

**MINUTES**  
**UMATILLA COUNTY BOARD OF COMMISSIONERS**  
Meeting of September 22, 2015  
9:00 a.m., Room 130, Umatilla County Courthouse  
Pendleton, Oregon

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**Commissioners Present:** Chair George Murdock, Vice-Chair Larry Givens and Commissioner Bill Elfering

**County Counsel:** Doug Olsen

**Members and Guests Present:** Tamra Mabbott, Planning Director; Undersheriff Jim Littlefield, UCSO

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**CALL TO ORDER**

The meeting was called to order at 9:00 a.m. Chair George Murdock welcomed all and reminded those present that the meeting was a public forum. It is being recorded and minutes will be taken. He read the statement about the land use hearing into the record and stated the purpose of the meeting is for Text Amendment #T-15-062 filed by Umatilla County. If persons wish to speak before the Board of Commissioners, please identify yourself and state where you live for the record.

He asked for any abstentions. None were heard.

He asked for a staff report from Tamra Mabbott, Planning Director. This legislative action will amend UCDO Section 152.003 Definitions to define medical marijuana and recreational marijuana and related land uses. She introduced Undersheriff Jim Littlefield, a member of the Marijuana Committee, and present to answer law enforcement questions.

Ms. Mabbott referred to the packet submitted to the Planning Commission in April. Land Use Code amendments were different than those submitted in July due to HB 3400A passage. She noted differences as compared to the April packet to the July information. A hearing held in July included the final version of HB 3400A. Most significant was an opt-out position related to medical and recreational marijuana for counties who voted by over 55% – Umatilla County’s vote was about 62% opposed and 68% opposed in the rural part of the county. Chair Murdock asked about Weston’s vote. Doug Olsen said under the law, the cities’ option were based on the countywide vote.

Ms. Mabbott then referred to Board action taken in August that no marijuana business will be allowed in the county area, but state law allows private use and private growing. Each household is allowed 4 plants – the county’s action (by land use ordinance) will not affect that private right in any way. This was the law passed in July. Marijuana is a crop that is allowed to be grown in a farm zone. This definition took effect with the passage of HB3400A. It made the differentiation of selling marijuana for profit. In Umatilla County, Exclusive Farm Use, a use is allowed outright and a permit is not required. However, the moratorium makes it illegal on commercial businesses. She gave examples of commercial growers needing to file with the OLCC with their requirements about compatibility with local regulatory agencies. The moratorium states uses disallowed, a better approach based on state law and County definitions.

Ms. Mabbott turned to definitions under the County Code. This gives the County control and how to approach issues. She then went on to Exclusive Farm Use zone definition and what is included and excluded. Not permitted – new dwelling on some properties but not able to count marijuana crop in the financial amount test. Commissioner Givens asked about definition explanation to Ms. Mabbott and Mr. Olsen -- if somebody files an appeal of marijuana crop – is definition complete enough to not allow marijuana. Mr. Olsen responded the moratorium specifically exempted out a marijuana producer – the moratorium includes anyone growing marijuana for recreational purposes – the moratorium prevents that. Now, the medical marijuana portion is under the definition based on state law – not an allowed use in farm zone. Commissioner Givens wanted assurance the County is on solid ground to preclude any appeal. Mr. Olsen advised state law and the County drafted definitions to match the state. Ms. Mabbott felt it is simple and straightforward. Mr. Olsen added all case law in Oregon shows the federal law will exempt state law – if it is prohibited by federal law, state law cannot allow. It is not fool proof at this time because it has not been tested yet in appellate court.

Ms. Mabbott went on to list all the other zones which includes allowable uses and purpose, and uses permitted outright (no permit required) – under definition, farm use is allowed except livestock yards, hogs and fur bearing animals and now included as an exception is marijuana grows in all other zones. Each zone sets out the prohibition of marijuana growing. No individual rights are taken away.

One question that has come up is about medical marijuana. No dispensaries are permitted in Umatilla County. OLCC oversees recreational marijuana and the OHA oversees medical marijuana. As it stands now and in the near future, regulations will be in place by each agency. If there is a medical marijuana grow site, the OHA will not tell the County or UCSO – so we do not know how many sites are in the County. Investigation could include identifying valid grow cards when a site is discovered by code or law enforcement. There may be grandfathering allowed for having more plants than allowed, but it is unknown how that would work. If a third-party grower is allowed 4 plants for each, up to 16 plants at one site, selling is not allowed. Mr. Olsen advised one could find out when the state licensed the facility and this would identify a third-party grower and under what authority. Commissioner Givens noted this could be a time-consuming and expensive task to investigate. Undersheriff Littlefield also noted private allowances and for what purpose and cannot be visible by the public. Ms. Mabbott felt the message to the public by land use and ordinances is, if you are commercially, it will not be allowed in the county.

Commissioner Elfering asked about data on how much marijuana is consumed by an individual? Also, does one plant take care of one person's needs? Littlefield said there are a lot of variables – it is very subjective. In Measure 91 you can get up to 1 oz. and a person can give an ounce to someone. Ms. Mabbott noted debate at state level was held. Marijuana is very potent now compared to many years ago. She noted marijuana is big business in southern Oregon –Jackson and Josephine Counties. She toured two grow facilities for medical marijuana. One grower has a long list of patients and has 24 plants. They also visited another site for people with grow cards. After 1/1/16, that site plans to sell marijuana for recreational purposes. Discussion included plant size, outdoor vs. indoor, greenhouses. In Southern Oregon it is out in the middle of farm ground. Those buildings will be allowed as farm value as a production crop there. Commissioner Givens talked about commercial operations with advantages for farm deduction expenses and cash income that is never taxed – so tax coming to the County is not likely.

Chair Murdock thanked Ms. Mabbott for her report and commended her diligence to the process.

Chair Murdock asked for any rebuttal to Ms. Mabbott's testimony. None was heard.

Undersheriff Littlefield came to the podium to speak as a proponent. He echoed Ms. Mabbott's comments. He served as committee member for several months. Issues were debated at length. Pros and

cons were discussed and it was a general consensus for Umatilla County to continue the moratorium; it was the right thing to do for the County. Citizens initially voted against medical marijuana and again two years ago. The committee agreed on the moratorium. He noted differences and how encroaching or overlapping medical vs. recreational marijuana will be. He listed many counties and cities in Oregon – a long list – have taken the same action of opt-out as Umatilla County as of 8/28/15, and the list continues to grow. The effects will continue to be assessed – like pain management and also monitoring OLCC and OHA actions.

Commissioner Elfering asked since passage of law if there has been any spike in the number of complaints? Littlefield noted not necessarily a spike, but there are complaints about the odor. UCSO investigates as time permits. He also noted there are complaints about use in public, which is not allowed but people still do it. Monitoring continues.

Chair Murdock asked for any other proponents. None were heard. If asked for comments from any from public agencies? None were heard. He closed the hearing at 9:47 a.m.

**In the matter of Land Use Regulation of Marijuana within Umatilla County, Commissioner Elfering moved to adopt Ordinance No. 2015-07. Seconded by Commissioner Givens. Carried, 3-0.**

Chair Murdock noted for the record there is some concern about particular legislation that represents a diversion from practice. He has seen rural vs. populated values and feels it is a good option of the ability to voice rural values and not pushing them on more populated places and vice versa.

The meeting adjourned at 9:50 a.m.

Respectfully submitted,

*Melinda Slatt*

Executive Secretary  
Umatilla County Board of Commissioners