

GLADSTONE ADJOURNED CITY COUNCIL MEETING MINUTES of February 25, 2014

ROLL CALL

The following city officials answered the roll call: Mayor Wade Byers and Councilors Hal Busch, Ray Jaren, Kari Martinez, Thomas Mersereau, Lendon Nelson, and Neal Reisner.

ABSENT: None.

STAFF

Pete Boyce, City Administrator; Rhonda David Doughman, City Attorney; Jeff Jolly, Gladstone Police Department; Jolene Morishita, Assistant City Administrator.

Mayor Byers led the flag salute.

1. City Attorney Doughman reported this is a follow up to a second reading of Ordinance 1446, Adopting Gladstone Municipal Code Chapter 9.01 Requiring Compliance with the U.S. Controlled Substances Act and Amending Chapter 5.04 Business License Provisions and Declaring an Emergency. The Oregon Legislature is in the process debating Senate Bill 1531. The original bill would have allowed local governments to regulate medical marijuana facilities, times they operate, where they locate in a city/county but also had language expressly allowing local governments to prohibit those facilities within their jurisdiction. This bill was floated by the League of Oregon Cities and Association of Oregon Counties responding to a lot of local concerns about what other cities/counties may be comfortable with but some may not be comfortable with. The Senate Judiciary Committee striped language out of the Bill that would have allowed cities/counties to prohibit dispensaries, leaving only the ability to regulate them.

The full Senate unanimously approved the language and sent it to the House. Council considered the issue prior to the approval. Attorney Doughman noted Council's strongest argument is under State law on what it allows cities/counties to do relative to marijuana and marijuana dispensaries. Attorney Doughman decided to propose some amendments to the ordinance that the Council considered and make it clear that for some window of time, there will be a temporary ban on marijuana dispensaries while the jurisdictions work out zone code changes to figure out where these dispensaries could locate in the City. Rather than put the City at greater legal risk for a challenge, they offered some changes to the Ordinance that would make this more of a temporary ban subject to working up the Development Code language.

Attorney Doughman explained the changes of Senate Bill 1531. If there is a change between the first reading and the final adoption, the changes have to be read at that meeting. Unexpectedly the Judiciary Committee in the House took up SB 1531 and re-inserted the prohibition language unanimously. This now has to go before the full House for the vote and then the Senate has to concur with the changes. The changes will be sent with prohibition to the Governor or they can block and not approve it and they would have to go to a Conference Committee to work out differences. When the Ordinance changes in the current packet were

prepared, it was assumed that SB1531 would not allow cities/counties to prohibit dispensaries. He recommends the city entertain the changes of the Ordinance (putting a time limit on the temporary ban) and go through the process of possible changes to the zoning code for dispensaries, so it will be ready to go if it should pass. Should the Bill pass with the prohibition language in it, Council has the option to amend the Ordinance again to eliminate the sunset clause (prohibit).

Mayor Byers reported that he received an email today asking him to contact representatives (which he did) to encourage them to include prohibition in the bill.

Councilor Jaren noted that people that require marijuana whether it is liquid or pills, etc. it is available to them through pharmacies controlled through the State. It is not that the availability is restricted for medical purpose; dispensaries are just a different form where people can purchase. The prohibition is not keeping people from getting the product if needed through their doctor.

Councilor Mersereau thanked Attorney Doughman for the clear explanation and update of Senate Bill 1531.

Attorney Doughman read the changes to Ordinance 1446 to the Council:

- Addition of 8th Whereas: Whereas the City also desires these changes to be in effect while the City researches and enacts regulations regarding medical marijuana facilities that are allowed to be located in the City in the future
- Change Sentence in Section 3 to Read: "This Ordinance takes effect immediately and will be in effect until August 26th, 2014 unless the Council repeals it before that date."

Councilor Reisner asked if this issue had been considered after staff's first memo would he have counseled Council to take a ban approach until Legislature had completed this short term. Answer: Attorney Doughman stated the every jurisdiction is taking actions differently subject to local preferences. He envisioned the best approach for communities that wanted to prohibit. Given the uncertainty of prohibition and the fact that there is a Federal law against what's going on and they could raise that issue and would if challenged. Jurisdictions are better off and have a better legal position under State law if you have clear authority under State law to do something (prohibit dispensaries or regulate).

Mayor Byers asked for the reading of Ordinance 1446 by title only. Assistant City Administrator Morishita read Ordinance 1446, An Ordinance Adopting Gladstone Municipal Code Chapter 9.09 Requiring Compliance with the U.S. Controlled Substances Act and Amending Chapter 5.04 Business License Provisions and Declaring an Emergency.

Councilor Kari Martinez moved and Councilor Thomas Mersereau seconded a motion to adopt Ordinance 1446, An Ordinance Adopting Gladstone Municipal Code Chapter 9.09 Requiring Compliance with the U.S. Controlled Substances Act and Amending Chapter 5.04 Business License Provisions and Declaring an Emergency with the City Attorney's amendments.

Roll: Councilor Jaren: **Yes**; Councilor Mersereau: **Yes**; Councilor Martinez, **Yes**; Councilor Nelson: **Yes**; Councilor Busch, **Yes**; Councilor Reisner: **Yes**; Mayor Byers: **Yes**.
The motion carried 7-0.

2. Discussion – Direction to Planning Commission Regarding Review of Medical Marijuana Dispensaries. Attorney Doughman reported the Planning Commission had a meeting a week ago and they asked staff to find out what is expected from Council on this issue. If there is a decision that Council does not want to prohibit or cannot prohibit, counsel suggested the zoning changes should be ready to go into effect depending on what Senate Bill 1351 will allow. Attorney Doughman stated he will be at the next Planning Commission meeting to carry the message forward.

Mayor Byers suggested adding the restriction that these facilities be 1000 feet from a pre-school.

Kevin Johnson, 6970 Winfield Court stated he is the newest member of the Planning Commission and he would like more direction as to what the Council needs. Mayor Byers stated the maps that were presented to them were both light industrial and commercial. The only objection he has is that the facility be 1000 feet from a preschool. The Planning Commission needs to have a broad discussion in detail and recommendations about both light industrial, commercial and other areas as well as codes that may be effected by marijuana dispensaries.

Hearing no further business from Council Mayor Byers adjourned the Council Meeting into Executive Session 192.660(2)(i) to review and evaluate the employment related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing. The Council will not be coming back into open session.

The next City Council meeting was adjourned to March 11, 2014, at 7:00 p.m.

Approved by the Mayor this 8 day of April, 2014.

Wade Byers
Mayor

Attest:

Jammin
Assistant City Administrator