

**Minutes**  
**Aurora City Council Meeting**  
Tuesday, October 11, 2016, at 7:00 P.M.  
City Council Chambers, Aurora City Hall  
21420 Main Street NE, Aurora, OR 97002

**STAFF PRESENT:** Kelly Richardson, City Recorder  
Mary Lambert, Finance Officer  
Darrel Lockard, Public Works Superintendent  
Officer Bell, Marion County  
Eleanor Beatty, Kaiser Law  
Linda Kendrick, Kaiser law  
Renata Wakeley, City Planner

**STAFF ABSENT:**

**VISITORS PRESENT:**

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**1. CALL TO ORDER OF THE CITY COUNCIL MEETING**

Meeting was called to order by Mayor Bill Graupp at 7:00 pm

**2. CITY RECORDER DOES ROLL CALL**

Mayor William Graupp- Present  
Councilor Jason Sahlin - Present  
Councilor Kris Sallee-Present  
Councilor Robert Southard-Present  
Councilor Tom Heitmanek - Absent

**3. CONSENT AGENDA**

- a) City Council Meeting Minutes – September, 2016
- b) Planning Commission – August, 2016
- c) Historic Review Board Meeting – NA

**ACTION ITEM: NA**

Motion to approve the consent agenda as presented was made by Councilor Sallee and is seconded by Councilor Southard. Motion approved by all.

**4. CORRESPONDENCE –**

- a) Wave Broadband Rate Increase Notice. No discussion
- b) Koho and Beatty name change and restructure notice to Keizer Law, Councilor Sallee asks if a RFP is needed and Mayor Graupp states the contract just rolls over.
- c) Defazio Letter, This letter cam out following the BIO Opinion for salmon habitat. The main concern here is that projects are being delayed.

**Action Item: Place RFP for Attorney Services on the November Agenda**

**5. VISITORS**

Anyone wishing to address the Aurora 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 Aurora City Council could look into the matter and provide some response in the future.

- No one speaks at this time.

**6. PUBLIC HEARING, Opens at 7:10 PM**

- a) Discussion and or Action on Proposed LA-16-01 Text Amendments to Remove the 1000 Foot Buffer between Marijuana Businesses in the Industrial Zone. Mayor Graupp states the legal statements and asks for any declarations at this time. Hearing none and moving on City Planner Wakeley gives her staff report.

TO: Aurora City Commission  
FROM: Renata Wakeley, City Planner  
RE: Legislative Amendment 2016-01 (LA-16-01)  
DATE: October 5, 2016

REQUESTED ACTION

The City Council's options for taking action on Legislative Amendment 16-01 include the following:

- A. Adopt the findings in the staff report and adopt Legislative Amendment 16-01:
  1. As presented by staff and recommended by the Planning Commission; or
  2. As amended by the City Council (stating revisions).
- B. Take no action on Legislative Amendment 16-01.
- C. Continue the public hearing:
  1. To a time-certain, or
  2. Indefinitely

## BACKGROUND

In January 2016, the Aurora City Council adopted Ordinance 480 amending the Commercial and Industrial zone codes to adopt reasonable time, place, and manner restrictions on marijuana related businesses, including a restriction on marijuana grow sites and/or processing sites requiring a 1000-foot buffer between other marijuana businesses (established at the time of initial permit application).

The public hearings and staff reports related to the adoption of Ordinance 480 can be found in file #LA-2015-01.

On August 18, 2016, the City of Aurora received an application to amend the Industrial zone code (Section 16.16) to remove the 1,000-foot buffer requirement between marijuana businesses (See Exhibit B).

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

- 16.16 Industrial

Legislative Amendment 16-01 includes the draft code amendments to the Aurora Municipal Code. The revisions are attached in a **bold and strikethrough** format for review purposes (see Exhibit A).

## FINDING OF FACT AND CONCLUSIONS

Staff and the Aurora Planning Commission, after careful consideration of the testimony and evidence in the record, adopted 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

September 12, 2016, 23-days prior to the first evidentiary hearing and 30-days prior to the City Council hearing tentatively scheduled for October 11, 2016.

2. Amendments to the Aurora Municipal Code, Comprehensive Plan, and/or Maps are considered Legislative Amendments subject to 16.80.20. Staff finds the application is subject to section 16.80.020 as a Legislative Amendment as the applicant proposes a change to the Industrial zone code for all industrial properties within the City of Aurora that applies to a broad class of people and a variety of factual situations and any change would be an expression of local government policy rather than a closely circumscribed factual situation or a relatively small number of impacted parties. As such, legislative amendment application shall be processed 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. At least ten days prior to the first public hearing, the City shall publish notice in a newspaper of general circulation. The notice of the planning commission and city council hearings was published in the Canby Herald on September 21, 2016, at least 10 days prior to the scheduled October 4, 2016 Planning Commission hearing. In addition, owners of industrially zoned properties within the Aurora urban growth boundary were mailed notice of the pending application on September 21, 2016.
4. Proposed amendments for consideration of legislative changes to the provisions of the Comprehensive Plan, implementing ordinances and maps are a legislative 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 their October 4, 2016 public hearing and recommended the City Council adopt LA-2016-01 after their October 11, 2016 public hearing via a vote of 5-1.

## FINDINGS

*In accordance with 16.74.060.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 is scheduled before the Planning Commission on October 4, 2016 and a second hearing is scheduled before the City Council on October 11, 2016. Notice was posted at City Hall and published in the Canby Herald. Owners of industrially zoned properties within the Aurora urban growth boundary

were mailed notice of the pending application on September 21, 2016. 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 found 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 processing of legislative amendment applications to the zoning ordinance. Goal 2 generally supports clear and thorough local procedures. Staff and the Planning Commission found Goal 2 is met.

Goal 3, Agricultural Lands and Goal 4, Forest lands are found not to be applicable.

Goal 5, Open Spaces, Natural Resources, and Historic Areas: The proposed amendments do not affect regulations within the Aurora Historic District nor does it affect open spaces or natural resources. 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 responds to an application received from a tenant on an industrially zoned property. According to the applicant, the removal of the 1000-foot buffer from other marijuana related businesses would benefit the City's economic development by increasing potential city revenue via increased business and potential taxation

and would promote employment and business opportunities in the industry. Staff and the Planning Commission found Goal 9 is met.

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

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

Goal 12, Transportation: Goal 12 is not applicable. The proposal does not address Goal 12 issues.

Goal 13, Energy Conservation: Goal 13 is not applicable as the code amendments address permitted uses under State law on properties already zoned for industrial development. The proposal does not address Goal 13 resources.

Goal 14, Urbanization: Goal 14 is not applicable. The proposal does not address Goal 14 issues as the proposed code amendment applies to existing industrially zoned properties within the City limits and permissible uses within these zones.

ORS 197 does not include specific notice requirements for legislative processes but the City met all noticing requirements under AMC for Legislative Amendments. ORS 227.186, more commonly known as Measure 56 notice, does not apply as the proposed amendment does not reduce permissible uses of properties in the affected zones. Owners of industrially zoned properties within the Aurora urban growth boundary were mailed notice of the pending application on September 21, 2016.

*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 industrial

lands. Notice of the proposed code amendment was mailed to all industrial zoned property within the urban growth boundary.

Beyond the State-imposed and regulated standards for marijuana related facilities, jurisdictions are permitted to adopt reasonable time, place and manner restrictions to meet the intent of their development code and comprehensive plans. Proposed amendments to address these new regulations and to further clarify the locations of specific facilities were adopted via Ordinance 480 and include buffers from schools and daycares; prohibiting marijuana related businesses from being adjacent to residential zones, parks or churches; limiting hours of operation; and requiring a conditional use permit application and approval.

According to the applicant, the additional requirement for a 1000-foot buffer between marijuana related businesses is unnecessary as it does not provide additional protections against security threats nor does it maintain higher livability standards for residents. The applicant also states the AMC already contains fair and thoughtful provisions to safeguard the City's livability and limits the marijuana industries footprint upon the City via other conditional use permit criteria and because of the State of Oregon's existing security standards, the AMC buffer requirement is unnecessary.

Staff and the Planning Commission found the City may amend the Industrial zone code to remove the 1000-foot buffer requirement and still meet applicable state statutes related to marijuana grow and processing sites and this criterion is met.

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

The applicable Aurora Comprehensive Plan Goals align with the Statewide Planning Goals and associated policies as outlined under FINDINGS, subsection A.1 above. Staff and the Planning Commission found the proposed amendment to the industrial zone code can meet this criteria, as outlined under subsection A.1 above.

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

**FINDINGS:** The draft code amendment responds to request from a property owner and tenant of industrially zoned property. The proposed code amendment is not found to deter employment or business opportunity but rather to clarify locations of a permitted conditional use in the industrial zone and allow for greater economic uses of industrial properties while maintaining the permitted and conditional uses in the zone, and the zone development and design standards.

Staff and the Planning Commission found the proposed code amendment can be adopted in compliance with the implementing ordinances as the proposed code amendment does not proposed to amend the development or design standards of the applicable zone or other requirements of the Aurora Municipal Code. Staff and the Planning Commission found this criterion is met.

*In accordance with 16.74.060.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 and the Planning Commission found there was no change in circumstance, mistake or inconsistency in the comprehensive plan or implementing ordinances. Rather, the proposed code amendment is a result of an application for zone text amendment from Lovena Green Farms. In accordance with AMC 16.74.020.A.5, an owner of property or contract purchaser may apply for a zone code text amendment. The application is signed by the property owner of record. Staff and the Planning Commission found this criterion does not apply.

**EXHIBIT A** Aurora Municipal Code (AMC) section 16.16- Industrial zone code proposed amendments

**EXHIBIT B** Zoning Ordinance Amendment application

- Questions for the City Planner, hearing none move on to testimony
- Applicant presents to council their application request for removal of the 1000 foot buffer stipulation in Ordinance 480. Applicant feels that the state highly regulates these types of facilities and believes the buffer zone violates goal 9 we believe that this type of business enhances security, livability and economic development.
- No one else spoke during this time either for or against the application.

**Open for comments or discussion for City Council,**

- Mayor Graupp asks if 10am-5pm hours of operation impact the industrial zone, Wakeley states yes it does and the applicant is open to removing it and tacking it on the the text amendment if that is alright with all concerned.
- At this time council discusses that this text amendment would potentially open the entire zone up to these types of business and if everyone is ok with that then we can move forward. Councilor Sallee is concerned with setting precedence and Wakeley explains this is not an exception or precedence because it opens it up to the entire Industrial zone.
- Councilor Southard enquires about the amount of tax revenue that could be generated and at this point it is unknown.
- Council also discusses the potential of changing the 1000 foot buffer from entire industrial zone to 1000 foot buffer between each property line.
- Hearing closed at 8:09

Councilor Sahlin also has issues with the many violations that are happening on site and how our code doesn't allow us to stop approvals/application process when violations are on site. Which seems to be a consensus of the group this is a concern.

A Motion is made to approve the application and recommendation from the Aurora Planning Commission with two changes one to remove the 1000 foot buffer between businesses to 100 foot buffer between properties and to remove the hours of operation stipulation for the industrial zone only by Councilor Sahlin and is seconded by Councilor Southard. 3 in favor, Graupp, Southard & Sahlin 1 against, Sallee.

## 7. REPORTS

- a) Mayor Bill Graupp informs council he has been to two separate functions in the last 2 weeks first at PSU for populations forecasting an League of Oregon Cities conference. Top legislative concerns are, Recreational Immunity, PERS, Property tax reform.

Council discussed. RFP for legal services.

**ACTION ITEM: NA**

- b) Planning, has been working on various code updates to address recent concerns on processes.

**ACTION ITEM: NA**

- c) Public Safety, Officer Bell reports nothing really unusual except to say that on Friday there was a report of a clown coming to the North Marion School so had to follow up on that it turned out to be nothing. One major call on a person sleeping in a car with children present there was an arrest made and DHS called.

Council discussed, NA

**ACTION ITEM: NA**

- d) Finance,
- Report attached is going well normal activity.
  - Attended first conference in Salem there were 7 sessions great training.
  - Audit questionnaires have gone out.

**ACTION ITEM: NA**

e) Public Works

- Report is attached Lockard informs council that there was a power outage and a few systems had to be reset. PGE doesn't know what caused the outage.
- Work is moving forward on the Storm Water Master Plan.
- More discussion regarding tree removal in and around the park the contractor has been delayed.

Council discussed.

**ACTION ITEM: NA**

f) Parks Committee

Councilor Sahlin nothing really other than the trees. Mayor Graupp informs the group the school doesn't have any extra soccer goals.

**ACTION ITEM:**

g) City Recorder

- Report as attached

Council discussed, sending a letter to Cam

**ACTION ITEM: Contact G. Cam again regarding paving.**

h) City Attorney

- City Attorney report, Linda Kendrick passed the bar and congratulations.
- Nothing has been filed as of yet from Ross RV Cart.
- Mr. Bixler had requested that his performance bond be released and it was the consensus of the council to move in that direction at the successful closing of the property.

Council discussed, What they should do regarding the Reneau 21367 Hwy 99E property and it was the consensus of the council to move forward with fines and send another letter and discuss next steps.

**ACTION ITEM: Councilor Sahlin is concerned with the maintenance and upkeep of the sidewalks and trees and would like Planning Commission to look into the legal precedence on this.**

*Mayor Graupp informs the group that after having lunch with Dennis Koho he had announced that he may be opening a new practice and is interested in the cities business again.*

**8. ORDINANCES, RESOLUTIONS AND PROCLAMATIONS**

- a) Discussion and or Action on Resolution Number 716 A Resolution to Add City of Gervais to the IGA for Court Judge Services.

Motion to approve Resolution Number 7169 and accept the proposed addition of The City of Gervais to the IGA for Court Judge Services is made by Councilor Sahlin and is seconded by Councilor Southard. Motion Passed by all.

**9. NEW BUSINESS**

- a) Discussion and or Action of Resolution Number 716 and the Addendum to the IGA for Court Judge Services.

**10. OLD BUSINESS**

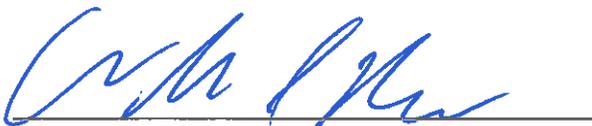
- a) Discussion and or Action on Employee Manual, to have staff begin review.
- b) Discussion and or Action on Council Procedures. Councilor Sallee wants to review this next month.
- c) Discussion and or Action on Code Chapter 8 regarding noxious vegetation, Consensus of Council to leave it as is.

**11. FUTURE TOPICS**

- a) Discuss going out for RFP for Legal Services.

**12. ADJOURN**

Mayor Graupp adjourned the October 11, 2016 Council Meeting at 9:10 PM.



Bill Graupp, Mayor

ATTEST:



Kelly Richardson, CMC  
City Recorder