

Minutes of the Veneta City Council Work Session

September 14, 2015

Present: Sandra Larson, Tim Brooker (via telephone), Thomas Cotter, Victoria Hedenstrom, Thomas Laing

Others: Ric Ingham, City Administrator; Kay Bork, Community Services Director; Lauren Sommers, Legal Counsel; Alan Leiman, Municipal Court Judge; Teresa Warrick, Office Support Specialist III; Darci Henneman, City Recorder; and Joan Mariner, Fern Ridge Review

1. CALL TO ORDER THE VENETA CITY COUNCIL WORK SESSION

Mayor Larson called the Veneta City Council Work Session to order at 5:38 p.m.

2. REVIEW HOUSE BILL 3400 - RECREATIONAL MARIJUANA

3. MUNICIPAL CODE

- i. Review Municipal Code Violations & Fines
- ii. Proposed Municipal Code Amendments

4. LAND USE CODE

- i. Review Types of Recreational Marijuana Uses Allowed under Senate House Bill 3400
- ii. Review Types of Recreational Marijuana Uses Allowed under current Land Development Ordinance
- iii. Identify Desired Code Amendments and Timeline

Ms. Sommers reviewed her power point presentation on the following topics: types of licenses, local taxes and House Bill (HB) 2041, how taxes will be distributed, City regulations, medical marijuana grow sites, processors, and dispensaries, Veneta's adopted regulations and current City zoning that could impact marijuana facilities, local options, and grandfathering, and the sale of recreational marijuana by medical dispensaries.

In response to a question from Mayor Larson, Ms. Sommers said under Measure 91 there was a prohibition action but it wasn't attached to the tax and only applied to recreational marijuana. She said cities can prohibit the sale of recreational marijuana but in doing so, they would not collect any tax revenue.

In response to a question from Mayor, Ms. Sommers said retail facilities can be closer than 1000 ft. from each other but medical facilities (whether or not they sell recreational marijuana), are still required to be a minimum of 1000 ft. from one another.

In response to a question from Mayor Larson, Ms. Sommers said she doesn't know where OLCC is with allowing medical marijuana dispensaries to sell recreational marijuana. She said medical grows may be able to transition to recreational grows and a medical facility must apply for a retail sales license but she's not sure about the specific transitioning process.

In response to a question from Thomas Laing, Ms. Sommers said new facilities or medical facilities wanting to transition to retail can apply for licenses in January 2016 but it's likely OLCC will not issue the license until summer or fall of 2016.

In response to a question from Thomas Cotter, Ms. Sommers said not knowing what the state is going to adopt, it's difficult to say whether the City should adopt state rules or its own. She said the City has a unique land use code and if the City wants to carve out its own regulations, it should be in the land use area.

Ingham questioned whether we should allow outside growing operations to use some of our limited Industrial Commercial land knowing it won't likely generate additional taxes.

In response to a question from Mayor Larson, Ms. Sommers said all Oregon law enforcement officers can enforce state law so if state law says possession of marijuana is prohibited under age 21, then we don't need to pass the same law. She said that transitions us into the second portion of the work session – talking about regulations on individuals.

In response to a question from Victoria Hedenstrom, Bork said Rural Residential properties one acre or larger can be legal commercial growers.

Ms. Sommers said medical marijuana growers are limited to 12 to 24 plants but the City's land use allows horticulture.

In response to a question from Thomas Laing, Ms. Sommers said if a medical marijuana grower registered prior to January 2015 they can grow 12 to 24 plants in a residential zone. If they registered after January 2015, they are limited to 12 plants.

In response to a question from Ingham, Ms. Sommers said prohibition of growing marijuana in public view has been around since the 1990s. She said her interpretation is any plant in a line of sight from the street, even if a neighbor can see it from the back side. She said if it grows above the fence line, it would be considered a violation. She said current City code says it's a violation to possess less than an ounce which doesn't make sense now, so that language would likely be repealed. She said what the Council needs to decide is if they want to make possession of marijuana a misdemeanor. She said currently, the City can only impose fines but cannot impose misdemeanor or felony citations, some of which call for jail time through Lane County Circuit Court.

Judge Leiman said we are a violation only court so he questions why the Council would want to put misdemeanors or felony in the City's code. He said an officer can cite someone into Circuit Court. He said we've seen a few theft charges come through as violations and the deputies have to make the choice to keep it local. He said violations like public use of alcohol and minor in possession of alcohol are considered public nuisance. He said the reason we have a Municipal Court is to address the quality of life for the citizens of Veneta. He said those cases would certainly disappear in Circuit Court so to make an impact, in his opinion, those personal use offenses should stay local. He said possession of over 8 oz. of marijuana should be cited into Lane County Circuit Court.

In response to a question from Thomas Laing, Ingham said a minor with a medical card could still be cited if they're smoking in a City park.

Thomas Cotter said if a violator cannot afford the penalty are they assigned to do something else, because we don't have a program that would cover that sort of thing. He said the penalty needs to be stiff enough but not so stiff that we cannot enforce it.

Judge Leiman said nowhere in the current City code is there a definition for a misdemeanor. He said a theft is charged as a violation. He said violations don't require the City to provide legal counsel/public defenders but misdemeanors and felony charges do. He said there's always been huge numbers attached to marijuana violations and it becomes a real struggle to fine the right amount that makes an impact but we also need to be realistic. He said he really wants to hear from the Council.

In response to a question from Victoria Hedenstrom, Judge Leiman said the maximum fine for a Class A misdemeanor is \$6500 and a possible one year jail term. He said the fine for a minor in possession of alcohol is a class B fine of \$260.

In response to a question from Thomas Laing, Judge Leiman said a Class A Misdemeanor is driving under the influence of intoxicants and goes to Lane County Circuit.

Victoria Hedenstrom said she wants to make sure the fines aren't excessive and said the fine for a Class A Misdemeanor is ridiculously high.

Judge Leiman suggested public use of marijuana should be cited into Veneta Municipal Court. He said it's more important to address violations here rather than sending them to Lane County Circuit Court.

Ms. Sommer said she was over inclusive when drafting the ordinance. She said a minor in possession of marijuana is higher than a public use citation. She said the Council want to limit this.

Warrick said under Measure 91, use of marijuana in public would be a Class B violation just like public consumption of alcohol and would be a \$500 fine. She said VMC 9.25 clearly states that no one can possess any amount of marijuana in City limits.

Judge Leiman said if it's a first offense, he will likely reduce the fine.

Warrick said examples of a Class C violation are, driving without a seatbelt or speeding one to 10 miles over the posted speed limit. She said speeding citations go up to \$1000 for excessive speed. Warrick said consuming alcohol in public is a \$500 fine.

In response to a question from Thomas Cotter, Ingham said if the Council has more questions regarding the adoption phase, staff may need to provide more information and request the Council postpone adopting the ordinance tonight. He said the Council also needs to decide if the City should cite misdemeanors into our code because currently we don't.

In response to a question from Victoria Hedenstrom, Judge Leiman said there are three types of charges: a violation, misdemeanor and felony and anything above a violation is cited into Lane County Circuit Court. He said currently possession of any amount of marijuana is against the code and necessitates the action to change our code.

Victoria Hedenstrom suggested we stick with the offenses that can be cited into Municipal Court.

Mayor Larson thanked Judge Leiman for his input.

Ingham suggested Ordinance No. 522 be pulled from the agenda and staff will bring it back to the Council with more clarification and possible adoption.

In response to a question from Mayor Larson, Ingham said we're the first City to actually talk about recreational marijuana so we're not under a time constraint to pass the Ordinance tonight.

Ms. Sommers said its okay not to enforce the current code regarding possession of marijuana.

5. OTHER

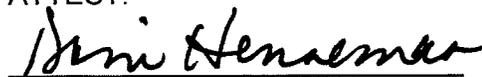
None

6. ADJOURN

Mayor Larson adjourned the Veneta City Council at 6:43 p.m.


Sandra H. Larson, Mayor

ATTEST:



Darci Henneman, City Recorder
Minutes prepared by DHenneman)