

Minutes
Aurora City Council Meeting
Tuesday, February 11, 2014, at 7:00 P.M.
City Council Chambers, Aurora City Hall
21420 Main St. NE, Aurora, OR 97002

STAFF PRESENT: Kelly Richardson, City Recorder
Pete Marcellais, Marion County Deputy
Dennis Koho, City Attorney
Mary Lambert, Finance
Darrel Lockard, Public Works Superintendent

STAFF ABSENT:

VISITORS PRESENT: Jim Fisher, Aurora
Ben Williams, Aurora
Tom Potter, Aurora
Joseph Schaefer
Lori Sahlin, Cody Lane Aurora
Kathe Geoff, Liberty
Annie Kirk, Main Street
Mercedes Rhoden-Feely Liberty Street
Ron & Mary Van Kleef
Scott Reilly
Tara Weidman

1. Call to Order of the City Council Meeting

The meeting was called to order by Mayor Bill Graupp at 7:00 p.m.

2. City Recorder does roll call

Mayor Graupp – present
Councilor Sallee- present
Councilor Brotherton -present
Councilor Sahlin – present
Councilor Vlcek – Absent

3. Consent Agenda

- I. City Council Meeting Minutes – January 14, 2014, corrections;
- correct 2013
 - Kart to cart

- Potter Address from 2124 to 21244 pg 4
- II. Planning Commission Meeting Minutes – January, 2014
- III. Historic Review Board Minutes –December, 2013

Correspondence

I. Senate Bill 1531 Regarding Medical Marijuana, March 1st roll out this year for medical marijuana at the state level. It is complicated in my opinion. We will need to review it carefully we will discuss this during Planning Commission meetings.

Motion to approve the consent agenda was made by Councilor Sahlin and is seconded by Councilor Sallee. Motion Approved by all.

4. Visitors

Anyone wishing to address the City Council concerning items not already on the meeting agenda may do so in this section. No decision or action will be made, but the City Council could look into the matter and provide some response in the future.

Ron Van Kleef 20787 Yukon Street, 6 months ago we asked about paving Yukon Street and when the city thought the builder would be doing that. Councilor Sahlin states that the development agreement didn't specify a time frame. City Recorder Richardson is instructed to get in touch with G. Cam the builder and ask what his schedule for this is.

Annie Kirk, 21370 Main Street I wanted to inform Council about a sink hole starting in the apron in front of our house.

Scott Reilly, Walnut Street states that the hearing with Marion County regarding selling water to the Airport was cancelled. I think a few council members called in and spoke to Don Russo with Marion County and I would like to have an update. Mayor Graupp states that it is currently being discussed at the Aurora Planning Commission meetings and awaiting a staff report regarding this issue.

Mayor Graupp again explains that by email Marion County contacted him regarding this issue and that there were two meetings following with the discussion pertaining to safety concerns regarding the airport and if one existed then we could discuss whether or not Aurora would be interested in talking about selling water to the airport or not. Once we had received proof of a safety issue at the very least.

Councilor Sahlin, are we reacting to anything at these meetings, No stated by Mayor Graupp the Planning Commission so far has stated that it would be against code to sell water outside of city limits.

Reilly what do you need to hear from your citizens to stop this process so we don't spend city resources regarding this issue. **Mayor Graupp** no paid staff time is being exhausted so far only non paid volunteers from the City Council and Planning Commission have spent time on this issue.

Tom Potter, you would only consider moving forward if there were a safety issue. **Mayor Graupp** yes some data has come forth and it is on the Marion County web-site and at this time I cannot speak to it all because I have not had the opportunity to read it all as of yet.

Kathy Geoff Liberty Street why would you even think about selling water?

Mayor Graupp, there has been a lot of work towards why the water shortage from last summer happened and we are fixing well 5 to make the flow better and analyze what went wrong last year. We had data that confirmed it at the time. I can't tell you the future and cannot predict water. Currently California is in a drastic drought situation and if it moves this way then it could affect us so I cannot predict the future. The public needs to take some responsibility for the water shortage as well. We all need to protect all of our natural resources. Drought situations are possible especially with the lack of snow and rainfall.

Fisher, Can Aurora be forced to sell water to the airport? **Councilor Sahlin** we cannot be forced to supply something we don't have. **Mayor**, I would love to answer this but I am learning this job on the fly and I am hearing about new laws every day. **Fisher**, If we would benefit financially we could possibly join in on a collaborative effort. Then I would be ok with that.

Councilor Sallee, solution is looking at all the options and think outside the box. It doesn't mean we are looking at all of them and not doing. We need to look at all options so we are doing our jobs good or bad.

Mayor it is my job to do this and look at all options and laws. We need data.

Comment to Scott, when we had issues last summer it was because the community was using around 224 thousand gallons a day and the airport is only asking for 5,000 gallons for the entire year.

Annie, I would say everyone would need to be responsible for our actions.

Councilor Sahlin, we are not on the other side of the fence we live with you we use the same water we had to be restricted right along with you. We have nothing to gain. I have the same concerns you do and I do care. I would ask that you come to these meetings and ask and we will attempt to get you the information you are asking about. These meetings are our way to get information out to the public.

Mayor there is a lot being done right now for the water quality and the pumps in the last 6 months we are working on it so there hopefully will not be any problems this summer.

When someone comes and presents something that could financially benefit us I have to look at this.

Where are we with water quality at this point, Darrell my job is to provide the best water to you all. I have started a few tests to help water quality and I think along with the filtration we can.

Thank you for comments.

No one else spoke.

5. **Public Hearing, opens at 744pm**

- A. **LA-14-01 which would amend sections of the Municipal Code.**

Staff report given by Joseph Schaefer,

Memorandum

MID-WILLAMETTE VALLEY COUNCIL OF GOVERNMENTS

105 HIGH STREET S. E. SALEM, OREGON 97301-3667
TELEPHONE: (503)588-6177 FAX: (503)588-6094

TO: Aurora City Council
FROM: Renata Wakeley, City Planner
RE: Legislative Amendment 2014-01 (LA-14-01)
DATE: February 5, 2014 for presentation at February 11, 2014 hearing

REQUESTED ACTION

The City Council's options for taking action on Legislative Amendment 14-01 include the following:

- A. Motion to adopt the findings in the staff report and adopt Legislative Amendment 14-01:
 - 1. As presented by staff and the Planning Commission; or
 - 2. As amended by the City Council (stating revisions)
- B. Motion to take no action on Legislative Amendment 14-01; or
- C. Continue the public hearing:
 - 1. To a time certain, or
 - 2. Indefinitely

BACKGROUND

Aurora's Municipal Code does not currently provide provisions for mobile food units in the commercial core. Several residents and business owners have expressed interest in the addition of mobile food units (food carts) to their existing commercial eating and drinking establishments to help offset costs of running a restaurant and as a means to supplement seating areas with less costly and impactful "walk away" food services. The Planning Commission and staff reviewed the development code over several months in 2013 and submitted an application in January 2014 to initiate public hearings on the proposed revisions. The Planning Commission is also recommending decreasing the "trigger" for initiating site development review applications, clarify several minor areas of the code for ease of reference and/or correct citations, and amend the medium density residential zone to include residential care facilities as recommended by the Fair Housing Council of Oregon.

The following section of the Aurora Municipal Code (AMC) are proposed for amendment:

- Miscellaneous pages throughout Title 16 correcting title references to elected official and staff such as Mayor, Planning Commission, City Council, Planning Director, etc.
- 16.02 Definitions; 16.12 Residential Low/Moderate Density; 16.13 Accessory Buildings; 16.22 Historic Commercial Overlay; 16.52 Temporary Uses; 16.58 Site Development Review; and 16.60 Conditional Uses.

Legislative Amendment 14-01 includes the adoption of the draft code amendments to the Aurora Municipal Code. The revisions are attached in a **bold** and ~~striketrough~~ format for review purposes (see Exhibit A).

FINDING OF FACT AND CONCLUSIONS

The Aurora Planning Commission, after careful consideration of the testimony and evidence in the record, adopts the following Findings of Fact and Conclusions:

1. In accordance with the post-acknowledgement plan amendment process set forth in Oregon Revised Statute 197.610(1), the City Planner submitted the draft proposed amendments to the Oregon Department of Land Conservation and Development on January 8, 2014, which was 28-days prior to the first evidentiary hearing and 35-days prior to the City Council hearing scheduled for February 11, 2014.

2. Amendments to the Code, Comprehensive Plan, and/or Maps are considered Legislative Amendments subject to 16.80.20. Legislative Amendments shall be made in accordance with the procedures and standards set forth in AMC 16.74-Procedures for Decision Making-Legislative. A legislative application may be approved or denied.
3. AMC 16.74.030 outlines notice requirements. Ten days prior to the first evidentiary hearing, the City sent written notice of the hearing to affected neighborhood planning organizations- the Aurora Historic Review Board. At least ten days prior to the first public hearing, the City published notice in a newspaper of general circulation- Canby Herald on January 22, 2014.
4. Proposed amendments for consideration of legislative changes to the provisions of the Comprehensive Plan, implementing ordinances and maps are a legislative action, not a quasi- judicial action. Section 16.74 calls for amendments to the Development Code to be processed as a recommendation by the planning commission and the decision by the city council.
5. AMC 16.74.060 includes the standards for decision of Legislative Amendments as outlined under FINDINGS below.
6. The Planning Commission reviewed the proposed legislative amendments at a February 4, 2014 public hearing.

FINDINGS

A. The recommendation by the planning commission and the decision by the council shall be based on consideration of the following factors:

1. Any applicable statewide planning goals and guidelines adopted under Oregon Revised Statutes (ORS) Chapter 197;

FINDINGS: Goal 1, Citizen Involvement: A public hearing on the proposed amendments was held before the Planning Commission on February 4, 2014 and a second hearing will be held by the City Council on February 11, 2014. Notice was posted at City Hall, published in the Canby Herald, and provide to the Historic Review Board. The staff report was available for review one week prior to the planning commission and city council hearings. This is consistent with City procedures. Staff and the Planning Commission find Goal 1 is met.

Goal 2, Land Use Planning: The proposal does not involve exceptions to the Statewide Goals. Adoption actions are consistent with the acknowledged AMC for process. Goal 2 generally supports clear and thorough local procedures. Staff and the Planning Commission find Goal 2 is met.

Goal 3, Agricultural Lands and Goal 4, Forest lands: Goals 3 are not found to be applicable. The proposal does not involve or affect farm or forest lands.

Goal 5, Open Spaces, Scenic and Historic Areas, and Natural Resources intent is to "protect natural resources and conserve scenic and historic areas and open spaces" and requires procedures for the establishment of historic areas and inventories. As the proposed code updates does not amend or alter the historic area or inventory. Staff finds Goal 5 does not apply.

Goal 6, Air, Water and Land Resource Quality: Goal 6 is not applicable. The proposal does not address Goal 6 resources.

Goal 7, Natural Hazards: Goal 7 is not applicable. The proposal does not address Goal 7 resources.

Goal 8, Recreational Needs: Goal 8 is not applicable. The proposal does not address Goal 8 resources.

Goal 9, Economic Development: The draft code amendments respond to a need identified within the business community. The proposed code amendments are not found to deter employment or business opportunities. Staff and the Planning Commission find Goal 9 is met.

Goal 10, Housing: Goal 10 is not applicable. The proposal does not address Goal 10 issues.

Goal 11, Public Facilities and Services: Goal 11 is not applicable. The proposal does not address Goal 11 issues.

Goal 12, Transportation: The draft code amendment encourages economic development in the commercial core and a pedestrian friendly atmosphere. The code amendments attempt to provide a system that allows for economic development of existing eating and drinking establishments while also reducing the need for a lengthy application process when traffic impacts are determined to increase by less than 25 percent. Staff and the Planning Commission find Goal 12 issues are met.

Goal 13, Energy Conservation: Goal 13 is not applicable. The proposal does not address Goal 13 resources.

Goal 14, Urbanization: Goal 14 is not applicable. The proposal does not address Goal 14 issues.

ORS 197 does not include specific notice requirements for legislative processes but the City met all notice requirements under AMC for Legislative Amendments. ORS 227.186, more commonly known as Measure 56 notice, does not apply as the proposed amendments do not reduce permissible uses of properties in the affected zones.

2. Any federal or state statutes or rules found applicable;

FINDINGS: Staff finds the adoption actions are consistent with Oregon Revised Statute 197.610(1) for notice to the Department of Land Conservation and Development. Measure 56 notice was not required as the proposed amendments do not reduce permissible uses on commercial lands. Applicants for mobile food units will be required to show compliance with County and Oregon Health Department rules, such as a food handler's permit. Staff and the Planning Commission find this criterion is met.

3. *The applicable comprehensive plan policies and map; and*

The following Comprehensive Plan Goals and associated policies were found to be applicable to this application:

Goal 1- Citizen Participation: Develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

FINDINGS: A public hearing on the proposed amendments was held before the Planning Commission on February 4, 2014 and a second hearing will be held by the City Council on February 11, 2014. Notice was posted at City Hall, published in the Canby Herald, and provide to the Historic Review Board. The staff report was available for review one week prior to the planning commission hearing. This is consistent with City procedures. Staff and the Planning Commission find this condition is met.

Goal 2- Planning Process: Establish a land use planning process and policy framework document (comprehensive plan) as a basis for all decisions and actions related to use of land and ensure an adequate factual base for such activities.

FINDINGS: Adoption actions are consistent with the acknowledged AMC. Staff and the Planning Commission find this condition is met.

Goal 9- Economic Policies

3. *Foster commercial and industrial activities to meet the expressed needs of City residents.*

FINDINGS: The draft code amendments respond to a need identified within the business community. The proposed code amendments are not found to deter employment or business opportunities but rather to support commercial activities and increased economic opportunities. Staff and the Planning Commission find this condition is met.

Goal 12- Transportation Policies

2. *Encourage transportation improvements which support the community's economic development and create a pedestrian friendly atmosphere.*
3. *Establish a street system which is consistent with orderly growth, minimizes conflicts with adjacent land uses, and provides a circulation system which is safe and efficient for both vehicles and pedestrians.*

FINDINGS: The draft code amendments respond to a need identified within the business community and encourage a pedestrian friendly atmosphere by allowing for the provision of mobile food units that are accessible to pedestrian activities and encourage economic activities within the historic core which has sufficient infrastructure to support vehicle and pedestrian demands. Location of mobile food units will be upon property's already serving as eating and drinking establishments. The reduction of change in use applications or new businesses that would be subject to land use application (Site Development Review) due to traffic impacts is found to be waived on minimal impacts to traffic increases. Therefore, staff and the Planning Commission find this condition is met.

4. *The applicable provisions of the implementing ordinances.*

FINDINGS: The Historic Commercial Overlay are intended to provide areas for retail, eating and drinking establishments, and service uses. The provision for allowing mobile food carts in not contradictory but rather complementary to permitted uses within the zone. The purpose of the code revision is to permit and encourage additional commercial activity, vending, and a pedestrian oriented environment that creates a visually attractive atmosphere and promotes commerce. Staff and the Planning Commission find the proposed code amendments can be established in compliance with the development requirements of the Aurora Municipal Code.

- B. *Consideration may also be given to proof of a substantial change in circumstances, a mistake, or inconsistency in the comprehensive plan or implementing ordinance which is the subject of the application.*

FINDINGS: Staff does not find a change in circumstance, mistake or inconsistency in the comprehensive plan or implementing ordinances. This criterion does not apply.

Encl: EXHIBIT A- Title 16
 EXHIBIT B- Historic Review Board review comments

- 1st trigger on site plan review requirement changing to 25% rather than 10%.
- 2nd, Food Carts, We had no provision for food carts in town and we have a new text amendment for food carts in the historic district only.
 - Only allowed on existing business location
 - None of structure located on buffering and must be setbacks
 - Drive through
 - Signage code applies
 - One per site
 - No internal floor space
 - Size limit
 - Mobile and fully operable and DMV licensed.
 - In good repair with no exterior damage.
- 3rd housekeeping typo changes regarding many references between title 17 that was done last year.

No exhibits presented at this time.

Testimony time, in favor of

- No one responded
- Again no one responded.

Do you have a special occasion language for carts during that time? Schaefer this would be a different situation.

Councilor Brotherton, question just the historic district is what you're talking about here yes.

Annie Kirk, change in code only applies to historic commercial district yes. Outside of this area is it allowed? Schaefer no not now.

OPPOSED

- Jim Fisher, This simply only affects very few business and only those with enough area to support a cart. Schafer our point here was that we wanted to make it possible for established business already here not to bring in competition.
- It appears to me looking in that someone is pressuring the city to do this that has a larger lot that can afford the space.

- Weidman, you don't have to be the owner of the business to be owner of cart therefore it would benefit other types of businesses.

Public hearing closed at 7:58pm

Council Discussion,

Councilor Sahlin, I think I agree and I am fine with the language as a stated to see what happens.

Mayor, I think there is an advantage for these businesses. The concept was to not allow just anyone to come in and open up a cart.

Mayor other businesses that could set up a food cart; scatter creek could work a deal with Colony pub to have a cart on their property for example.

Councilor Sallee, Would it be possible to use the city right away area that we use during the Colony Days for food carts? **Schaefer** again we were trying to keep it to businesses that are already established here.

Councilor Sahlin have any restaurants responded with any comments on this. Have we received any negative feedback I guess is what I am asking? My position would be to approve it if we have not had any negative feedback. I just don't want a food cart to come in with bright neon colors and terrible exterior features to distract from what we are trying to achieve in the historic district.

Councilor Brotherton do you think this would open it up for other carts and other areas later on. I see a great advantage for the economy and businesses down the road.

Councilor Sallee, signage is my concern.

Mayor, I have an idea for a text amendment change give an allowance for a 4x2 signage area that is not subject to the code requirements. It would need to be a small wall mounted sign on cart itself. They decide to hold off on this one.

Councilor Sahlin is there any language on what the cart needs to look like? **Schaefer** we came up with good repair and no exterior damage. At what point does one in bad repair constitute a nuisance was one of our topics during our Planning meeting.

One item that is not here is the requirement for water or sewer hookup and disposal. It was discussed briefly and it was Council consensus to insert language to prohibit sewer and grey water disposal.

A motion is made by Councilor Sallee to approve LA-14-01 with amended language to show that there are no sewer or grey water hookups allowed and is seconded by Councilor Sahlin. Passed by all.

Staff comments,

6. **Mayor's Report,**

Not a lot to report,

A. Presentation of Plaque to City Recorder, Kelly Richardson for Achieving CMC (Certified Municipal Clerk) Certification.

There is a brief discussion regarding the Community Forum that took place earlier today regarding the legalization of Marijuana. Clearly at this forum there was more talk against the legalization. The final statement that was made was that everyone should join together to fight the legalization of marijuana.

Currently the Aurora Planning Commission has been discussing this issue regarding our code language because at this time we have none to use for the regulation of this in our town. We need to examine this issue and research what some of the larger communities are doing or not doing to make sure that we don't make any mistakes because it could be costly.

7. **Discussion with Parks Committee, Councilor Sahlin** had placed a park maintenance proposal to the council for discussion since it has been proposed that our Public Works Department take park maintenance back. I just want everyone to be clear of what needs to be done.

8. **Discussion with Traffic Safety Commission,** I have found out that there will be little to no cost for the items I am proposing regarding the crosswalk or 551.

9. **Reports**

A. Marion County Deputy Report – (included in your packet)

- Nothing Major any questions about calls for service,
- There had been an issue regarding a dark van in Hubbard and apparently it has now been sited here, we are aware of it.
- During this last snow store there were really no issues except one car in the ditch along Ehlen.
- The store on 99E had been broken into and I am working on that it apparently may have been some youths from the Hubbard area.

No more questions at this time.

B. Finance Officer's Report – Financials (included in your packets)

1. Revenue & Expense Report

You should see on your desk tops the corrected November's treasures report along with the December report. Also you each should have a copy of the Audit.

I want to remind Council that on February 20th Kelly and I will be attending a budget class so City Hall will be closed all day. Any members of council that would like to attend it is a free class given by the State at Clackamas Community College on budget basics.

Mayor Graupp, informs the council that it was not necessary to do a supplemental budget after some research with Mary and the state. This will come up at the March meeting again in the form of a resolution to transfer money within a fund.

Any questions, hearing none.

C. Public Works Department's Report – (included in your packet)

1. Monthly Status Report (Storm Water)
2. Monthly Status Report (Water)
3. Parks Report, OSU Tree Report
 - Lift station issue it needs new wiring at the tune of 6,000.00 installed.
 - During the recent snow and ice there were really no issues
 - Marion County did remove the trees near the retaining wall
 - Currently looking at the functions of the water filtration unit to see if we can get better function from it.

- ❖ Councilor Sahlin reluctantly brings up the storm water master plan. During a council meeting Bob Southard the then Public Works Superintendent had told council that it was finished and we were waiting on our City Engineer however a status report from him revealed we are still waiting on data from Southard. I know this is not your issue but it really needs to be done. Mayor Graupp I will talk with Bob about this along with retrieving if any the police department items that were in his possession.

No more questions,

D. City Recorder's Report (included in your packet) reads her report and there were no questions from Council.

- ❖ I have finally after 5 years received my CMC and I thank the council for the opportunity.

E. City Attorney's Report – (not Included in your packet)

- Not a lot going on
- I did receive a letter finally from Mr. Eddy's attorney however we are back to asking about putting a tarp over it. I had informed the attorney that this would not work and that Council would not entertain this as an option.
- I also received a phone call from a realtor regarding the Eddy property.

9. Ordinances and Resolutions

- A. **Discussion and or Action on Ordinance 474 An Ordinance to amend the Aurora Municipal Code. First Reading, Chair Schaefer reads the ORD entirely.**

Motion to approve the first reading of Ordinance 474 regarding amending the code is made by Councilor Sahlin and is seconded by Councilor Sallee. Motion passes by all.

10. **New Business**

- A. **Discussion and or Action on Possible Fee Increase for Building, Mechanical and Plumbing Permits. Presented by Charlcie Kaylor, Building Dept LLC.** Discussion, proposing to increase your permit fees for applications, it is quite a long list of recommended fees, I used a starter home to show your examples based on a 2000 square foot home. This is based on the Marion County fee structure the difference that we are talking about is \$211.00 and again the city does retain their 25% of this as well. We want to encourage people to get permits and make it reasonable. We serve 20 cities in the area and they have this same fee schedule.

- Planning fee and or a technology fee are some of the ways other cities are trying to recoup some of the costs involved with doing business.

Motion to approve notifying building codes division of the potential fee increase is made by Councilor Sahlin and seconded by Councilor Sallee. Passes by all.

- B. **Discussion and or Action on Miscellaneous Contracts for Services. Landscaping,** Councilor Sahlin wanted this in to clarify TTT park maintenance contract which was discussed during the parks report.

- C. **Discussion and or Action on Proposals for Setting up Well 5.**

There have been two bids presented

- Westerberg Drilling, Molalla - \$14,835.00
 - Schneider Water Services out of St. Paul - \$9,695.00
- We need to present to citizens what our capacity is and give them cost involved and so forth.

Hopefully this will all work and give us better water quality and more of it, however there is no guarantee on this.

Councilor Sallee asks Darrel with public works if he has a preference. We have worked with both companies and they both do very good work.

Annie Kirk, have you put out for an RFP on this. No it was not necessary stated City Attorney Koho.

It is the consensus of the council to go with the lower bid from Schneider of St. Paul.

- D. Discussion and or Action on Recommendation from Planning Commission regarding Open Position on Commission New Applicant Mercedes Rhoden-Freely.**

Motion to appoint Mercedes Rhoden-Freely to the Aurora Planning Commission is made by Councilor Sahlin and seconded by Councilor Brotherton all passes.

11. Old Business

- A. A. Discussion and or Action on approval of ACVA Draft Letter to Citizens Regarding Weed Control. Look park internal proposal. Tabled.**
B. Discussion and or Action on ACVA Grant Fund Request for Island Maintenance. Tabled

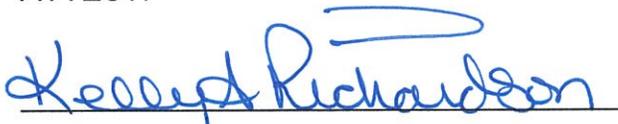
12. Adjourn

Mayor Graupp adjourns the February 11, 2014 meeting at 9:08 pm.



Bill Graupp, Mayor

ATTEST:



Kelly Richardson, City Recorder