

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

SUBJECT: Public Hearing on An Ordinance Declaring
a Moratorium on Medical Marijuana
Facilities and Declaring An Emergency

FOR AGENDA OF: 04-08-14 **BILL NO:** 14078

Mayor's Approval: Denny Dasey

DEPARTMENT OF ORIGIN: City Attorney

DATE SUBMITTED: 04-04-14

CLEARANCES: City Attorney WJH
CAO RHE

PROCEEDING: Public Hearing

EXHIBITS: Draft Ordinance

BUDGET IMPACT

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$0	BUDGETED \$0	REQUIRED \$0

RECOMMENDED ACTION:

Hold public hearing and conduct first reading of ordinance or direct staff otherwise.

HISTORICAL PERSPECTIVE:

At a work session on April 1, 2014, the Council directed that a public hearing and first reading of an ordinance be scheduled for its April 8 meeting as to this subject. As directed by Council, the ordinance leaves open the date on which this moratorium would terminate; the last possible termination date is May 1, 2015.

INFORMATION FOR CONSIDERATION:

The Council after the public hearing, if it decides to proceed with first reading, should decide on an end date for the moratorium and direct staff to conform the ordinance to its direction for the second reading. State law requires that the moratorium be declared by May 1, 2014, to be effective and the ordinance thus declares an emergency that makes the ordinance effective sooner than the default effective date of 30 days following second reading and passage. The Council is reminded that it may act to rescind the moratorium at any time before the termination date but it may not extend the moratorium (unless state law is revised before the termination date).

[DRAFT]
ORDINANCE NO. _____

**AN ORDINANCE DECLARING A MORATORIUM ON MEDICAL
MARIJUANA FACILITIES AND DECLARING AN EMERGENCY**

WHEREAS, the Oregon Legislature enacted House Bill 3460 (2013) which requires the Oregon Health Authority to develop and implement a process to register medical marijuana facilities; and

WHEREAS, House Bill 3460 (2013) directed that persons who operate or are employed by a registered medical marijuana facility would enjoy immunity from state prosecution; and

WHEREAS, the issue of whether a local government believes a certain type of business should operate within its jurisdictional limits is a local government decision, the enforcement of which is subject to the general and police powers of that jurisdiction; and

WHEREAS, the Oregon Legislature enacted Senate Bill 1531 (2014) which removes immunity from state prosecution for a person who is responsible for or employed by a registered medical marijuana facility located in an area subject to the jurisdiction of a city or county that enacts a moratorium prohibiting the operation of a medical marijuana facility; and

WHEREAS, the City of Beaverton believes it is in the best interests of the health, safety and welfare of the citizens of Beaverton to enact such a moratorium prohibiting the operation of medical marijuana facilities within its jurisdictional boundaries to allow the City to take such action that is necessary to enable the City to exercise reasonable regulations on the operation of medical marijuana facilities; now, therefore

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

MORATORIUM DECLARED.

The City of Beaverton hereby declares a moratorium on the operation of any medical marijuana facility anywhere in the city limits. As used in this section, "medical marijuana facility" includes any facility that dispenses marijuana pursuant to ORS 475.314 or any other provision of Oregon law.

DURATION OF MORATORIUM.

The moratorium imposed by this ordinance shall be effective until [TBD – no later than to May 1, 2015], unless rescinded sooner.

EFFECT OF MORATORIUM ON ORDINANCE NO. 4636

For the duration of the moratorium imposed by this ordinance, no application for a medical marijuana facility license shall be accepted by the City pursuant to Ordinance No. 4636 and no such license shall be issued by the City.

REMEDIES NOT EXCLUSIVE.

Any penalty or remedy imposed pursuant to this ordinance or under Senate Bill 1531 (2014) is in addition to, and not in lieu of, any other civil, criminal or administrative penalty, sanction or remedy otherwise authorized by law.

SEVERABILITY.

The Council intends that the sections and subsections of this ordinance be severable. If any part of this ordinance is held unconstitutional or otherwise invalid, the remaining parts shall remain in force unless:

A. The remaining parts are so essentially and inseparably connected with and dependent upon the unconstitutional or invalid part that it is apparent that the remaining parts would not have been enacted without the unconstitutional or invalid part; or

B. The remaining parts, standing alone, are incomplete and incapable of being executed according to the legislative intent.

EMERGENCY; EFFECTIVE DATE.

This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this ordinance takes effect on its passage.

First reading this _____ day of April, 2014.

Second reading and passage by the Council this _____ day of April, 2014.

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

ATTEST:

APPROVED:

CATHERINE L. JANSEN, City Recorder

DENNY DOYLE, Mayor

Cathy Jansen

From: Mailbox Mayor Mail
Sent: Wednesday, April 02, 2014 7:38 AM
To: Cathy Jansen
Cc: Dennis Doyle
Subject: FW: Please allow safe access to medical marijuana patients

For the record...

From: anthonyj1977@gmail.com [mailto:anthonyj1977@gmail.com] **On Behalf Of** Anthony Johnson
Sent: Tuesday, April 01, 2014 7:41 PM
To: Mailbox Citymail; Mailbox Mayor Mail
Subject: Please allow safe access to medical marijuana patients

On behalf of the Oregon Cannabis Industry Association, I urge you to not impose a moratorium on medical marijuana facilities. The cannabis industry and community want to provide safe access to patients in a responsible, regulated manner. Imposing a temporary ban on facilities will only harm the most vulnerable of patients and will only exacerbate the problems caused by prohibition. Like alcohol prohibition before it, cannabis prohibition enriches the black market and takes jobs away from law-abiding citizens and revenue from our state. And many patients will either have to go without medicine that improves their lives or be forced to use the black market.

The medical cannabis community wants to provide safe access to patients in a regulated manner, licensed, audited and inspected by the state. We also want crime-free neighborhoods, safe roads and to keep marijuana out of the hands of children. A licensed and regulated medical cannabis supply system is a much better policy than pushing patients into an unregulated black market. If you want what is best for all of the residents of your county, you will implement reasonable time, place and manner regulations, as necessary.

While those that may be fearful of licensed facilities have legitimate concerns, the concerns of crime, unsafe drivers and more marijuana getting into the hands of children are unfounded by the facts on the ground and the experience of other states. Please consider statistics and studies of other states, listen to the concerns of patients and providers and think about the consequences of pushing people onto an unregulated black market. After a careful consideration of the facts and the plight of patients, I hope that you will choose regulation over the black market.

Below are some statistics and studies demonstrating that state-licensed and regulated medical marijuana facilities are not to be feared. Please don't hesitate to contact me with any questions or concerns. The cannabis industry and community at large would love to work with you to implement reasonable regulations.

Thank you,

-Anthony Johnson

Executive Director, OCIA
www.orcannabisindustry.org
(503) 752-3966 (cell)

Medical marijuana dispensaries not associated with crime:

"Legalization of medical marijuana does not lead to increased crime, and may even be tied to lower rates of offenses such as assault and murder, a new study suggests."

http://www.philly.com/philly/health/HealthDay686131_20140326_Medical_Marijuana_s_Legalization_Doesn't_Raise_Crime_Rates_Study.html

<http://articles.latimes.com/2011/sep/21/local/la-me-0928-marijuana-dispensaries-20110921>

<http://www.usnews.com/news/articles/2012/06/06/report-medical-marijuana-dispensaries-not-linked-to-neighborhood-crime>

<http://www.dailynews.com/20100117/lapd-chief-pot-clinics-not-plagued-by-crime>

Traffic fatalities:

"Legalization is associated with nearly a 9 percent decrease in traffic fatalities, most likely as a result of its impact on alcohol consumption by young adults."

http://articles.courant.com/2012-01-16/business/hc-marijuana-traffic-deaths-0117-20120116_1_medical-marijuana-law-medical-marijuana-fatal-accidents

<http://healthland.time.com/2011/12/02/why-medical-marijuana-laws-reduce-traffic-deaths/>

(At the end of the Time article, it notes the study references was preliminary and hadn't been subject to peer review, but it has since been updated and has been submitted to a peer-reviewed publication.)

<http://www.jstor.org/discover/10.1086/668812?uid=3739560&uid=2&uid=4&uid=3739256&sid=21102550781877>

<http://www.forbes.com/sites/jacobsullum/2013/11/01/economists-predict-marijuana-legalization-will-produce-public-health-benefits/>

Traffic fatalities have actually decreased in Colorado according to the most recent statistics available. In 2006, there were 535 traffic fatalities. By 2011, the number of fatalities dropped to 447. This decrease in traffic fatalities is a common occurrence among state's that have passed medical marijuana laws.

<http://www.coloradodot.info/programs/alcohol-and-impaired-driving/druggeddriving/drugged-driving-statistics.html>

Marijuana use among teens:

The most recent statistics available from the federal government show that marijuana use among high school students hasn't increased in Colorado and actually lowered slightly from 2009 to 2011. In 2009, 24.8% of high school students reported using marijuana. In 2011, the number had dropped to 22%.

2009, p. 78:

<http://www.cdc.gov/mmwr/pdf/ss/ss5905.pdf>

2011, p. 97:

<http://www.cdc.gov/mmwr/pdf/ss/ss6104.pdf>

Strong majority of Colorado voters still support legalization:

"CO voters rate marijuana legalization a success"

http://www.publicpolicypolling.com/pdf/2014/PPP_Release_CO_319.pdf

Residents strongly support legalization and use hasn't increased.

<http://www.usnews.com/news/articles/2014/02/10/marijuana-legalization-increasingly-popular-in-colorado-but-smoking-pot-isnt>

Cathy Jansen

From: Mailbox Citymail
Sent: Thursday, April 03, 2014 11:01 AM
To: Ian King; Betty Bode; Marc San Soucie; Mark Fagin; Cate Arnold
Cc: Randy Ealy; Cathy Jansen
Subject: FW: Medical Marijuana & Tobias Read

From: Steve Bence [mailto:stevebence@yahoo.com]
Sent: Wednesday, April 02, 2014 3:39 PM
To: Mailbox Citymail
Cc: 'Representative Tobias Read'
Subject: Medical Marijuana & Tobias Read

Dear City Council,

I watched yesterday's City Council meeting on the internet today and I was very happy to see our State Representatives there. If I had known that Tobias Read was giving an update and so much time would be spent discussing Medical Marijuana I would have attended.

I loved seeing my city and state representatives in the same room talking to each other. I was also able to see the divide and some emotion on the issue of Medical Marijuana between the city and state. I loved Tobias Read's challenge to the City Council to take a leadership position on the Medical Marijuana dispensaries in Beaverton. On other topics last night I heard the power of our city & state working together plus an invitation that if something is concerning to the City Council then speak up and get involved.

I think Mayor Dole said that there would be a public hearing next week on Medical Marijuana. Tobias Read said that he would try to attend if asked (I'd love to see him there! I'd be there to listen.)

I haven't been to a City Council meeting in about 2 months. What I heard from yesterday sounds very familiar to the discussions in January and February. It would be nice to see progress. Two potential topics:

- Have Tobias Read explain how to manage the conflict between Federal law and State law.
- Review what Beaverton has done over the past couple of months to move forward on Medical Marijuana dispensaries in Beaverton.

To my second point above, in the two City Council meetings that I attended in Jan/Feb I heard the following:

- Beaverton needs time to get this right (medical marijuana). The council wanted 6 months.
- One council member said that doesn't mean wait for 6 months and then discuss again. It meant that work would start "tomorrow".
- One council member said that 6 months isn't enough time. It took 6 months to determine how many chickens a Beaverton resident could have and this topic was more complicated.
- Mayor Dole said that Beaverton has a competent staff. If made a priority, which I think has been done, then there will be good work done in a reasonable amount of time. 6 months seemed achievable. (so what has been done so far?)

Lastly, in support of Tobias Read (it was said that access to our state representatives was a unique situation yesterday for us citizens), I've found him very approachable and accessible. I've attended meetings that he set up at Beaverton City Hall, coffee chats locally, and contact by email. He listens, welcomes the input, explains, and always responds.

Below is an example of the regular invitations that he sends out. I received this about 2 weeks ago.

Steve Bence

STEVE BENCE | cell: 503.380.1950 | stevebence@me.com

Cathy Jansen

From: Mailbox Citymail
Sent: Thursday, April 03, 2014 11:02 AM
To: Ian King; Betty Bode; Marc San Soucie; Mark Fagin; Cate Arnold
Cc: Randy Ealy; Cathy Jansen
Subject: FW: Example of Tobias Read invitations

From: Steve Bence [<mailto:stevebence@yahoo.com>]
Sent: Wednesday, April 02, 2014 3:51 PM
To: Mailbox Citymail
Subject: Example of Tobias Read invitations

Hi,

I tried to send an example of communication in my other email. I don't think it was sent correctly. So I'm forwarding the actual email.

My point in the email was that hearing from our State Representatives is not really "unique" as was stated in yesterday's City Council meeting. In particular, Tobias is very accessible as you can see.

Steve

From: Representative Tobias Read [<mailto:contact@tobiasread.com>]
Sent: Monday, March 17, 2014 3:47 PM
To: Bence, Steve
Subject: Tonight! And Wednesday



Dear Stephen,

If you don't yet have plans for this evening, please consider joining us at our Town Hall at 7:00 at Beaverton City Council Chambers. Details are below.

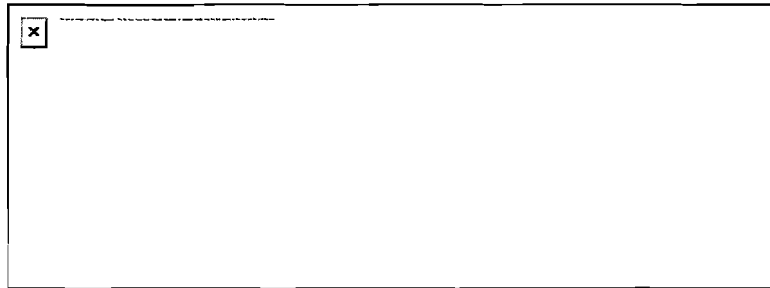
On Wednesday, you're invited to an Education Forum with Congresswoman Bonamici, Representative Unger, and representatives from the Oregon Department of Education. Please see below for more information.

I hope to see you tonight!

Best,



P.S. Save the date for our next Constituent Coffee on Saturday, April 12 at 8:30 am at Ava Roasteria.



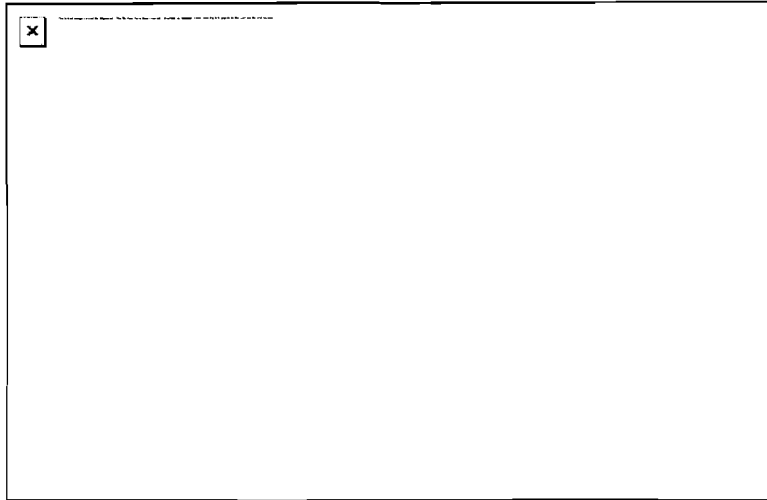
Town Hall

Monday, March 17
7:00pm

Beaverton City Hall
4755 SW Griffith Drive, Beaverton, OR
City Council Chambers

Join us to hear about the 2014 legislative session - what we accomplished and what we'll be working on during the interim.

Please join us and bring your questions and concerns.



Washington County

Education Forum

Congresswoman Suzanne Bonamici,
Representative Tobias Read,
Representative Ben Unger,
Whitney Grubbs from the Oregon Education Investment Board,
and ODE Fiscal Analyst Michael Elliott

Wednesday, March 19th
7:00 - 8:00 pm

Mountain View Middle School Library
17500 SW Farmington Road, Aloha, OR 97007

- How is the No Child Left Behind waiver affecting our schools?
 - What do Common Core standards mean for our students?
 - What are state plans for improving education funding?
- What updates are there from the last legislative short session?

*Now is the time for all of us to get involved in a positive way by learning how
money and standards relate to our classrooms.*

When we acquire knowledge we inspire change.

This email was sent by:
Friends of Tobias Read - PO Box 2101, Beaverton, OR 97075

This message was sent to: steve.bence@nike.com

We don't want to send you email that you don't want.



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