessarily purchase it. The grower is not supposed to sell it for a dollar amount. Police Chief Gray stated he didn't think having a storefront for recreational or medical marijuana would be beneficial to Grant County or anywhere else in Oregon. There are dispensaries in Colorado and Washington and both are having problems, however, they don't want to advertise that. If someone wants marijuana they're going to get it whether it's out the back door or someone growing it for them. Councilor Schuette asked the Police Chief if he knew of anyone that is a medical marijuana provider in John Day. Police Chief Gray stated it is very difficult to find out which ones. If he goes to a residence that is a grower, a grower's permit is supposed to be posted. He does not know of any that he has currently been to where it has been a problem; but, there is in Prairie City.

Councilor Schuette stated in his opinion the system is broken. If it is a legitimate medical drug that people have a prescription for, you should have to go to a pharmacy to get it. He thought the whole system is broken and opening more doors for them is not going to help.

The process of obtaining a medical marijuana card was discussed, and how many of the card holders are actually legitimate.

Councilor Louis Provencher asked if the City has had any inquiries from anyone that wanted to open up a medical marijuana dispensary. City Manager Gray stated we had one inquiry prior to the Council placing the moratorium on the medical marijuana dispensaries.

Dispatch Manager Valerie Luttrell stated "I as a John Day resident; do not want to see a storefront open up." John Day Police Sergeant Damon Rand dittoed that statement.

Mayor Ron Lundbom asked for the Council's opinion. Councilor Paul Smith asked if we do the complete prohibition, someone challenges the prohibition; the city loses the challenge can we revert to time, place and manner. City Manager Gray stated you will have to adopt the ordinance establishing the time, place and manner restrictions. Councilor Smith stated his eyes were opened tonight as he had no idea that we had medical marijuana growers within our County, he was in favor of placing the most restrictive time, place and manner regulations, in case we are forced to repeal a complete prohibition. Councilor Paul Smith stated we have to do what is in the best interest of the City.

Councilor Louis Provencher wanted to follow City Attorney Jeremy Green's recommendation on setting time, place and manner regulations. Councilors Schuette, Willey, Haberly, Smith and Weigum were in favor of the outright prohibition on medical marijuana dispensaries within the city limits of John Day.

Councilor Provencher had concerns with people who really needed the medical marijuana and the quality that they want, would have to travel outside of town in order to get it. Councilor Schuette stated the only issue by not having a dispensary here in town would be that it will limit the people coming in from out of town by not knowing where they could get it when they get here. Councilor Lisa Weigum added that it wouldn't take them long to figure it out once they got here. Dispatch Manager Valerie Luttrell stated that as of July 1st, if I had a relative that needed it I can grow it in my house for them.

Councilor Schuette made a motion to ban medical marijuana dispensaries in John Day and place time, place and manner restrictions for youth development activities within 1,000'. Councilor Donn Willey seconded the motion. Councilor Provencher stated he didn't think we were voting on this tonight.

City Manager Gray clarified that the purpose of this discussion is for the Council to reach consensus in order to give our city attorney a direction. Once the Council decides which way to go, prohibit or set time, place and manner restrictions, or both; City Attorney Jeremy Green will finalize the ordinances and the Council will vote on them at the April 14, 2015 council meeting.

Councilor Schuette withdrew his motion, Councilor Willey withdrew his second. Councilor Schuette stated he would like to ban medical marijuana dispensaries because they do not comply with all state and federal regulations as required by the City of John Day's business license.

Mayor Lundbom stated there is no motion on the floor; the Council just has to reach consensus in order to direct our city attorney. He stated Councilors Schuette, Weigum, Willey, Smith and Haberly are in favor of an outright ban and setting time, place and manner restrictions. Councilor Provencher wishes to follow City Attorney Jeremy Green's recommendation to set time, place and manner restrictions. Mayor Lundbom stated we have reached consensus to ban medical marijuana dispensaries and to direct City Attorney Jeremy Green to finalize the time, place and manner regulations in case the City is directed to repeal the prohibition of medical marijuana dispensaries.

City Manager Gray asked for clarification for the restriction for the youth development activities. She stated the school restriction is set by the State of Oregon at 1,000'. She stated the Council has a choice for the youth development activities that were identified earlier, you can set the restriction at 1000', 750' or 500'. She empathized that the restrictions be "reasonable"; however, she noted that the prohibition banning the dispensaries as well as the time, place and manner regulations all can be legally challenged.

Mayor Lundbom asked the Council if they were willing to pay legal fees in case of a lawsuit. It was the consensus of the Council that they needed to do the right thing and set the youth development activities at 1,000'. Councilor Provencher stated he thought having the 1,000' consistency will help with law enforcement. Mayor Lundbom stated he thought there was a fine line between the youth development activities and the schools, he thought youth development should also be considered a school.

City Manager Gray recommended amending the John Day Development Code limiting medical marijuana dispensaries only to the commercial districts with special development standards. The Council concurred. City Manager Gray also asked for clarification on operating hours 9 a.m. – 7 p.m. Monday through Saturday, the Council agreed.

City Manager Gray informed the Council that these ordinances will be finalized by our city attorney and the final documents will be on the April 14, 2015 council agenda for adoption.

Agenda Item No. 6 – Discuss for signature Addendum No. 1 to Consulting Agreement No. 2014-01 with D. George Chadwick

City Manager Gray informed the Council that in 2006 we started the water right paperwork and process of drilling Well No.5; all the conditions of the water permit were met with the exception of the Water Management and Conservation Plan. Between the period of construction and the change of Public Works Directors, somehow the Water Management and Conservation Plan fell through the cracks.

On February 19, 2015 the City received a letter from the Oregon Water Resources Department stating that OAR 690-315-0090(3) requires the Department (Oregon Department of Water Resources) to place a condition on our Permit G-15101 to provide that appropriation of any water up to 2.23 cubic feet per second shall only be authorized upon issuance of a final order approving a Water Management and Conservation Plan under OAR Chapter 690, division 86 which grants access to a greater appropriation of water under the permit.

City Manager Gray stated we have applied for a Limited Water Use License so that we can legally use water from Well No. 5 until the issuance of a final order approving our Water Management and Conservation Plan.

Public Works Director David Holland recommends that the City amend its contract with D. George Chadwick to include the development of the City's Water Management and Conservation Plan. We currently have a consulting agreement with Mr. Chadwick to provide services related to ongoing groundwater monitoring and reporting associated with the wastewater percolation ponds as required by DEQ. In order for the City and Mr. Chadwick to expand the scope of services under the current agreement, we have added the development of the Water Management and Conservation Plan as stated in the attached Addendum No. 1 to Consulting Agreement No. 2014-01.

The addendum also extends the term of the current agreement for an additional term of one year, commencing on July 1, 2015 and ending on June 30, 2016.

Councilor Steve Schuette made a motion to allow City Manager Gray to sign Addendum No. 1 to Consulting Agreement No. 2014-01 with D. George Chadwick. Councilor Donn Willey seconded the motion, the motion passed unanimously.

Agenda Item No. 7 – Surplus Property

The Public Works Department and the Police Department no longer need the following equipment and would like to surplus these items as per Public Contracting Regulations, Title 1, Chapter 13, Section 8 F. Surplus Property: of the John Day Municipal Code:

- 1978 PW Emergency Maintenance Vehicle (old ambulance)
- 1994 Chev S-10 pickup
- 1989 Chev 1-ton
- Large sander (couldn't use because it didn't fit our current dump truck)
- 1989 Ford 1½ ton dump truck
- 1997 Chev K-2500
- 1982 Ford Van
- 2001 Ford Crown Victoria

City Manager Gray informed the Council there was one additional item that we need to add to the list. The Public Works Department no longer uses the 8' land disc for the percolation ponds and wants to surplus this piece of equipment as well.

Councilor Steve Schuette moved to allow City Manager Gray to dispose of the equipment by any method of disposal that is in the best interest of the City as per the John Day Public Contracting Regulations, Title 1, Chapter 13. Section 8F. Councilor Donn Willey seconded the motion, the motion passed unanimously.

Agenda Item No. 8 – Enter into Executive Session Under ORS 192.660(2)(i) to review and evaluate the employment-related performance of the City Manager

At this time Mayor Lundbom stated the City of John Day will now meet in executive session for the purpose to review and evaluate the employment-related performance of the City Manager. The executive session is held pursuant to ORS 192.660(2) (i) for this session, which allows the Council to meet in executive session for the purpose of evaluating the City Manager.

Representatives of the news media and designated staff shall be allowed to attend the executive session. All other members of the audience are asked to leave the room. Representatives of the news media are specifically directed not to report on any of the deliberations during the executive session, except to state the general subject of the session as previously announced. No decision may be made in executive session. At the end of the executive session, we will return to open session and welcome the audience back into the room.

Mayor Lundbom asked for a motion from the Council to move into executive session under ORS 192.660(2) (i).

Councilor Steve Schuette made a motion to move into executive session under ORS 192.660(2) (i) to review and evaluate the employment-related performance of the City Manager. Councilor Donn Willey seconded the motion, the motion passed unanimously. The City Council moved into executive session at 8:14 p.m.

Those attending the executive session included Mayor Lundbom; Councilors Schuette, Willey, Smith, Provencher, Weigum and Haberly.

Agenda Item No. 9 – Enter Back into Regular Session

At 8: 30 p.m. Councilor Steve Schuette made a motion to return into regular session; Councilor Donn Willey seconded the motion. The motion passed unanimously.

Councilor Steve Schuette moved to retain Peggy Gray for another year as John Day City Manager. Councilor Donn Willey seconded the motion; the motion passed unanimously.

Agenda Item No. 8 – Other Business and Upcoming Meetings

1. LOC Bulletins were given to the City Council.

2. Council was reminded to file their SEI forms with the Oregon Government Ethics Commission as soon as possible.
3. The Council was reminded that the Budget Committee meets on April 7, 2015. Louis Provencher wanted to make sure that the new members of the City Council know that they are part of the Budget Committee.

Adjourn

There being no further business before the Council, Councilor Steve Schuette made a motion to adjourn the meeting. Councilor Donn Willey seconded the motion and the motion passed unanimously. The meeting was adjourned at 8:40 p.m.

Respectfully Submitted:

Peggy Gray
City Manager

ACCEPTED BY THE CITY COUNCIL, APRIL 14, 2015

Mayor Ron Lundbom