

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

June 22, 2021

COUNCILORS PRESENT:

Ron Lundbom, Mayor
Shannon Adair
Heather Rookstool
Gregg Haberly
Elliot Sky
David Holland

COUNCILORS ABSENT

Paul Smith

CITY STAFF PRESENT

Nicholas Green, Executive Director
Lindy Berry, Secretary
Michael Durr, Police Chief

Daisy Goebel, Associate Planner (virtual)
Garrett Chrostek, City Attorney (virtual)

GUESTS PRESENT (VIRTUAL UNLESS INDICATED

AS IN-PERSON)

Sherrie Rininger (in person)
Stephanie LeQuieu (in person)
Chris Fox (in person)
John Rowell (in person)

Michelle Laughlin (in person)
Ken Katzaroff
Dan Fox
DG
503-704-7541

Agenda Item No. 1— OPEN AND NOTE ATTENDANCE

Mayor Lundbom called the meeting to order at 7:01 p.m., noting everyone was present except Council President Smith who was absent and excused.

Agenda Item No. 2— APPROVAL OF PRIOR MINUTES

None presented.

Agenda Item No. 3— APPEARANCE OF INTERESTED CITIZENS

Mayor Lundbom invited guests to share items not on the agenda *None appeared.*

Agenda Item No. 4— CONSENT AGENDA ITEMS (7:01 PM)

None presented

Action Item No. 5 ORDINANCE NO. 20-187-08, AN ORDINANCE AMENDING THE JOHN DAY DEVELOPMENT CODE TO STRENGTHEN AND CLARIFY ENFORCEMENT PROVISIONS WITHIN THE CODE (TYPE IV PROCEDURE) (7:02 PM)

Mayor Lundbom briefly reviewed the procedure for the public hearing. He invited members of council to disclose any conflicts of interest. *None appeared.*

City Manager Green invited Associate Planner, Daisy Goebel to present. Mrs. Goebel explained the changes that have been made to the ordinance by the Planning Commission. The link to the nuisance ordinance was removed. She touched on the request for the change of language requested by Riverside Home Park. The staff report included responses to concerns that had previously been brought up. The language had been updated regarding the fines and they included information on why the vicarious liability provision will remain. The code amendment did not include the language Riverside had suggested, that the term property should apply to each space within the park because, each individual space within the park is not its own legally defined lot. She added that Riverside would be able to request a code amendment if they should choose.

City Manager Green noted that he included the letter from Ken Katzaroff for the council to review. He pointed out that the date listed for the prior staff report should be corrected to include all prior staff reports from the council and planning commission should be included.

Mayor Lundbom invited the public to comment. Noting that those in favor would be invited to speak first. *None appeared.*

Mayor Lundbom invited those in opposition to speak. John Day resident, Chris Fox requested to speak. He inquired about if the City had recognized the park as a legal nonconforming use. He shared that he had written a report chronicling the events of the past 2 years and brought that report to present to the council. He voiced his concerns that the ordinance would be a vehicle to raise funds for the City. He felt that surveying the lots would not be cost effective to protect the tenants. He noted that he had written up a formal proposal to share at a later date. He added that he would like to request a reduction in his rates as Riverside Home Park is one of the largest users.

Ken Katzaroff, attorney at law. Mr. Katzaroff shared that from his understanding, this issue began with the Innovation Gateway. At that time, the City had included parts of Riverside Home Park to use for public access along the John Day River. In November 2019, City Manager Green toured the park and noted 679 code violations following the tour. He noted that the City would be given sole authority to determine compliance. Mr. Katzaroff was retained following the abatement agreement being presented to Riverside Home Park. The Planning Commission attempted to revoke the conditional use permit. He shared that Riverside has not received the list of the violations noted from the tour in November. In 2020, Riverside Home Park was investigated by DSL for fill. Riverside Home Park was cited for a fill violation and it was dismissed. The State completed a tour and the findings were documented in the letter attached. Riverside Home Park provides housing to 15% of the population in John Day. He expressed concern that changes in the ordinance could result in a need for rate increases that could possibly push people out of their homes. He shared his concerns about the link between the nuisance code and code enforcement. He was also concerned about the nonconforming use permit. He noted that Riverside Home Park is a legal and valid nonconforming use. His response to the vicarious liability was that there should be some consequences for bad tenants and business owners, but that a mobile home park is different and there should be some exceptions for a mobile home park.

Mayor Lundbom invited additional comments in opposition. Mr. Fox noted he would like to submit his report to the council.

Mayor Lundbom invited comments from those that are neutral *None appeared.*

Mayor Lundbom invited staff to speak.

City Manager Green noted that Riverside Home Park itself is a legal nonconforming use however developments within the park done after the 2005 code amendment should be taken into consideration. A home placed without inspection or permits in a floodplain is a violation of the code. The State initiated the inspection process in April 2019 following the flood that occurred. There was a community assistance visit completed. He explained that it is essentially an audit to verify that a community is compliant with the National flood insurance program regulations and if floodplain development codes are being followed. Following complaints from tenants of Riverside Home Park, the City conducted an inspection. The interactions between the City and the State began following the State's initial contact.

Mr. Kataroff noted that he had not seen proof of the communication between the State and City. City Manager Green noted that the Innovation Gateway plan was adopted after public hearing. Discussions surrounding the purchase of the property was to improve trails and allow for access for residents of Riverside Home Park. The City purchased the property from Iron Triangle which was better suited to the goals and plans of the council. The ordinance relates to a pattern of code violations and is not directed at Riverside Home Park.

City Manager Green invited City Attorney, Garrett Chrostek to provide any additional information he felt might be relevant. Mr. Chrostek noted that he would advocate for voluntary compliance with the compliance agreement. There will always have to be some discretion and the council will be the final arbiter of any compliance issue.

Mayor Lundbom invited the council to share.

Councilor Holland shared that the council had discussed pursuing the property at Riverside to clean up allow the river however, the council had chosen not to pursue that avenue. It was not a decision made by City Manager Green. The council was asked by tenants of Riverside Home Park to address some of the conditions at the park. Citizens of the community that they represent approached them asking for help to address issues they were experiencing. Mayor Lundbom agreed with Councilor Holland and noted that the council had been approached with a list of about 20 signatures from citizens of the Riverside Home Park.

Mayor Lundbom invited Mr. Kataroff to speak. Mr. Kataroff felt that without evidence it was hearsay that the residents had any concerns. It would be a very strong tool and it could either benefit the city or create further division. He noted that DLCD had offered funding for mediation which was waived by both Riverside and the City.

Councilor Rookstool inquired if the list of code violations had been provided to the Riverside Home Park. City Manager Green answered that they were provided the list and that the city had not moved forward to pursue fining the park. The City is not looking to fine the park. This is simply a compliance issue. Councilor Rookstool noted that she had had many interactions with residents of Riverside Home Park complaining of serious issues with their homes. Mr. Fox invited the Park Manager, Michelle Laughlin to speak. Mrs. Laughlin shared that they have addressed many of the complaints and maintenance requests.

Councilor Holland motioned to close the public hearing at 7:51 pm. The motion was seconded by Councilor Adair and passed unanimously.

Councilor Holland noted that the intent of the ordinance is to give the City the tools to enforce the codes that keep the community safe. The intent is not to fine people or to make money. It is simply a resource to help with compliance.

Councilor Holland motioned to recommend City Council approve AMD-20-10 based on the findings contained in the staff report [with conditions or amendments to Ordinance No. 20- 187-08, if any]. The motion was seconded by Councilor Adair and passed unanimously.

Councilor Adair motioned to read Ordinance No. 20-187-08 by title only. The motion was seconded by Councilor Holland and passed unanimously

Mayor Lundbom read the Ordinance by title only.

Councilor Adair motioned to recommend City Council approve AMD-20-10 based on the findings contained in the staff report [with conditions or amendments to Ordinance No. 20- 187-08, if any]. The motion was seconded by Councilor Holland and passed unanimously

Action Item No. 6— ORDINANCE NO. 21-193-04 (AMD-21-03) AN ORDINANCE AMENDING THE JOHN DAY DEVELOPMENT CODE TO REDUCE THE NOTIFICATION PERIOD FOR TYPE IV LEGISLATIVE PROCEDURES FROM 45 TO 35 DAYS AND CLARIFYING PROVISIONS FOR COMPLIANCE WITH STATE LAW; AND AMENDING THE JOHN DAY COMPREHENSIVE PLAN TO REDUCE THE NOTIFICATION PERIOD FOR COMPREHENSIVE PLAN AMENDMENTS FROM 45 TO 35 DAYS (TYPE IV PROCEDURE) (8:00 PM)

Mayor Lundbom invited the council to disclose any conflicts of interest. *None appeared.*

Mayor Lundbom invited the audience to share any opposition. *None appeared.*

Mayor Lundbom invited Associate Planner, Daisy Goebel to share. She shared that when notice is sent out, they will no longer need to provide notice to every resident of the City, but only those directly impacted by the amendment.

Mayor Lundbom invited comment from those in favor. *None appeared.*

Mayor Lundom invited comment from those in opposition. *None appeared.*

Mayor Lunbom invited comment from those that are neutral. *None appeared.*

Mayor Lundbom invited staff to comment. *None appeared.*

Mayor Lundbom invited council to comment. *None appeared.*

Councilor Adair motioned to close the public hearing. The motion was seconded by Councilor Sky and passed unanimously.

Councilor Holland motioned to approve AMD-21-03 based on the findings contained in the staff report [with conditions or amendments to Ordinance No. 21-193-04, as presented]. The motion was seconded by Councilor Adair and passed unanimously.

Councilor Holland motioned to read Ordinance No. 21-04 by title only. The motion was seconded by Councilor Adair and passed unanimously.

Mayor Lundbom read the Ordinance by title only.

Councilor Holland motioned to adopt 21-193-04. The motion was seconded by Councilor Adair and passed unanimously.

Action Item No. 7— ORDINANCE NO. 21-194-05 (AMD-21-04) AN ORDINANCE OF THE CITY OF JOHN DAY AMENDING THE JOHN DAY DEVELOPMENT CODE TO ESTABLISH REGULATIONS CONCERNING MEDICAL AND RECREATIONAL MARIJUANA PRODUCERS, PROCESSORS, WHOLESALERS, LABORATORIES, AND RETAILERS; ALLOWING THESE FACILITIES IN SOME COMMERCIAL AND INDUSTRIAL ZONES WITH CERTAIN RESTRICTIONS (MARIJUANA BANNING ORDINANCE) TYPE IV PROCEDURE (8:07 PM)

Mayor Lundbom invited the council to reveal any conflicts of interest. *None appeared.*

Mayor Lundbom invited the public to share any opposition. *None appeared.*

Mayor Lundbom invited Associate Planner, Daisy Goebel to speak.

Mrs. Goebel pointed out that the City has missed out on about 7 years of revenue from the available State shared revenue garnered through marijuana. State law requires medical dispensary facilities maintain 1000 feet between one another. The council has the authority to decide the distance between recreational facilities.

Councilor Rookstool inquired if the City could put a limit on the number of businesses. City Manager Green noted that the limitations would be made by the required distance limits between facilities. The council could make changes to zoning.

Mayor Lundbom invited comment from those in favor. *None appeared.*

Mayor Lundbom invited comment from those in opposition. *None appeared.*

Mayor Lundbom invited comment from those in a neutral position. *None appeared.*

City Manager Green noted that there was some language in the ordinance that needed correcting. He invited Councilor Holland to share the concerns he had brought forward. He shared that hemp grow sites should be less restrictive. The current language would create hardship for growers. Councilor Sky inquired if they would delete the language or make corrections. City Manager Green pointed out articles C & D were up for review based upon Councilor Holland's feedback.

Stephanie LeQuieu inquired about section F, the no outdoor storage or display of industrial hemp products are permitted. She wondered why that language was included. City Manager Green stated he believed that language was borrowed. Mrs. LeQuieu noted that the outdoor storage may be too restrictive.

John Rowell, John Day resident noted that he had experienced smelling marijuana throughout the community and felt the language in the ordinance was overkill.

The council came to a consensus that paragraphs C, D & F should be removed from Section 1 of Industrial Hemp.

City Manager Green asked Mrs. Goebel if she saw any potential issue with the removal of that language. She did not believe that there would be an issue.

Councilor Holland noted that the language pertaining to marijuana grow operations limiting to artificial light at a grow site was not reasonable. He noted that he saw the value in security measures for that type of product, however the language should allow for natural light use.

The council came to a consensus to remove the verbiage, non-translucent in paragraph 2, section A.

Mrs. LeQuieu noted that paragraph 2, section D verbiage should be added to say artificial light. Mayor Lundbom invited any additional questions.

Councilor Adair motioned to close the public hearing. The motion was seconded by Councilor Rookstool and passed unanimously.

Councilor Adair motioned to approve AMD-21-04 based on the findings contained in the staff report [with conditions, if any]. The motion was seconded by Councilor Sky and passed unanimously.

Councilor Adair motioned to read Ordinance 21-194-05 by title only. The motion was seconded by Councilor Holland and passed unanimously.

Mayor Lundbom read Ordinance No. 21-195-05 by title only.

Councilor Adair motioned to adopt Ordinance No.21-194-05 An Ordinance of the City of John Day amending the John Day development code to establish regulations concerning medical and recreational marijuana producers, processors, wholesales, laboratories, and retailers, allowing these facilities in some commercial and industrial zones with certain restrictions. The motion was seconded by Councilor Sky and passed unanimously.

Action Item No.8- ORDINANCE NO. 21-195-06 AN ORDINANCE OF CITY OF JOHN DAY ESTABLISHING TIME, PLACE, AND MANNER REGULATIONS CONCERNING THE OPERATION OF CERTAIN MARIJUANA BUSINESSES IN THE CITY; AND AMENDING, REPEALING, AND REPLACING ORDINANCE NO. 15-163-01. (8:30 PM)

Councilor Rookstool motioned to continue the hearings for Ordinance No. 21-195-06, 21-196-07, and 21-197-08 until July 13, 2021 (regular meeting). The motion was seconded by Councilor Holland and passed unanimously.

Action Item No. 9— ORDINANCE NO. 21-196-07 AN ORDINANCE OF JOHN DAY REPEALING ORDINANCE NO. 15-164-02, WHICH BANNED MARIJUANA ESTABLISHMENTS IN THE CITY.

See motion to continue hearing under Action Item No.8.

Action Item No. 10— ORDINANCE NO. 21-197-08 AN ORDINANCE OF THE CITY OF JOHN DAY REPEALING JOHN DAY ORDINANCE NO. 14-162-03, WHICH IMPOSED A TAX ON MARIJUANA IN THE CITY

See motion to continue hearing under Action Item No.8.

Action Item No.11- RESOLUTION NO. 21-865-13, A RESOLUTION TO TRANSFER APPROPRIATIONS IN THE COMMUNITY DEVELOPMENT AND MOTOR POOL FUNDS

City Manager Green briefly reviewed the resolution.

Resolution to be amended to say, City Council of the City of John Day and the date of June 22, 2021.

Councilor Holland motioned to approve Resolution No 21-865-13 a resolution to transfer appropriations in the community development and motor pool funds. The motion was seconded by Councilor Rookstool and passed unanimously.

Action Item No. 12— OTHER BUSINESS & UPCOMING MEETINGS (8:39 PM)

Town Hall will be held July 27th at the fairgrounds.

The COPS grant application was complete, and ready for submission. If awarded, it would fund \$125,000 a year for 3 years.

The ballot has been filed and accepted. The election is scheduled for August 17th. The outcome of the COPS grant will not be known until September.

Due to the collective bargaining agreement, notification must be provided to staff stating they will be laid off in order of seniority then re-hired in order of seniority if the levy passes and the COPS grant is awarded to the City of John Day

Councilor Rookstool inquired about applications for the Police Chief position. City Manager Green shared that he was anticipating 3 applications by the next week. He briefly shared the CIS would be vetting those applicants. A panel of law enforcement professionals will be assisting in the interview process.

The State invited the City to apply for funds to match the funds required to complete the 4th Street project. The window to permit the project for completion this year has been missed. The work will be pushed back until next year.

Councilor Rookstool inquired about the industrial park lots and if any additional lots had been sold. City Manager Green shared that there are 3 potential sales in the works.

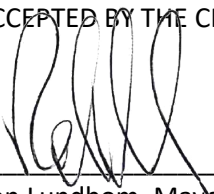
City Manager Green shared an update on the treatment plant. The wells have been installed and the DEQ should receive the data mid-July at the latest.

Councilor Holland motioned to close the meeting at 8:52 PM. The motion was seconded by Councilor Adair and passed unanimously.

Respectfully Submitted:

Nicholas Green, City Manager

ACCEPTED BY THE CITY COUNCIL ON July 13, 2021.



Ron Lundbom, Mayor