



MINUTES
COBURG CITY COUNCIL
Regular Session
November 10, 2015
Coburg City Hall
91136 North Willamette St., Coburg

COUNCILORS PRESENT: Jae Pudewell, Mayor; Ray Smith, Council President; Sharyl Abbaspour, Jerry Behney, Patrick Kocurek, Steve Stearns

STAFF PRESENT: Petra Schuetz, Sammy Egbert, Milo Mecham, Ann Heath

RECORDED BY: Robin Adair

1. **CALL THE CITY COUNCIL MEETING TO ORDER:** Mayor Pudewell called the City Council meeting to order at 7:12 p.m.
2. **PLEDGE OF ALLEGIANCE:** All present joined in the Pledge of Allegiance.
3. **ROLL CALL:** Roll was called and all Councilors were present.
4. **MAYOR COMMENTS:** Mayor Pudewell spoke on three topics.
 - Councilor Nelson resigned. There is a need for someone to step up and serve the community and give back to the community.
 - Mayor Pudewell said this last year has been personally challenging. His professional responsibilities expanded with a lot of travel time throughout the state. With this and the personal issues he feels he has not given the city the service he feels it needs, though he said he does his best he doesn't feel it is good enough. **Mayor Pudewell announced he will be stepping down as mayor in the early part of 2016.** Councilor Smith take over but Pudewell will stay on through the councilor assignments.
 - Mayor Pudewell stated he is reassigning Councilor Smith's Liaison position from Police Liaison to Administration Liaison. This will help Councilor Smith understand the broader scope of responsibilities he will have.
5. **AGENDA REVIEW:** Mayor Pudewell said the UGB will move to 6A, which follows the LUBA Appeal. The Heritage Appointment will be 11A which follows the Planning Commission

Appointments. Steve Lee, SDC Credit will be behind the Planning Assignments. In the red folder there is a letter from Milo Mecham regarding Conflict of Interest. This will be agenda item 9.A which is right before Finance.

6. **CITIZEN COMMENT:** One comment. It stated: *“This cemetery is a disgrace to the town of Coburg. Farms fields so close to the graves. Build a wall around it. Coburg is one of the few lovely little towns left, let’s keep it that way. Show some respect for the town and its dead”.*

Schuetz said the cemetery is not in city limits or owned by the city; therefore the city has no role. It is on the National Registry. Odd Fellows Hall has maintenance responsibilities. This comment will be sent to the representative. There are grant opportunities to assist with this.

7. **CONSENT AGENDA:**

- Minutes September 8, 2015 – Work-session
- Minutes October 13, 2015
- Next Exit Contract

*Councilor Smith, seconded by Councilor Behney, moved to accept the Consent Agenda.
The vote passed 5:0.*

8. **CITIZEN TESTIMONY:**

Chris Page, 91036 S. Skinner Street, Coburg. Mr. Page thanked the mayor for his service and heart-felt statement. He then spoke on the *Proposed Findings for the LUBA Appeal*. He stated he has been an attorney for 6-years, specializing in Appellant Law. Mr. Page told councilors he wanted to make it clear in regards to whose burden this is; the burden lies with the applicant, she has the burden to prove the criteria has been met. There are other criteria also in Article 10.2, Site Design Review and Compatibility of Surroundings which the applicant’s application did not address. He finished talking on precedence and that the applicant did not address things she should have; she should have walked through with staff what she needed to do and she didn’t, she did not have her ducks in order.

Ryan Thomas, 1398 Rainbow Drive, Springfield, Oregon. Mr. Thomas spoke on the August 24, City Council decision. He stated he wanted to review two issues.

- He stated the Planning Commission approved the dispensary as retail which is an Allowable Use in the Central Business District. The State of Oregon decided dispensary means how we buy pot. This business category is not addressed in Coburg and in his opinion this application should have been denied until this could be addressed.
- Mr. Thomas wanted to reiterate the main discussion at the last meeting was wording which fell short. The wording needs to more accurately describe the decision.

- Application requirement – Item 2 on the application said the application shall be filed with one copy being a narrative statement. This lack of detail was obviously lacking on the application.

Citizen Testimony concluded.

9. DEPARTMENT ACTIONS & UPDATES:

City Administration

DEPARTMENT HIGHLIGHT. This month featured the Public Works Department. Bob Butler spoke on the sewer system, and maintenance, inspections and some problems that have occurred. He gave an update on water concerns, and storage (one concern is Serenity Lane coming in), street repairs and spoke of the grant for the playground equipment and other general Public Works business.

Mayor Pudewell asked if the problems on septic tanks are clogged filters, and is it an isolated issue and Butler said he wasn't sure, alarms are going off because filters need to be cleaned and 10% of tanks need to be pumped. There is no money budgeted for residential septic pumping. There are 400 tanks and we hope to do 200 next year and 200 the year after. It is \$110 a tank to check. This plan will be presented in next year's budget.

Councilor Kocurek asked if it is law tanks be checked every two years and Butler said it is. He added, every time Public Works goes on a call they check that off as a tank inspection. This is a DEQ requirement but the maintenance issue is more important.

Councilor Smith asked if many tanks have had issues and Butler said they had to pump two and several had plugged screens they cleaned. The manufacturer recommends every 3-5 years pumping.

Mayor Pudewell spoke of the Water Master Plan and Butler said we won't run out of water, we are more concerned with storage.

Councilor Behney said we need to look at more revenue for streets.

CITY ADMINISTRATION, MONTHLY UPDATES. Ms. Schuetz reported.

- Councilor Nelson has submitted his letter of resignation, (included in packet). Mayor Pudewell asked Egbert when his term would have expired and she replied 2018. Ms. Egbert explained the process to replace the vacancy. Council agreed to take applications through December 1, to be included in the December 8th meeting packet.
- City Hall will be closed three days in November, Veterans Day, Thanksgiving and the day after Thanksgiving.
- Mayor Pudewell asked about the playground equipment for Norma Pheiffer Park and Ms. Heath responded that she hopes the project will be done in time for Spring Break. When asked about the current structure she replied it will stay in place. The swings will have some replacements and the tractor will be removed and a spin cup added.

LUBA APPEAL. Mr. Milo reported. If councilors decide to reconsider the decision, under the LUBA rule you must respond by January 15, 2016. Staff needs direction tonight and will then come back to the next meeting with findings that follow your instructions. Not all criteria needs to be evaluated, only the most relevant. Planning went through the other criteria and made a decision so we shouldn't question those. Mecham said we need to elaborate more on the reason for denial.

Discussion / Decision Point

- Where does medicinal marijuana fit into the categories of uses in Coburg code? Planning decided to categorize it as retail. Generally, in Land Use Planning in Oregon there are no unidentified new uses, therefore, we need to make it fit in a category. If we decided it was to be listed as a clinic then it would have to go through the Conditional Use Process. The description of clinic in code talks about if you are dealing with dogs and why they can't be kept overnight unless treatment is occurring. Treatment is given as a service instead of goods. Medicinal marijuana is 'selling' and the service aspect is secondary.

Mayor Pudewell asked about how other city's zone for dispensaries in this area and Mecham said in Eugene they treat it as retail.

Councilor Stearns asked if pharmacy is an option and Mecham said Planning considered this and thought it fell under retail. Services like counseling is secondary. If it is a clinic it would have to apply for a Conditional Use and applicant wasn't told she had to do this which makes the process more difficult and LUBA will remand to the city because they should have given the applicant the opportunity to apply for a Conditional Use Permit. Mecham recommended following the Planning recommendation and treat it as an Allowed Use.

Councilor Smith thinks we have a stronger case going with retail than clinic. Clinic is a treatment and we don't have grounds to use that. ***Councilors said they were comfortable with retail.***

- Central Business District standards and the District Purpose Statement. Having made the decision not to call it a clinic this statement becomes less important. Mecham referenced page 6, criteria 7; Alteration or Demolition. The Matthews House is historic and the applicant is proposing some change. Councilors concern focuses on the security requirements. Mecham emphasized council could be setting a precedent for other historic homes if they should choose to enforce stricter standards. Mecham recommended letting SHPO be the determinate and in this case and they signed off on the proposed use. Their primary focus was on the handicap ramp and they didn't have a problem with that and didn't really look at the security door, but they don't normally have a problem with these things. The general pattern of SHPO is they don't have a problem with minor cosmetic changes.

Councilor Smith said he disagrees with SHPO not having a problem with bars on the doors and windows. In his personal experience they would not let him use non-wood on storm windows and he doesn't think they signed off on this. He also mentioned ADA parking and they were looking for discussion on this and how to maintain historic character. Smith said his problem lies in what is stated on page 7, bullet 5, *any modification involving a change of use of an historic building in Coburg must be reviewed and shall be denied if it will result in a presentation of the historic structure in a manner that detracts from the historic character...historic ambiance*. Mecham said he understood what Smith was saying and could soften the statement to align with what Smith said. Mayor Pudewell stated, the point here is we are setting a standard for future historic buildings and engagements with historic buildings. We may strengthen the historic view but also may make it more challenging for people. Councilor Smith said there is an enticement to maintain this; a tax incentive. He added his main problem is bars on the windows.

Councilor Behney asked how many historic homes would be in jeopardy if we make it more difficult moving forward and Schuetz responded there is only about 25 on the National Register. Schuetz added the applicant was trying to meet conditions and received another letter from SHPO and they said bars is a minor issue and they didn't have a problem with it. Mecham said findings are designed to create explanation. If the city sets a higher standard than SHPO only time will tell whether this has a negative impact or not. There is some risk involved. Mecham said he understands Councilor Smith to say it is important to him that Coburg implement stricter standards than SHPO. Councilor Smith said you should go back to the ERA the house was built and stay with those standards. Were there bars on the windows in the 1900 ERA? He added he thinks the city can stand by this and it will not run someone off. Councilor Stearns agreed with Smith on this. ***Direction is to exceed SHPO standards.***

- Parking Page 9. Mecham said there are two issues raised here. These could be cause for denial of application. If you don't have enough parking on the site what do you do for alternative parking? They are planning on using the property next door for extra parking and there is a letter from the property owner saying they can do this, but it doesn't say for how long.

Mayor Pudewell said we as a city need to be deterministic about these issues. There needs to be a date stating how long they can use the extra parking. If there is not enough parking onsite then the applicant needs to have an agreement with a date.

Councilor Smith said if we enforce a parking standard there are several businesses that would not be in compliance. The philosophy is great but limitation of a small downtown limit us. Some businesses may have to close. He added, we need to be realistic about parking. Councilor Abbaspour agreed with this. He said he isn't sure we can use the parking issue. Councilor Stearns said if the lot is sold then there is no parking and the applicant doesn't have a plan.

Councilor Abbaspour asked, if we are going to make parking the issue, what does this do to other businesses in town who borrow parking? Mecham said for existing businesses this isn't a planning problem but for Change of Use and Site Review Process they wouldn't make it because they wouldn't have parking. One possible way to resolve this; you have in code something that talks about parking requirements for mixed use. It says you have standards to allow joint parking under certain circumstances. If you want to deny the application on parking the reason you could use is that we have those standards in mixed use so they should be applied generally where someone needs a joint parking use agreement because they don't have adequate parking on their own property.

Councilor Smith asked is this was attempted on the application and Mecham said there was an attempt but was not looked at or approved by the city attorney, and they did not apply with all standards in joint use but they didn't know they had to.

Direction - Mayor said reference is on page 12. Proposed uses of a single use (not mixed use) are expected to provide sufficient spaces on the subject property of the proposed use. The applicant did not provide enough parking spaces / adequate parking or apply for mixed use.

Councilor Smith said there was an attempt with shared parking, but there was no date or commitment and there was a note that said "they were allowed", there needs to be a legal agreement for those and this wasn't presented. He agrees with the Mayor, we need a parking standard but doesn't think we can do it with this. Mecham said you can't give standards to the applicant after the fact.

Mayor Pudewell said the key thing is the fact that the two aspects of evidence provided for additional parking is inadequate and the applicant didn't request a variance or review of requirements for additional parking. He likes alternative findings, (stricter).

- Last issue has to do with the parking plan. They didn't have adequate parking reserve or a plan. The code talks about marking out where spots are, curb stops, screening. Planning has recognized there is a shortage of parking in the city so they have been lax in marking spaces because of the shortage and this applicant failed to do it which can be another condition for denial. This will say to Planning they have to now do this going forward which can be difficult with shortage of parking. Schuetz said they are not lax. Any change of use requires curb stops. We do follow through on that. There is no flexibility. When new code went into place in 2006 almost no commercial properties had curb stops. In similar use they are grandfathered in. The only lax part is impervious surface, the surface has to be striped and dust free, and we consider gravel to be okay. We do not make businesses restripe every year but curb stops are a requirement. Mayor Pudewell said he believes this is more for ADA. Schuetz said there is an ADA building code requirement. The Building Department has authority over this and we don't go above the ADA standard and neither does the Building Department. She went on to explain ADA and parking improvements. She said her only concern in this area of parking is we are denying based on they were approved but

didn't have to opportunity to meet this. They could have easily met this condition so it is not a basis for denial. Denial is based on 'not' being able to meet conditions.

Mayor Pudewell said this seems flawed and asked why the Planning Commission didn't require them to meet the parking requirement. Mecham said what is commonly done for applicants in terms of planning is they can use discretionary decision making. In the case of the parking plan you can justify this a little bit more.

Schuetz said there are two different phases. Tentative and approval. There is a completeness check. An applicant has all these components and we will provide direction; the staff report says *conditions of which you receive final approval*. The denial by City Council were for things that were conditioned by Planning. There were about 10 conditions that related to all these things talked about. Within this process there was the appeal so the applicant did not have the chance to meet conditions and shouldn't be penalized.

Mecham said we now need to put together the best findings and present them in slightly different ways so we are setting a precedence and treating the application differently.

Mayor Pudewell said Planning needs to tighten up parking and also agreements so we don't end up with flawed ones. Schuetz said she needs to make adjustments to the development codes.

UGB PLAN UPDATE. Mecham said the County Planning Commission recommended to the Board of Commissioners this be approved. Thousand Friends raised questions about the application; close to the same questions as when they were here. After last Tuesday's meeting it seemed the best approach is for City Council to make a clarifying statement stating the things we are thinking about and want to do. Mecham went back through the UGB study and council discussion and created supplemental findings:

- Residential Property. Why Stallings Lane won't work. It needs to be adjacent to some of the UGB.
- Bringing in Stalling's won't solve needs because those properties do not want to be developed because of the cost of running water and sewer.
- Transportation concerns. Right now the fire department relies on Van Duyn to get to the rest of Coburg and if there was an accident and the road closed and there was an emergency the fire department wouldn't be able to get there and adding more traffic would be a problem. This can be a finding.
- Employment Land. Major focus need is not for 20 acre parcel but 91.7.

Action must be taken tonight. Commissioners will take this up on December 8' and if we can have this in there it will help a lot. If you don't take action this will go into a letter being written to them.

Councilor Stearns, seconded by Councilor Smith, moved to accept the SUPPLEMENTAL FINDINGS AND CLARIFICATION OF PREVIOUS FINDINGS FOR ADOPTION OF ORDINANCE A-199-E. The vote passed 5:0.

Mecham told councilors the meeting is at 1:30 p.m. on December 8. He said he feels their attendance would be beneficial. Schuetz will send out a reminder email.

SPECIAL EVENT COINCIDENT LICENSE FEE. Sammy Egbert reported. June 2015 Ordinance A-198-A was amended by Ordinance A-198-B, to add Section 6; Special Event Coincident Activities. Additional Implementation of the ordinance includes establishing a fee for coincident licenses. This fee may be set by the City Administrator and has been set at \$250. However, it was noted that no major special event including the, Coburg Golden Years, Car Classic, Quilt Show, and Antique Fair pay the special event fee. In addition, there is a fee for Special Event Coincident Activity which is an activity that occurs at the same time as a city permitted Special Event. Should these fees be required if special event fees aren't being paid. There was discussion on fee waivers several years ago which City Council enacted. Events take city time from different entities of the city who do the paperwork for these events. There was discussion on fees and whether these should be nominal and then do away with the waiver. Councilor Behney thought some costs to the city should try and be recouped. Mayor Pudewell thought \$250 seemed high but probably didn't actually cover city costs. Smith said events help the city but also create costs for the city. Mayor thought it may be a good idea to get input from the Chamber. While some councilors thought Chief Larson should collect fees, Smith stated he has problem with the multi-page ordinance and sending Chief Larson, or other staff out to enforce it.

EMPLOYMENT AGREEMENT FOR CITY ADMINISTRATOR. Mayor Pudewell said he did a survey of surrounding areas for rate comparison for the total package and concluded we have considerable head room to be equivalent with sister cities. The agreement is a five year plan versus a three year plan for staff stability. Mecham referred to the employment agreement and said this was negotiated between the mayor and Schuetz. Mecham stated his responsibility is to the city and there is a clause in the agreement that says this.

Councilor Kocurek asked when the last agreement started and the mayor answered June 2012. Councilor Behney asked when the increased wage of \$85,000 starts; and it is immediately and can be increased through merit and COLA.

Councilor Smith stated he has a problem with the verbiage in the termination section (top of page 8). He is concerned with the verbiage "more than half of the review". Mecham said this was his own language and "more than half" will be struck and the verbiage will read "favorable review".

The 9:30 p.m. timeframe for meeting approached and all Councilors were in consensus to continue with the meeting.

Councilor Smith said he doesn't like the six month salary and continuation of benefits should Ms. Schuetz leave and Mayor Pudewell said this is a termination package and she gets nothing if she leaves voluntarily. He added the City Administrator position answers to the mayor and this is just a protection for the position should the mayor terminate the employment tomorrow.

Councilor Behney asked about page 7, bullet 10, second sentence, termination. Behney stated he feels the City Council should approve hiring and firing and Mecham said the Charter states this.

Councilor Smith asked if the budget covers this wage increase and Heath said it does. It will be a supplemental budget.

*Councilor Smith, seconded by Councilor Stearns, moved to authorize the Mayor to sign the employment agreement with Petra Schuetz for Coburg City Administrator and Planning Director as presented to Council with the one amendment, striking the verbiage "more than half" from the agreement. **The vote passed 5:0.***

HERITAGE APPOINTMENT. Mayor Pudewell appointed Carol Lockard and reappointed Lorrie Zeller to the Heritage Committee, consistent with the Heritage Committee recommendation (made October 21, 2015).

STEVE LEES, CAAPS, LLC. Reported by Petra Schuetz. There was discrepancy between the city cost estimate and Wildish for Park SDCs. Wildish is Mr. Lee's contractor. Mr. Lee is appealing to council for a credit. The city will agree to a credit amount of \$34,600. There is an agreement that if there is additional cost, there could be an additional credit. Mayor Pudewell and Council Smith both stated they were fine with this.

BAR COMPLAINTS. Reported by Milo Mecham. This was a complaint filed by Bill Ledford. Mr. Mecham spoke of a letter he received from the Oregon State Bar regarding the Board's determination of conflict of interest in his representation of the City of Coburg while drafting a lease for the Lane Council of Governments. He stated is does not intend to object and will accept the Board's decision and will correspond future behavior to the decisions to the Board's.

ORDINANCE A-237 AN ORDINANCE ADOPTING A RIPARIAN AND WETLANDS PROTECTIONS. The first reading was done by the mayor.

CITY COUNCIL GOALS 2015. Schuetz said there needs to be follow up to meet Goal 5, Implement *Economic Development Strategies*, which hasn't been done.

Finance

MONTHLY REPORT. Anne Heath reported. She spoke on the highlights as stated in the packet (tab 10). Overall City expenses are 10% under budget. Our tax return is over \$600,000 and we

will see about 94% in the next couple of months and the rest over the year. Kathy Taylor was present and reviewed the first quarter, and auditors were here for their final work for 2014/15. *Note: Finance will be the December, Department Highlight.*

Planning

PLANNING APPOINTMENTS. Reported by Petra Schuetz. Councilor Behney asked about Commissioner Zeller and the question of her living too far away to serve and Schuetz explained the 6-mile from city limits rule. Two Commissioners can fall under this rule. Lorrie Zeller lived within the boundary and then moved a little further away but was still within the boundary. This was an issue raised by Councilor Nelson. Zeller is grandfathered in. The Planning Commission decided not to change boundaries or bylaws. Mecham added that it is not unusual for cities to allow some members to live outside of the city limits, because it becomes harder to fill vacancies in small cities.

*Councilor Abbaspour, seconded by Councilor Smith, moved to reappoint Bryan McConnell, John Bosley, Judith Behney, and Lorrie Zeller to the Planning commission consistent with the Planning Commission recommendation (5-0) (made October 21, 2015). **The vote passed 5:0.***

UPCOMING AGENDA ITEMS:

1. Recreational Marijuana Policy Options Continued
2. Gas and Diesel Tax
3. Finance/Audit Committee Report
4. Water Master Plan Update Work Plan
5. General Request for Proposals (Polic(ies)).
6. Riparian Ordinance

UPCOMING WORKSESSION:

1. 20 Year Wastewater Budget Forecast.
2. RFP % Contracting Work session.
3. Council & Budget Committee Work session.

10. ADJOURNMENT: The City Council concluded their meeting and adjourned at the hour of 10:15 p.m.

APPROVED by the Council President and Council of the City of Coburg this 8th day of December, 2015.



Ray Smith, Council President

ATTEST: 

Sammy L. Egbert, City Recorder