



CITY COUNCIL MEETING MINUTES March 24, 2020

The scheduled meeting of the Ontario City Council was called to order by Mayor Riley Hill at 6:00 p.m. on Tuesday, March 17, 2020, in the Council Chambers of City Hall. Council members present were Riley Hill, Norm Crume, Michael Braden, Freddy Rodriguez, Marty Justus, and Ramon Palomo. Dan Capron participated by phone.

Members of staff present were Adam Brown, Tori Barnett, Steven Romero, and Terry Leighton. Peter Hall, Larry Sullivan, Kari Ott, Dan Cummings, Cliff Leeper, and Betsy Roberts participated by phone.

The meeting was recorded, and copies are available at City Hall.

Mayor Hill led everyone in the Pledge of Allegiance.

AGENDA

This Agenda was posted on March 23, 2020. Copies of the Agenda are available from the City Hall Customer Service Counter and on the city's website www.ontariooregon.org.

CRUME moved, PALOMO seconded, **TO ADOPT THE AGENDA AS PRESENTED**. Roll call vote: Crume-yes; Rodriguez-yes; Palomo-yes; Justus-yes; Capron-yes; Braden-yes; Hill-yes. Motion carried 7/0/0.

PUBLIC COMMENT

Shawn McKay, Huntington: *It is our understanding that the City Council is going to discuss tonight the possibility of closing down or altering the marijuana dispensary businesses and I just came here tonight to present some of the safety measure that we're doing at our store to protect our customers and our employees and I brought some examples of some adjustments that we have throughout our store, as well as some pictures, if the Council's interested in seeing that, and then I have kind of a bullet point list of things that we've done to change our regular business. We've changed to no smelling of the jars or handling any product; no longer having any physical interaction with the customers, so we're not taking IDs, money is being set on the counter, and just limiting those types of interactions; spacing of six feet for employees and customers both inside and outside of the store; mobile intake for customers outside of the store; designated social distance officer per state regulation, we actually have two of those people that are identified by a safety vest so it's clear to see who they are and they have walkie-talkies to communicate with the manager on staff; we've increased the frequency of sanitizing of all touched surfaces inside and outside the building, so any kind of door handles, computer screens, any of that type of stuff; we encourage online ordering to minimize the amount of time that people spend inside the store or on the premises; and we are continuing to follow all state and national guidelines and post this throughout our store; and have been holding regular manager meetings with all of our store managers to make sure they are abreast of all this information as it's changing. Are the Councilors interested in seeing any of the postings or the pictures that I brought of our store? If you guys have any questions...*

Councilor Justus asked if he was representing Weedology.

Mr. McKay: *No, I represent Burnt River Farms. So I know that I was expecting there to be a little conversation amongst you guys before I came up here and talked and this is my first time at one of these Ontario meetings, so definitely, if you guys have any questions about what's taking place or what kind of recommendations we've been given by the Governor, or anything like that, I'd love to discuss this with you guys.*

Councilor Braden stated he had read Executive Order 20-12, so he was aware of the regulations Mr. McKay was talking about. As a local business who dealt with high turnover of customers, how close were they to deciding to

shut their own doors, and had they identified any triggers, like number of cases in the community, or someone close by. What were their ideas in that area?

Mr. McKay: As long as business, it's kind of that moral dilemma of serving these people, who a large majority of them use this as some form of medicine, so there's kind of that just following suit with these other businesses. It's totally uncharted water and something that nobody's had to deal with before. We're being left as one of the few businesses that are open in the state, and it's kind of like okay, what is Rite Aid doing to handle the same situation because that's really the closest comparison we have, somewhere between Rite Aid and Albertson's. You leave our store and go into Albertson's and everybody's shopping like they normally do. They have some tape on the floor by the registers. We go over to Boise and see businesses not practicing this at all. There are so many people treating it so many different ways. I think right now the most we can do is follow these guidelines that the Governor and the OLCC are providing us, try to minimize the paranoia amongst our employees and our customers. We do know that this disease doesn't know any boundaries, but we also do know that the twenty to under sixty year old age group are lesser susceptible of the group and that's who makes up the majority of our staff. It's very challenging to business owners and operators to mitigate and intake all this information that's changing daily, and sometimes a couple times a day. Trying to just really follow the rules.

Councilor Rodriguez asked if he agreed that this industry, like no other in the city, brought the largest amount of cross state traffic from the Boise area? If he didn't, could he give an example of any other industry that did?

Mr. McKay: *I think it's hard to say that it's all Boise. Walmart brings a lot of traffic, Home Depot brings a lot of traffic, Ware Mart brings a lot of traffic.*

Councilor Rodriguez stated a majority of that traffic was from our micro-metropolitan area. There were people shopping at Walmart and Ware Mart. He thought it was due to the non-tax. Again, did Mr. McKay agree that this industry brought the largest amount of cross state traffic from the Treasure Valley area? Not this micro-metro area, but the actual Treasure Valley area. He did not see 1A or 2C plates at Walmart or Ware Mart.

Mr. McKay: Fishing brings a large amount of anglers from the Boise area. There's other, I'm sure we have a lot of Idaho plates; it's hard to say whether or not they're all from Boise.

Councilor Rodriguez stated we wouldn't get anywhere if we weren't honest. Would Mr. McKay agree that his industry was the leader. It wasn't a bad thing to agree. Yes or no.

Mr. McKay: It's hard to say that we're the leader. We have a large amount of traffic, but then again so do these other large retail stores.

Mayor Hill stated the argument he kept getting phone calls on was about Walmart and Home Depot, etc., was whether it was an essential service or not. Walmart had the grocery store, which was essential. They could argue that medical marijuana was an essential service, and he agreed with that, but that was really the crux of this issue.

Councilor Justus when the Council was preparing for the sales tax, a study was done on how many people were coming to Ontario on a daily basis. There were 40-55K daily coming to Ontario pre-marijuana. That needed to be included to help others understand the context of this issue.

Councilor Rodriguez stated it grew to that amount everyday with folks from this area; they worked here.

Mr. McKay: I don't have anything else. If anybody else has any other questions for me, I'm happy to answer them.

Councilor Crume asked if to Mr. McKay's knowledge, where they abiding by all the OLCC newest laws and regulations that were set by the Governor for that particular industry?

Mr. McKay: Not only are we complying with the minimums, but we're going above what's required by having additional safety officers, placing the markers on the floor, putting posting throughout the store. I've been in regular communication with our OLCC compliance officer, Lori Shart, some of you many have met her. She's the local officer for her. I spoke with her both yesterday and this morning. I've been sharing with her the same kind of pictures that I

shared with you guys, and she said that's great Shawn, that's the best you guys can do right now that it's not normal times.

Byron Shock: We are at an unprecedented intersection of two public health crisis. One is the opioid epidemic, and the other what we are witnessing right now with a pandemic that we are going to remember for a long time. First, I'd like to say that we shouldn't necessarily be operating on the assumption that people with COVID-19 aren't already in this community. There is a long incubation period and chances are people are already here in the community. With that said, it's so important that our essential businesses, and I'm going to include especially medical marijuana, comply with all the orders from the state. I did some shopping this morning because I thought Tuesday morning would be a good day to go shopping. In terms of maintaining social distance, it was not a good day to go shopping. I went to several essential businesses and at one I just did not feel comfortable. I had to buy some stuff there anyway. I needed pet food. But I didn't feel comfortable. It's not only the dispensaries where there is a high risk of transmission, both from outside this area and from those who are already walking around with this virus in Ontario. What I would hope that this City Council consider is the need for strict enforcement of all state orders and all state laws pertaining to this outbreak at all essential businesses. I did drive by a couple of dispensaries on the way here and frankly, the situation there was not particularly worse than, it certainly wasn't worse than the worse other place I went today. People were having a little trouble maintaining their six-foot distance, but it looked like these businesses are trying to comply. I hope also that the businesses will consider OLCCs dispensation to deliver product in the parking lot within 150 feet of the front door of the dispensary. I think that's how we make this process as safe as possible for everyone. Thank you very much.

Gus Young: Council, Mayor, thanks for the time. I'm Gus Young, Burnt River, Shawn's partner. I just wanted to mention-it's kind of deceiving. We just got these new rules as of Sunday/Monday, and as people are driving by, I mean we've got pictures we can show you guys anytime online. It looks a little deceiving even to me because I'm on the camera at home and I'll see something at the dispensary and sometimes it can look like people aren't doing the six-feet distancing, but a lot of times there'll be a group of three come in a car, or a couple, something like that, and I just want to point out, I know you guys are getting a lot of heckling from guys driving by and the parking lots are full, but I think with the new guidelines from the state, I would like to ask for a chance to implement them and see how they work. Thank you.

Joe Dunn: I'm the owner of the bowling alley and the new dispensary that's going in there. Travis, why don't you go first and then I'd like to....

Mayor Hill asked that everyone on the phone give their names, and he would call on them in order.

Tyrell Erlebach, Ontario: I would like to speak on behalf of Weedology. Basically, what I'd like to say to the Council here is that I know that at Weedology we are implementing all of the CDC guidelines. We're doing all what Kate Brown the Governor has implemented. And also what the White House put out I think on Saturday, we're implementing those as well, and also all the OLCC recommendations, officially what Burnt River had said previously with Shawn McKay, Weedology has implemented all of that. I can go through kind of - we are not allowing customers to smell the product right now; bud tenders aren't handling the licenses when we're checking IDs. We have crosses on the floor. They're six feet apart throughout inside and throughout outside for the lines out there. We have a strong presence with our online ordering system. Our employees wear gloves and we also have rigorous cleaning and sanitization regimen that we are doing. Also, anybody that is sick or has symptoms of being ill is asked to not enter the building and we're having any employee that feels ill or has symptoms, we are putting them on a 14-day quarantine. We're doing everything that we can in as timely a manner as possible. Remember that Kate Brown, she implemented these, some of her issues yesterday, so I think all these dispensaries have jumped on this and are doing everything that is asked of us and then some. I would also like to point out that a lot of the customers, especially now with the chaos going through society, a lot of people use cannabis for anxiety, depression, and pain management, so I would classify us as something along the lines of a pharmacy. I think as far as like our community goes, I think that obviously the actions that have taken place here show exactly how important it is to help protect our community and our employees in trying to provide the service. What I'm asking for is that the Council at least give us a chance to show them and show the community that we can implement rules and regulations when we can abide by them. Do you guys have any questions or anything like that?

Councilor Rodriguez asked for clarification. He saw the tent placed outside of the Weedology store, and was curious as to if that was an outdoor check-in, and did it eliminate the lobby time? Not boutique time, just lobby time.

Mr. Erlebach: Basically what the tent is for outside and the same thing, we have a couple propane heaters, is this is basically, with the inclement weather that we're having right now, is trying to help with the customer's comfort while they're waiting in line. Essentially what we've done is we've moved a congested lobby to literally a handful of people in our lobby and then a handful of people on the sales floor and we've moved them outside. Outside we can control. What we've done is we've split it, so we have online on one side and instore purchases on the other side and then we can control that very easily. With that we have, when it gets busy we have a doorman and then we have a receptionist and then we have a showroom floor individual that can also direct people so the flow is very well controlled and this way we can control the numbers that enter each section of the building.

Mayor Hill stated to clarify about the outside tent, as he hadn't seen it, Mr. Erlebach mentioned the clusters, so it sounded like they were making an effort to keep everybody six feet apart. Was that correct?

Mr. Erlebach: Yes, Mr. Mayor, that's exactly right. So, according to the CDC and also the Governor Kate Brown, what they've done is implemented a six-foot social distancing, so what we've done is we have crosses, we put tape on the ground throughout inside, and we've also spray painted the sidewalk outside and these are all six feet apart. And then we also have posters throughout that are also explaining to the customers, and also like Burnt River has, a designated individual that is in charge of just doing social distancing so that we can minimize that the customers are touching and then also try to keep that social distancing. Now like Gus Young was talking about from Burnt River, according to the CDC and Governor Kate Brown there, if you share a household you can also share that social distancing. So, let's say there's two people or three people that live in the same house – they can actually be in the same six-foot bubble.

Mayor Hill stated Mr. Erlebach had mentioned that pharmacy and medical marijuana. Did they sell medical marijuana there?

Mr. Erlebach: We are not certified as a medical marijuana dispensary by the Division of Health, or Department of Health, but the OLCC has okayed recreational dispensaries to take a medical marijuana card and then we can sell recreational marijuana as medical marijuana to medical patients, if that makes any sense there.

Joe Dunn: Thank you, and thank you Tyrell. You've kind of answered a lot of the points that I was going to hit on. I kind of wanted to put this into the proper frame of referencing. I think that the concerns, ultimately the concern is the capacity of our local hospital and I think that might be sounding the alarm here. A few points here. The only way, to jump in on that last question, the only way for medical marijuana patients to get their medicine now is through recreational dispensaries. Before we had recreational dispensaries, of course, there were medical dispensaries in many parts of the state, but our state legislators have gone another way over the last five years to fold the medical industry into the rec industry, so it just really doesn't make sense to have an untaxed system operating next to a taxed system when the product is exactly the same. So, the State of Oregon essentially combined medical and rec and it's all rec. So, really, if the consensus here is to shut down, essentially you are going to be denying medical, you're going to be denying legitimate medical patients. We aren't talking about most of the people that come to the dispensaries, but it's a very good chunk of those folks and it's such a crucial time. Like Tyrell mentioned, everybody's anxiety is high. I think denying these legit medical patients would only actually further increase the pressure on local hospitals. I don't think that would be a wise move. The second point that I have, it has been acknowledged, Mr. Mayor I think you asked point blank if you think that the dispensaries are bringing more people into Ontario than the other retail community members, and with all due respect Mr. Mayor, I would have to wholeheartedly disagree with you on that. We're right next to Ware Mart. My property connects to them and I see the traffic at Home Depot, I see the traffic at Walmart, and I see the traffic everywhere else up and through today. I would disagree with you there sir, with all due respect. Frankly, to single out one industry and not include all other industries, I think that infringes on the constitutional rights of the dispensary owners and I think that if the city were to take such an action it would almost, they're going to give rise to a claim for unequal protection. Any comments at this point?

Mayor Hill verified that Mr. Dunn thought that people at barber shops, bars, and restaurants, all those places, were treated unequally also? Also, it had not been he who asked the question, it was another Councilor, and he specifically asked about Payette.

Mr. Dunn: I own the bowling alley. The bowling alley, everybody's putting their fingers into paintball and shooting, but if you close down the bowling alley and the restaurants, far in advance of Governor Brown's order, because those, by nature, are not open. If you include restaurants, you're going to take them out, take them out, take them out. The same thing with arcades – kids touching the same joystick over and over. Certain activities just inherently have a lot more contact. So, I think it is rational in every sense for a governmental unit to treat those differently, but when you look at the operations of a marijuana dispensary, you don't have that touching and any close contact that you've heard from multiple business owners tonight that they have changed those practices and my dispensary in downtown Portland has implemented rules before the order. A week ago, we eliminated touching, we eliminated multiple people in the waiting room. And yes, outside you're going to see a lot of awnings and coverings keeping rain off of patrons and we sit six feet apart. I think that all of the dispensaries in Ontario, that you've heard tonight, are capable of complying with these orders. We have enough place and big enough parking lots that we are going to be able to distance people six feet from each other. Although even a day or two after the Governor's order, you didn't at that point have more concrete direction from the OLCC. We now have that.

Judy Trask, Caldwell: I work as the Malheur County Prevention Coordinator. I have some concerns with the marijuana dispensaries that this timing can be compared to a pharmacy such as an Albertson's Pharmacy or a Walmart Pharmacy or any of the pharmacies because marijuana is actually not, cannot be prescribed by a doctor, cannot be picked up in a pharmacy and there is not a whole lot of evidence, and I'm not going to get into it right now about the medical benefits. There is not a whole lot of evidence, and when we are talking about keeping essential businesses going and closing non-essential businesses, I'm struggling with the fact that we are going to consider marijuana dispensaries an essential business in times like this. That's just, I deal with this on a daily basis. I have, I would love to meet with the dispensary owners, I would love to have time with you Mayor and give you some evidence-based information that I have regarding medical marijuana.

NEW BUSINESS

Emergency Declaration

Adam Brown, City Manager, presented.

CRUME moved, RODRIGUEZ seconded, **THAT THE CITY COUNCIL ADOPT RESOLUTION #2020-110, A RESOLUTION TO DECLARE A STATE OF EMERGENCY IN THE CITY OF ONTARIO DUE TO THE COVID-19 PANDEMIC.** Roll call vote: Crume-yes; Rodriguez-yes; Palomo-yes; Justus-yes; Capron-yes; Braden-yes; Hill-yes. Motion carried 7/0/0.

Dispensary Closures

Adam Brown, City Manager, presented.

CRUME moved, JUSTUS seconded, **THAT THE CITY COUNCIL AUTHORIZE MARIJUANA DISPENSARIES TO DO CURBSIDE SERVICE IN ONTARIO IN ACCORDANCE WITH THE OLCC TEMPORARY RULE IN ORDER TO MAINTAIN SOCIAL DISTANCING AMONG CUSTOMERS.** No vote.

Mayor Hill read a letter into the record from Saint Alphonsus Regional Medical Center.

To the Malheur County Health Department and the City of Ontario: On Thursday, March 17, 2020, the Oregon Association of Hospitals and Health Systems released the following statement: The Coronavirus is dangerous because although we can't see it, the virus is in our community and is lethal. Hospitals and health systems are prepared for a surge of the Covid-19 patients and it is critical that we have the capacity to care for those patients and others who present at our facilities. Mortality is higher when the health system gets overwhelmed. We must act now to save lives. Absent widespread testing and the ability to isolate patients, the public health tool we must use to avoid a rising patient surge and social distancing, yesterday our Board recommended that the Governor take the strongest possible action when it comes to social distancing measures now. We support action on the state or local level to further limit retail commerce, unnecessary travel, and adopt shelter in place strategies. With this recommendation in mind, I am asking that the local retail establishments that attract an inordinate amount of people from outside our immediate community that travel to Ontario to please consider curtailing or ceasing their operations. Specifically, the marijuana dispensaries in Ontario are estimated by the city to increase daily traffic visits to an area, 500 a day to 3,500 a week. Many of the vehicles making these trips are coming from counties such as Ada and Canyon County

that have positive Covid-19 cases begin reported, as opposed to our community that currently has no cases (which now has been revised to have one). As we have seen what happened in Blaine County, Idaho, a rural county with a population of 21,000, with the highest number of confirmed cases in Idaho at 17 as I write this, subjecting small communities to an influx of external visitors is dangerous for all involved. Sincerely, Ken Hart, President

Mayor Hill stated there was a second letter about this issue, only written stronger, from the Malheur County Health Department.

Retyped motion for the record:

CRUME moved, JUSTUS seconded, **THAT THE CITY COUNCIL AUTHORIZE MARIJUANA DISPENSARIES TO DO CURBSIDE SERVICE IN ONTARIO IN ACCORDANCE WITH THE OLCC TEMPORARY RULE IN ORDER TO MAINTAIN SOCIAL DISTANCING AMONG CUSTOMERS.** Roll call vote: Crume=yes; Rodriguez=no; Palomo=yes; Justus=yes; Capron=yes; Braden=yes; Hill=yes. Motion carried 6/1/0.

BRADEN moved, RODRIGUEZ seconded, **THAT THE CITY COUNCIL AUTHORIZE THE CITY MANAGER TO ISSUE WARNINGS TO OR SUSPEND OR REVOKE THE BUSINESS LICENSE OF ANY MARIJUANA DISPENSARIES THAT VIOLATE THE REQUIREMENTS OF EXECUTIVE ORDER 20-12.** Roll call vote: Crume=no; Rodriguez=yes; Palomo=yes; Justus=yes; Capron=yes; Braden=yes; Hill=yes. Motion carried 6/1/0.

Downtown Project

Betsy Roberts, City Engineer, presented.

CRUME moved, BRADEN seconded, **THAT THE CITY COUNCIL APPROVE AN ADDITIONAL \$4,500 TO CK3 FOR ADDITIONAL DESIGN EFFORTS FOR THE SOUTH OREGON STREET PROJECT.** Roll call vote: Crume=yes; Rodriguez=yes; Palomo=yes; Justus=yes; Capron=yes; Braden=yes; Hill=yes. Motion carried 7/0/0.

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

- Councilor Crume stated this past week the sewer ponds had become smelly again. He spoke with Cliff Leeper about the issue. There were various things that needed to be addressed, but the main suspected cause was due to the build up of the sludge. His concern was the stench in the city. If they waited to use the budgeted money for the project, which would not be until July, he didn't believe they were doing justice to the community. He wanted to look into the option of maybe moving that project to an earlier start date.

Cliff Leeper, Public Works Director, added that this issue had been building for over 25 years. A requirement for the new NPDES permit was the completion of a sludge survey. The sooner the sludge was removed from the system, the better the treatment process. It would be quite the process to remove the sludge. He wasn't sure if the \$2.3M budgeted would even cover the entire project.

Consensus from the Council to authorize the City Manager and Public Works Department to begin the process for the project now.

- Councilor Capron stated he had been receiving calls from members of the community stating their businesses had been shut down but others were not. People didn't appear to be taking this as serious as they should. Was there going to be any reports made by the city to the state indicating who was not abiding by the shut down order.

Mr. Brown stated reports like that should be given to the city, through the Police Department. The businesses that were required to shut down were ones that had personal touch/contact with patrons. He would ask to have those reports filed with the city.

Councilor Capron stated most were taking it seriously, but others were treating it like a joke.

Councilor Justus stated they needed to have a procedure for reporting. It didn't matter what the way it was done, email, telephone call, etc. If it was one of the larger stores and there was not a six-foot social space, then they had to be able to contact that business and tell them it had to be complied with. They were there to protect public health, and they needed a policy and procedure to do that.

- Councilor Crume thanked staff for all their work over the past few weeks, with all the rules and regulations changing daily.
- Mayor Hill asked for an update on the Airport.

Mr. Brown stated the fiber was going out there. The contractors were allowed to operate in an open space. The Airport was currently still able to remain open and were watching for any change in direction from the State of Oregon Airport Authority and the FAA. The fiber installer was asked for protocols for sanitation procedures for their employees before they began work.

- Gus Young, Burnt River, stated in moving forward on the ruling that the Council made regarding working together and moving forward, there was going to be some traffic problems. He needed direction on who to work with on that issue – the City Manager? If they could work together with everyone from the start, they'd avoid knocking heads.

Shawn McKay, Burnt River, asked if they were moving to a model of mandating curbside delivery during this time, or where the stores being given the option to provide that service? OLCC rules gave the option to allow for curbside delivery when it didn't disrupt other neighboring businesses or traffic, via foot or vehicle, in any area. The city gave the option to comply or follow suit with those rules, so was the city expecting to see the implementation of that option, or was the city offering that as an additional solution?

Councilor Justus thought if the City Manager were to distribute a synopsis of the expectations to ALL the shop owners, it would be clear and concise and without question of the expectations.

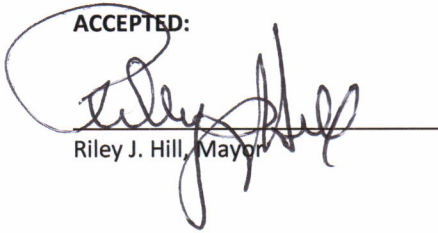
Mr. McKay stated he was asking because this curbside delivery went against all their POS system, and all the rules and regulations they were governed by. These were major operational changes, how they organized and trained staff, how they took orders, etc., so if there was the expectation, he wanted to know that.

Councilor Crume stated his understanding was that this was providing an additional option, not a mandatory requirement.

ADJOURN

CRUME moved, JUSTUS seconded, **THAT THE MEETING BE ADJOURNED**. Roll call vote: Crume-yes; Rodriguez-yes; Palomo-yes; Justus-yes; Capron-yes; Braden-yes; Hill-yes. Motion carried 7/0/0.

ACCEPTED:


Riley J. Hill, Mayor

ATTEST


Tori Barnett, MMC, City Recorder