

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

**April 28, 2015**

**Adjourned Meeting**

**COUNCILORS PRESENT:**

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

**COUNCILORS ABSENT:**

Lisa Weigum, Councilor

**STAFF PRESENT:**

Peggy Gray, City Manager  
David Holland, Public Works Director  
Lance Woodcock, Public Works Director (incoming)  
Valerie Luttrell, Dispatch Manager  
Richard Gray, Police Chief

**GUESTS PRESENT:**

Ellen Carlson, 209 NW 5<sup>th</sup> Ave., John Day  
Tom Warren, 209 NW 5<sup>th</sup> Ave., 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 with the exception of Councilor Lisa Weigum who was absent and excused.

**Agenda Item No. 2 – Approval of City Council Minutes of April 14, 2015**

The minutes of the April 14, 2015 adjourned meeting were included in the agenda packets and were presented for the Council's approval.

**Councilor Donn Willey made a motion to approve the minutes of April 14, 2015 as presented. Councilor Gregg Haberly 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 – Discuss for Adoption Ordinance No. 15-163-01, an Ordinance of the City of John Day Establishing Time, Place and Manner Regulations concerning Medical Marijuana Facilities (Dispensaries); and declaring an Emergency**

City Manager Gray explained the timeline of events pertaining to the Council’s actions relating to medical marijuana ordinances as follows:

On April 22, 2014, the John Day City Council adopted the John Day Medical Marijuana Moratorium Ordinance No. 14-161-02. This ordinance established a moratorium on the establishment of medical marijuana facilities within the city limits of John Day; the moratorium expires May 1, 2015.

At the March 24, 2015 council meeting; it was the consensus of the John Day City Council to continue the prohibition of medical marijuana facilities (dispensaries) within the city limits of John Day and to place time, place, and manner regulations should the City later decide to repeal the banning ordinance.

At the April 14, 2015 council meeting; the John Day City Council voted down the ordinance banning medical marijuana dispensaries by a 4-3 vote. At the same council meeting, the Council unanimously approved an ordinance establishing time, place, and manner (TPM) regulations regarding medical marijuana dispensaries. However, the original TPM ordinance’s language was based on the Council adopting the banning ordinance. City Attorney Jeremy Green changed the numbering of the ordinances in light of the fact that the banning ordinance will not be adopted and also revised all the language referring to the original banning ordinance.

Included in the council packets were redlined versions of the ordinance. City Manager Gray explained in accordance with Section 32 of the City’s charter, (4) an ordinance read by title only has no legal effect if it differs substantially from its terms as it was filed prior to the reading unless each section so differing is read fully and distinctly in open council meeting before the council adopts the ordinance.

City Manager Gray asked Mayor Lundbom to read aloud the revisions to Ordinance No. 15-163-01; Mayor Lundbom read the revisions that took out the banning ordinance language to the Council. Mayor Lundbom asked if the Council had any questions, there being none, Mayor Lundbom asked for a motion to read Ordinance No. 15-163-01 by title only.

**Councilor Donn Willey moved to have Mayor Lundbom read Ordinance No. 15-163-01 by title only. Councilor Louis Provencher seconded the motion, the motion passed unanimously.**

**Mayor Lundbom read Ordinance No. 15-163-01 by title only as follows:**

**Ordinance No. 15-163-01, an Ordinance of the City of John Day Establishing Time, Place and Manner Regulations concerning Medical Marijuana Facilities (Dispensaries); and declaring an Emergency.**

**Councilor Donn Willy moved to adopt Ordinance No. 15-163-01. Councilor Louis Provencher seconded the motion, the motion passed unanimously by a vote of 7 – 0.**

**Agenda Item No. 5 – Discuss for Adoption Resolution No. 15-732-02, a Resolution Establishing Fees for Medical Marijuana Facilities (Dispensaries)**

City Manager Gray explained that since the Council is not adopting the banning ordinance, the Council needs to revise Resolution No. 15-732-02 to correct the ordinance numbering and clarify the resolution

will be in full force and effect on the day of its approval and adoption. The red-lined version of the resolution was included in the council packets and City Manager Gray explained the revisions to the Council

**Councilor Donn Willey moved to adopt Resolution No. 15-732-02. Councilor Louis Provencher seconded the motion, the motion passed unanimously.**

**Agenda Item No. 6 – First Review of Draft Nuisance Ordinance, an Ordinance Establishing Definitions of Nuisance, Penalties, and Procedures for Abatement of Nuisance in the City of John Day**

City Manager Gray gave a brief background to the City Council stating last fall she had a discussion with the Council regarding updating our Nuisance Ordinance. She explained that she received complaints from citizens regarding property owners not taking care of their properties by permitting weeds and other noxious vegetation to grow and allowing their trees to become a nuisance. City Manager Gray informed the Council that the current Nuisance Ordinance the City has to follow to take care of these types of issues is very complicated, time consuming and cumbersome. Other cities have procedures that are less cumbersome, less costly and are more effective in abating nuisances. City Manager Gray asked the Council if they would like to explore the possibility of updating the City's Nuisance Ordinance. She informed the Council that our City Attorney Jeremy Green is currently working with the City of Madras updating their Nuisance Ordinance. It was the consensus of the John Day City Council to have City Manager Gray work with City Attorney Jeremy Green to update the Nuisance Ordinance and bring back a draft to the City Council for their review and comments.

Included in the Council packets was a draft Nuisance Ordinance prepared by City Attorney Jeremy Green. City Manager Gray stated Jeremy included very detailed definitions, which she appreciated. Councilor Donn Willey has concerns with some parts of the draft stating he thought when we talk about the "glazing" on windows, we're becoming fashion police. Councilor Willey stated in looking at his house, he would be in violation of this code, and if I can't afford to fix it, I'll have a lien on my house in 30 days.

Another concern of Councilor Willey was the vegetation section. It addresses vegetation, but it leaves out the language of trees. Councilor Willey noted that has been a real concern in his neighborhood and noted that Tom Warren and Ellen Carlson had damage to their home from a neighboring tree.

Councilor Gregg Haberly asked if we still live in the United States. City Manager Gray stated she understood where he was coming from; however, we have certain property owners within the City that let their properties go, this ordinance protects the neighboring property owners so that when we receive a complaint about a property, the City has some teeth to where we can make the property owner clean up their nuisance so that it doesn't affect the neighbors property values and keeps the neighborhood safe. City Manager Gray reminded the Council this Nuisance is used based upon complaints; we don't go out looking for code violations.

City Manager Gray informed the Council that this is the first draft of the Nuisance Ordinance. City Attorney Green made it very stringent as a starting point; the reason for this was in order for the Council to review and take out what they didn't feel was necessary or fit our needs.

City Councilor Donn Willey stated Section 35 Public Nuisances was pretty ambiguous. A public nuisance is anything, condition, or act which is or may become a detriment or menace to the public health, safety,

or welfare. He thought it could include trees, but thought language for the trees should be more defined. Councilor Louis Provencher supported the tree language.

Tom Warren and Ellen Carlson informed the Council of the conditions of their neighbor's property that they have been trying to get cleaned up for years. They have a dying tree resulting in a limb breaking off and falling onto their house and patio cover, two inoperable vehicles in the front, old firewood stacked near to their house, and piled garbage on the property.

Mayor Lundbom asked what the Council wanted to do; do we want to all go through the ordinance and make suggestions. Police Chief Richard Gray suggested having a work session and he would like to be involved. City Manager Gray suggested the Public Safety Committee meet, review the ordinance; make a recommendation to the City Council.

It was the consensus of the City Council to have the Public Safety Committee meet at 6:00 p.m. before the May 12, 2015 council meeting to review the draft ordinance, compare it to the old ordinance and bring back a recommendation to the City Council.

#### **Agenda Item No. 7 – Other Business and Upcoming Meetings**

1. LOC Bulletins were given to the City Council.
2. Mayor Lundbom reminded the Council that Thursday is Public Works Director David Holland's final day and hoped to see everyone at his open house from 1:00 – 3:00 p.m.
3. Mayor Lundbom informed the Council he will not be present at the May 12, 2015 council meeting and asked Council President Steve Schuette to preside over the meeting.
4. Councilor Paul Smith stated he would not be able to attend the May 26, 2015 council meeting.

#### **Adjourn**

**There being no further business before the Council, Councilor Donn Willey made a motion to adjourn the meeting. Councilor Steve Schuette seconded the motion and the motion passed unanimously. The meeting was adjourned at 7:41 p.m.**

Respectfully Submitted:

Peggy Gray  
City Manager

ACCEPTED BY THE CITY COUNCIL, MAY 12, 2015

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Council President Steve Schuette