

CITY OF COOS BAY CITY COUNCIL
Agenda Staff Report

MEETING DATE January 19, 2016	AGENDA ITEM NUMBER
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TO: Mayor Shoji and City Councilors
FROM: Rodger Craddock, City Manager
ISSUE: Discussion of Medical / Recreational Marijuana Businesses

BACKGROUND:

During the December 1, 2015 Council meeting, City Attorney Nate McClintock provided the Council an update on legislative changes in Oregon in regards to medical and recreational marijuana. He also provided the Council clarification on the City's home rule authority, specifically the Council's ability and options to regulate marijuana related businesses within the City. The Council postpone further discussions on the topic until its meeting on January 12, 2016.

At the December 1st meeting, the Council announced that it would be taking written comments from the public until you revisited the matter at this meeting. At the time of authoring, this report (January 14th) we have received the attached seven written public comments.

Staff was asked for information related to oaths of office taken by elected officials in other jurisdictions and if their oaths were similar to Coos Bay's. There are 242 incorporated cities in Oregon. During a sampling from that group staff, they found that nearly all city charters require a similar oath of office. Based on the Oregon Health Authority's (OHA) website, there are currently 335 registered dispensaries in Oregon. You might be surprised to know that the majority of cities in Oregon do not have registered medical marijuana dispensaries in them. Based off the information found on OHA's website, registered dispensaries can be found in 63 of the 242 incorporated cities in Oregon. An additional ten unincorporated areas are home to registered dispensaries. In Coos County, there are four registered dispensaries; and all four of those can be found in the area surrounding the Bay Area (two in North Bend, one in Charleston, and one in the unincorporated area known as Bunker Hill). Thus one could conclude that Coos County is similar to the rest the State in that the majority of incorporated cities do not have registered dispensaries within their jurisdiction. Attached you will find a list of Oregon's incorporated cities in the number of dispensaries registered in the ZIP Code of the corresponding city.

Attached you also find a matrix listing the seven regulated (requiring registration and/or licensing) marijuana activities under current Oregon law. Those activities are separated into two categories - medical and recreational. The matrix includes the State's regulating authority for each of the activity categories as well as whether or not the activity would require a business license if conducted in the city limits of Coos Bay as well as Coos Bay's relevant Lane Use Rules (e.g. in what zones could the activity take place if a business license was granted).

Moving forward, the Council has the following options available to you:

1. Do nothing. Rely on the City's business license ordinance which requires that in order for a business license to be issued, the business must comply not only with local and state law, but Federal law. Since the production and sale of marijuana remains illegal under Federal law, the City will not issue a license for any business growing, processing, or selling marijuana or its derivatives. A business operating in Coos Bay is required to have a business license.
2. If it is the Council's desire to ban state-registered and state-licensed marijuana activities from operating within the City, the Council could enact an ordinance banning any of the state registered and/or licensed activities (with the exception of medical marijuana grows) from operating in the City, but that ordinance must be referred to the voters at a statewide general election meaning an election in November of an even-numbered year.
3. If the Council wishes to allow marijuana businesses, other than commercial marijuana grows, the current business license ordinance could be amended to allow for the issuance of a business license to any business that comply with local and state law. Should this be the desire of the Council, the Council may want to have staff and the Planning Commission consider adding some time and place restrictions, as other cities have done, above and beyond those listed in recently amended state laws. The Council will want to consider specific policy direction to staff and the Planning Commission in this case.
4. If the Council wishes to allow commercial marijuana grows within the City limits (currently precluded from occurring as this type of agricultural use is currently outright prohibited in the City's adopted land use rules), amendments would be required to the City's land use rules. The process to do this, as prescribed by the State, will involve the Planning Commission, City Council, Oregon Department of Land Conservation and Development, and the public. This process would take a minimum of six months to complete.
5. The Council could refer the question of amending the City's business license ordinance to allow state-registered and state licensed marijuana activities to operate within the City (within the confines of the City's land use rules) to the voters. If that was the desire of the Council, the matter could be referred to the voters in the November 2016 general election.
6. Should the Council move forward with Option 5, the Council may want to consider imposing a local tax. HB 3400 provides the ability for cities to adopt an ordinance, which must be referred to the voters, imposing a tax or fee of up to 3 percent on the sale of marijuana items by a retail licensee. However, per HB 3400, if a city has adopted an ordinance prohibiting the establishment of any recreational marijuana licensees or any medical marijuana registrants in the city, the city may not impose a local tax under this provision of the legislation.

RECOMMENDATION:

Provide staff your decision and direction.

City of Coos Bay
500 Central Ave
Coos Bay, Oregon 97420

December 10 2015

Marijuana Comment Card

I would hope that you lift the moratorium that would allow the dispensing of medical marijuana and recreational sales of marijuana. I understand your concerns about the oath of office and federal law and the business license. I have heard that the congress and the senate of the United States might come up with a bill that would for those states that have both medical and recreational laws allowing dispensing and sales that the federal government would not interfere. If you lift the moratorium and allow the dispensing of medical marijuana and recreational sales of marijuana, you could create a special business license.

Thank You

Ken Folker
PO Box 1753 / 805 Webster Ave
Coos Bay, Oregon 97420

E-mail address

Kenoncoast@charter.net



City of Coos Bay

500 Central Ave., Coos Bay, OR 97420
Phone: 541-269-8912 Fax: 541-267-5912

Comment Card

I really hope you all take the time to talk with the
the State laws.
We are worried about the 4 growers
(24 Plant Grows) that want to open up business
there @ City we want to protect the town

Written comments regarding the operation of Marijuana Related Businesses in the City will be taken up until 5:00 pm on **January 14, 2016**. The Council is scheduled to discuss the issue further on January 19, 2016. Comments can be mailed to or dropped off at the City Manager's Office at the address listed above. Comments can also be email to jmickelson@coosbay.org. All comments, unless anonymous, will be shared with the City Council, and they will become part of the record for the matter in question.

Stefani
Eaton

E-mail

1001 Juniper Ave
Address

MAYOR STADJE
& COUNCIL MEMBERS

RECEIVED
DEC 04 2015
City of Coos Bay DEC 3, 2015

HELLO NEIGHBORS, OO

PLEASE THINK LONG & HARD ABOUT
BECOMING PART OF THE PROBLEM INSTEAD OF
THE SOLUTION WHEN YOU PROMOTE ANY MIND ALTERING
DRUG & SAY ITS OK BY TAXING IT.

TAKE A STAND & EACH OF YOU DRAW A LINE,
YOU WILL NOT SINK BELOW.

IN CASE YOU MISSED IT, PLEASE ENJOY A
COPY OF MY LETTER TO OUR "WORLD" PAPER WHICH WAS
PRINTED TUES, NOV. 24 -

(LARRY CAMPBELL "TWERKED" IT FOR ME -)

MAYBE INVITING SOME OF THE FOLKS IN THE TRENCHES
WOULD HELP - SCINT, SHERRICK, ETC. (BAY AREA HOSPITAL
EMERG. & MATERNAL)

YOUR DECISIONS AFFECT LIVES -

RESPECTFULLY

Ken Harlan

EASTSIDE

541-267-5522

P.S. SORRY ABOUT THE
HANDWRITING - "GETTING OLD"
the,

OO

The logo for Juno Message Center, featuring a stylized 'J' icon followed by the text 'JUNO Message Center'.

From: Larry Campbell <Larry.Campbell@theworldlink.com>

To: "katiken@juno.com" <katiken@juno.com>

Sent: Thu, Nov 19, 2015 06:56 AM

Subject: Letter to the Editor -- revised

COPY

Ken, please take a look and tell me what you think:

It is really pathetic that our elected leaders really expected visiting tourists to our area to pay for our weaknesses and sins through a "room tax."

Coos, Curry and Douglas counties all have a common evil to deal with — drugs and alcohol. The desperation for tax revenue here in Oregon touches all of us, fills our jails, destroys families and future generations because we can't say no, and the strong are willing to sacrifice the weak for jobs and income from "sin" taxes on booze, weed and drugs.

Get real people — think zero tolerance and do something about it.

Start with our search and seizure laws, random searches and unannounced "traffic traps." Find a dealer transporting, bust 'em and take the vehicle.

For those of us who found a way to get straight, myself included, a transponder on my windshield and a computer chip in my license.

Require FDA proof that marijuana is truly medicinal — lots of our drugs today come from odd and strange places like urine, trees, snake venom, cow and pig parts. If what we have to learn is a mile long, we have only come "2 inches."

So who gets paid in our "Cain and Able" society from the weaknesses of our fellow brothers and sisters. Talk to any local judge, D.A., cop, sheriff or jailer and ask how many do we need without drugs and booze being around? Read the police reports in our local paper, and read the death reports while you read between the lines, too.

Are we doing all we can to stop this tidal wave that is upon us? I think not.

how much lower have we sunk since prohibition? As a recovering alcoholic, I still to this day remember how a beer or good glass of wine tastes, so please don't think me a prude, as I wouldn't deny my family or friends a little pleasure now and then or at dinner or whenever. But the bigger questions are how and who do we sacrifice for our pleasures and rushes of "dopamine" and at what cost? Are the subculture dollars acceptable now and how about medical costs and future generations are we breeding?

What I have learned in my lifetime the hard way sustains me and most of all the will to change can make a difference — I hope our elected officials see it, too.

Ken Harlan
Eastside

Larry Campbell
Executive Editor
The World
350 Commercial Ave.
P.O. Box 1840
Coos Bay, Ore. 97420

Rodger Craddock

From: Lisa Sweet <lsweet@gmail.com>
Sent: Monday, January 11, 2016 10:28 AM
To: mayor
Subject: The Sale and Cultivation of Recreational Marijuana

Follow Up Flag: Follow up
Flag Status: Flagged

This was written by a fellow voter and I feel it sums up how we feel as well!! The people voted for this so why are you trying to lessen the opportunities as a result??

*

Thank you for revisiting the issue of recreational marijuana in the city of Coos Bay. Supporters of the industry appreciate your diligence in learning the many aspects of the retail marijuana business, which in turn may give you some insight to their position.

At the regularly scheduled meeting on January 19, 2016, the City Council will be making some decisions concerning the ability of business owners and growers in the marijuana industry to participate in the market inside the city limits. There are a few requests that would benefit the city as well as the industry. These changes would also reflect the decision of 58% of the voters that voted in favor of Measure 91 in Coos Bay, as well as generate a new revenue stream via the taxes imposed by the state.

One request would be for the city to change the language of the city's business license to allow recreational marijuana facilities the right to do business in Coos Bay.

Second request is for the city to change the zoning as to allow cannabis cultivators the ability to grow this product inside city limits to supply the medical and recreational dispensaries.

Third request is for the city not to enact any new laws, or taxes other than those contained in Measure 91 and H.B. 3400, under the guidance of the OLCC.

The intentions of these few simple requests are for the facilitation of the individual business owner's freedom to enjoy their valued "Right to Commerce," just as any other legal industry.

Thank you for your time and consideration.

Sincerely,
Lisa Sweet



This email has been sent from a virus-free computer protected by Avast.
www.avast.com

Rodger Craddock

From: Rob Taylor <obetewic@msn.com>
Sent: Monday, January 11, 2016 1:43 AM
To: mayor; fbrick@socc.edu; Mark Daily; sjgroth@charter.net; Stephanie Kramer; Thomas Leahy; dsgnInd@frontier.com; Rodger Craddock
Cc: Stefani Eaton; Rob Metcalf; Jim Deatherage; Bird Moss
Subject: The Sale and Cultivation of Recreational Marijuana

Follow Up Flag: Follow up
Flag Status: Flagged

To: City Councilors & Mayor of the City of Coos Bay,
Re: The Sale and Cultivation of Recreational Marijuana

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Thank you for your time and consideration

Sincerely,
Rob Taylor
PO Box 973
Bandon OR 97411
Phone: 541-347-9942
Email: obetewic@msn.com

Rodger Craddock

From: Ciera Stratton <cieraesp@gmail.com>
Sent: Monday, January 11, 2016 5:37 PM
To: fbrick@socc.edu
Subject: Tuesday's City Council meeting

Greetings!

I am contacting you as a citizen of Coos Bay. I recently moved here and am loving the area so far. I want to let you know that I appreciate the diligence of the Council in researching recreational sales of marijuana. I want to let you know my position on a few things:

I request the city amends the business license to allow recreational marijuana facilities the right to do business in Coos Bay. Futher, I urge the city to allow cannabis cultivators the right to legally grow marijuana inside the city limits to supply these retail businesses as well as medical dispensaries. Growing cannabis in proximity to this new industry will help keep transportation costs down. Also, transporting cannabis long distances can be dangerous for the cultivators, and our goal here is to provide safe access for all involved. There are obvious restrictions on growing cannabis inside city limits, such as keeping it away from schools, etc. There is plenty of room for everyone.

My last request is for the city to not enact any new taxes other than those in Measure 91 and H.B. 3400.

Thank you again for being open to the opinions and ideas of Coos Bay residents. This new industry has the potential to bring in new revenue and deter people from using other dangerous drugs.

Sincerely,

Ciera Stratton

Third request is for the city not to enact any new laws, or taxes other than those contained in Measure 91 and H.B. 3400, under the guidance of the OLCC.

Rodger Craddock

From: Matthew Deatherage <matthew.f.deatherage@gmail.com>
Sent: Monday, January 11, 2016 11:42 AM
To: Mike Vaughan; mayor; sjgroth@charter.net; Mark Daily; Stephanie Kramer; Fred Brick; Rodger Craddock; Thomas Leahy
Subject: The Sale and Cultivation of Recreational Marijuana

Follow Up Flag: Follow up
Flag Status: Flagged

Dear City Councilors & Mayor of the City of Coos Bay,

I support this message from Rob Taylor:

Thank you for revisiting the issue of recreational marijuana in the city of Coos Bay. Supporters of the industry appreciate your diligence in learning the many aspects of the retail marijuana business, which in turn may give you some insight to their position.

At the regularly scheduled meeting on January 19, 2016, the City Council will be making some decisions concerning the ability of business owners and growers in the marijuana industry to participate in the market inside the city limits. There are a few requests that would benefit the city as well as the industry. These changes would also reflect the decision of 58% of the voters that voted in favor of Measure 91 in Coos Bay, as well as generate a new revenue stream via the taxes imposed by the state.

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The intentions of these few simple requests are for the facilitation of the individual business owner's freedom to enjoy their valued "Right to Commerce," just as any other legal industry.

Thank you for your time and consideration.

Sincerely,
Matthew Deatherage
150 S 2nd
Coos Bay, OR

Oregon Cities with Registered Medical Marijuana Dispensaries

City	# of MMDs	City	# of MMDs		# of MMDs
Adair Village		Cottage Grove	4	Haines	
Adams		Cove		Halfway	
Adrian		Creswell		Halsey	
Albany*	6	Culver		Happy Valley	1
Amity		Dallas*		Harrisburg	
Antelope		Damascus	1	Helix	
Arlington		Dayton		Heppner*	
Ashland	4	Dayville		Hermiston	
Astoria*	4	Depoe Bay		Hillsboro*	2
Athena		Detroit		Hines	
Aumsville		Donald		Hood River*	5
Aurora		Drain		Hubbard	
Baker City*		Dufur		Huntington	
Bandon		Dundee	1	Idanha	
Banks		Dunes City		Imbler	
Barlow		Durham		Independence	2
Bay City		Eagle Point		Ione	
Beaverton	3	Echo		Irrigon	
Bend*	20	Elgin		Island City	
Boardman		Elkton		Jacksonville	
Bonanza		Enterprise*		Jefferson	
Brookings	5	Estacada		John Day	
Brownsville		Eugene*	21	Johnson City	
Burns*	1	Fairview		Jordan Valley	
Butte Falls		Falls City		Joseph	
Canby		Florence	1	Junction City	
Cannon Beach		Forest Grove		Keizer	1
Canyon City*		Fossil*		King City	
Canyonville		Garibaldi		Klamath Falls*	2
Carlton		Gaston		Lafayette	
Cascade Locks		Gates		La Grande*	2
Cave Junction	1	Gearhart		Lake Oswego	
Central Point	1	Gervais		Lakeside	
Chiloquin		Gladstone	1	Lakeview*	
Clatskanie		Glendale		La Pine	2
Coburg (1)	1	Gold Beach*	1	Lebanon	None
Columbia City		Gold Hill	1	Lonerock	None
Condon*		Granite		Long Creek	None
Coos Bay		Grants Pass*	4	Lostine	None
Coquille*		Grass Valley		Lowell	None
Cornelius		Greenhorn		Lyons	None
Corvallis*	5	Gresham		Madras*	3

City	# of MMDs	City	# of MMDs	City	# of MMDs
Malin		Prineville*	1	Tualatin	
Manzanita	1	Rainier		Turner	
Maupin		Redmond		Ukiah	
Maywood Park		Reedsport	1	Umatilla	
McMinnville*	2	Richland		Union	
Medford*	5	Riddle		Unity	
Merrill		Rivergrove		Vale*	
Metolius		Rockaway Beach		Veneta	1
Mill City		Rogue River	2	Vernonia	1
Millersburg		Roseburg*	4	Waldport	2
Milton-Freewater		Rufus		Wallowa	
Milwaukie	3	Salem*	17	Warrenton	
Mitchell		Sandy		Wasco	
Molalla		Scappoose	1	Waterloo	
Monmouth		Scio		West Linn	
Monroe		Scotts Mills		Westfir	
Monument		Seaside	2	Weston	
Moro*		Seneca		Wheeler	
Mosier		Shady Cove	2	Willamina	
Mt. Angel		Shaniko		Wilsonville	
Mt. Vernon		Sheridan		Winston	
Myrtle Creek		Sherwood	1	Woodburn	
Myrtle Point		Siletz		Wood Village	1
Nehalem		Silverton		Yachats	
Newberg		Sisters			
Newport*	4	Sodaville		Unincorporated	# of MMDs
North Bend	2	Spray		Aloha	2
North Plains		Springfield	6	Bunker Hill	1
North Powder		Stanfield		Charleston	1
Nyssa		Stayton	2	Clackamas	2
Oakland	1	Sublimity		Dexter	1
Oakridge	1	Summerville		Kerby	1
Paisley		Sumpter		Manning	1
Pendleton*		Sutherlin		Mapleton	1
Philomath		Sweet Home	1	Merlin	1
Phoenix	2	Talent	2	Selma	1
Pilot Rock		Tangent			
Portland*	140	The Dalles*	1		
Port Orford		Tigard	2		
Powers		Tillamook*	1		
Prairie City		Toledo	1		
Prescott		Troutdale			

Medical Marijuana			
Related Activities	State Regulating Authority	City of Coos Bay Business License Requirement	Coos Bay Relevant Land Use Rules
Medical Marijuana Grows Location for planting, cultivating, growing, trimming, or harvesting marijuana or drying marijuana leaves or flowers.	Medical marijuana grow locations are regulated by the Oregon Health Authority. Medical marijuana grow locations are required to be registered under ORS 475.304	A City business license is not required for medical marijuana patients (MMP) or their care givers to grow marijuana for patients if done in accordance with current Oregon law. Selling excess marijuana to a dispensary would require a business license; but under the current City ordinance, one would not be granted.	The growing of medical marijuana by a MMP or their caregiver is allowed throughout the City as long as it is done within the confines of state law and is considered the same as a home garden.
Make Products Marijuana Processing Site Locations: Location for compounding or converting marijuana into medical products, concentrates or extracts	Medical marijuana processing sites are regulated by Oregon Health Authority. Medical marijuana processing sites are required to be registered with the OHA as required by section 85 of HB3400.	A City business license is not required for medical marijuana patients (MMP) or their care givers to make medical marijuana product for patients if done in accordance with current Oregon law. Making marijuana projects for sale would require a business license; but under the current ordinance, a business license would not be granted as the business violates a federal law.	Currently prohibited in the Central Commercial (C1) General Commercial (C2) and Residential (R-1), (R-2), (R-3), (R-4P), (R-5), (R-6), and (R-W) zones. Requires a Conditional Use Permit in an Industrial / Commercial (I-C) zone. Permitted in General Industrial (G-I) zone.
Wholesale	Not currently allowed under Oregon law	N/A	N/A
Transfer to User Medical Marijuana Dispensary: Transfer usable marijuana, immature marijuana plants, seeds, and medical products, concentrates and extracts to patients and caregivers	Medical marijuana dispensary locations are regulated by the Oregon Health Authority. Medical marijuana dispensary locations are required to be registered under ORS 475.314	Operating a medical marijuana dispensary in the City requires a business license. Under the current ordinance, a business license would not be granted as the business violates a federal law.	Currently allowed in the Central Commercial (C1) and General Commercial (C2) zones. Would require a Conditional Use Permit for the Industrial / Commercial (I-C) zone. Not permitted in the General Industrial (G-I) zone.

Recreational Marijuana

Related Activities	State Regulating Authority	City of Coos Bay Business License Requirement	Coos Bay Relevant Land Use Rules
Grow Producers: Manufacture, plant, cultivate, grow, and harvest.	Oregon Liquor Control Commission (OLCC) is the State regulating Authority. Commercial growers must obtain a license from OLCC under section 12 of HB 3400 No license required for growing marijuana for personal consumption, but there are limitations as to the number of plants which can be grown by an individual.	Commercial growing operations are considered a business; and thus, would require a business license to operate in the City if such a business was an allowable use within the land use rules. Under the current ordinance, a business license would not be granted as the business violates a federal law. A City business license is not required for the growing marijuana for personal consumption.	All agricultural uses are prohibited under Coos Bay's adopted land use rules.
Make Products Processors: Process, compound or convert marijuana into products, concentrates or extracts, but does not include packaging or labeling	Commercial processors must obtain a license from OLCC under section 14 of HB 3400	Processing / making products are considered a business; and thus, would require a business license to operate in the City if such a business was an allowable use within the land use rules. Under the current ordinance, a business license would not be granted as the business violates a federal law.	Currently prohibited in C2 and Residential zones. Requires a Conditional Use Permit in an Industrial / Commercial (I/C) zone. Permitted in General Industrial zone.
Wholesale Wholesalers: Purchase marijuana items for resale to a person other than a consumer	Wholesalers must obtain a license from OLCC under section 15 of HB 3400	A marijuana wholesale operation would be considered a business; and thus, would require a business license to operate in the City if such a business was an allowable use within the land use rules. Under the current ordinance, a business license would not be granted as the business violates a federal law.	Currently prohibited in the Central Commercial (C1) General Commercial (C2) and Residential (R-1), (R-2), (R-3), (R-4P), (R-5), (R-6), and (R-W) zones. Requires a Conditional Use Permit in an Industrial / Commercial (I-C) zone. Permitted in General Industrial (G-I) zone.
Transfer to User Retailers: Sell marijuana items to a consumer	Retailers must obtain a license from under section 16 of HB 3400. Certain employees must obtain an OLCC handlers permit under section 19 of HB 3400	Operating a medical marijuana dispensary in the City requires a business license. Under the current ordinance, a business license would not be granted as the business violates a federal law.	Currently allowed in the Central Commercial (C1) and General Commercial (C2) zones. Would require a Conditional Use Permit for the Industrial / Commercial (I-C) zone. Not permitted in the General Industrial (G-I) zone.