

**City of Benton City
Regular Council Meeting Minutes
April 19th, 2016**

Councilmember Stade: Mayor, I'd like to make a motion. (00:00:38*Audio recording begins)

Mayor Lehman: I haven't called the meeting to order.

CALL TO ORDER – Mayor Lehman called the April 19th, 2016 Regular Council meeting to order at 7:07 p.m. at the Benton City Community Center (00:01:00*)

Councilmember Stade: Mayor, I'd like to make a motion. Do you acknowledge me to make a motion?

Mayor Lehman: No, because it's not ready to have a motion yet. First...

Councilmember Stade: Mayor, I oppose this meeting even taking place. It violates everybody being able to hear and at the High School, when we had this many people come for a controversial issue, there was, it was violating fire codes if we let everybody in. People were in the lobby; they couldn't hear, so we wrote a sign on the door that said "Moved to the Performing Arts Center". Wade Haun says he's willing to have it go to the Performing Arts Center if we do not move there, then we are saying we don't have a location when we know that we do, and you've been informed; and I want all sides to be able to be represented, to hear and to speak, and if you don't, you're violating the Open Meeting Act where people can hear and speak; if you cannot hear, you won't know what to say, and if you're, if you're not able to say, you know, get in here, you can't respond. We do have an alternative location.

Mayor Lehman: Mr. Kerr, could you please give your opinion on that?

Mr. Kerr: Well, I can. Council has control of its own meetings, so you can determine when and where you have your meetings. We established our regular meetings by ordinance. Your ordinance specifically provides that this is the date, this is the time for the meeting. Just because there is not capacity to be able to have all those that wish to participate be in the room, does not make it less than an open meeting, or a public meeting. We are constrained by the, by the, by the capacity, by the fire code allows those that can actually, physically be in the room, to be in the room; City has the capacity to be able to adjourn the meeting, to adjourn it to a different place, or and a different time. There is a process that we go thru to do that, normally it would be postponed to a different date so it allows all those who wish to be able to participate to be identified of the new date and time. It's unfair sometimes to those people that are prepared to present their material at this meeting but, like I said, Council has by majority vote, the capacity to either conduct the meeting as they are here; they are within a legal meeting with a legal, open public meeting or they can adjourn it to another place or another place and time.

Councilmember Stade: So I didn't say completely now that I know what he, now that I know what the attorney says, I move to adjourn the meeting and move it to the Performing Arts Center where all may be able to hear and speak, today. And it may not, it won't happen, because it will take time for the City Clerk to set up and then those that are already here and prepared will be able to speak and we that are prepared for this will be able to speak in here as well.

Councilmember Lettau: I second.

MOTION #1- C. L. Stade moved and C. M. Lettau seconded to adjourn the April 19th, 2016 Regular Council Meeting at the Benton City Community Center and move it to the Performing Arts Center at the Ki-Be High School

ROLL CALL VOTE #1- C. L. Stade, C. M. Lettau – YEAS; C. D. Sandretto, C. V. Coates, C. J. Mokler – NAYS. Motion failed.

PRESENTATION OF THE COLORS – Councilmember Sandretto led the Council and audience in the Pledge of Allegiance. (00:04:37*)

ROLL CALL (00:05:09*)

Council Members Present –

**Lisa Stade
Mary Lettau
Dave Sandretto
Vanessa Coates**

City Staff Present –

**Stephanie Haug, City Clerk/Treasurer
Paula Kauer, General Clerk
Kyle Kurth, City Maintenance Foreman
John G. Brown, Jr., Code Enforcement**

Jake Mokler
Other Professionals Present –
Alan Rainey, City Engineer, Spink Engineering LLC
Lee Kerr, City Attorney, Kerr Law Group
Other Professionals Absent –
Lt. Steve Caughey, Benton County Sheriff's Office

READING AND APPROVAL OF MINUTES (00:05:29*) - REGULAR MEETING APRIL 5TH, 2016

Councilmember Lettau: Madam Mayor, I make a motion to approve the Minutes Meeting, April 5th, 2016 as written.

Councilmember Sandretto: Second.

MOTION #2- C. M. Lettau moved and C. D. Sandretto seconded to approve the Minutes of the April 5th, 2016 Regular Council Meeting as presented.

VOICE VOTE #2- C. V. Coates, C. L. Stade, C. J. Mokler, C. M. Lettau, C. D. Sandretto
ALL YEAS. Motion carried.

OPENING REMARKS, "HOUSEKEEPING" ITEMS, EXECUTIVE SESSION REQUESTS, ETC. (00:06:03*)

1. Liquor License Renewal – Multiple

Ms. Haug – Rules of the order of this meeting

APPROVAL OF AGENDA (00:08:17*)

Councilmember Coates: Madam Mayor, I move to approve the Agenda.

Councilmember Sandretto: I second it.

MOTION #3- C. V. Coates moved and C. D. Sandretto seconded to approve the Agenda for the April 19th, 2016 Regular Council Meeting as presented.

VOICE VOTE #3- C. V. Coates, C. L. Stade, C. M. Lettau, C. D. Sandretto, C. J. Mokler
ALL YEAS. Motion carried.

VISITOR COMMENTS (00:09:40*)

Heather Duncan, Benton City Chamber of Commerce - Benton City Spring Opener Car & Bike Show – April 30th – Support youth activities – *Chamber monthly luncheon* – Earth Day – Derrick Dietrich – Serving Community – Wild Boar Grill – Opens 11:30 – Lunch at 12:00 - Please RSVP

REGULAR REPORTS

1. SHERIFF'S REPORT (00:11:11*)

Lt. Steve Caughey, Benton County Sheriff's Office - In packets - March 2016 - 338 Calls for Service vs. 284 in 2015 -33 Case Offenses vs. 29 in 2015 - 48 Infraction Offenses were issued

2. STAFF REPORTS (00:12:53*)

Stephanie Haug, City Clerk/Treasurer - In packets - Code Report - Treasurer Report

3. ENGINEER REPORT (00:13:05*)

Alan Rainey, City Engineer, Spink Engineering LLC – Finishing up sewer cleaning video project – Report back within six weeks – Well #5 – Six to eight weeks complete

4. COUNCIL COMMITTEE REPORTS (00:13:39*)

Councilmember Sandretto – PAC Meeting at Pasco – Federal money for highway improvements – Talk with Alan after roundabout is complete

ITEMS FOR APPROVAL:

1. SECOND READING – ORDINANCE 955 – AMENDING CHAPTER 12.05 “SIDEWALK CONSTRUCTION” (00:14:29*)

Councilmember Lettau: Madam Mayor, I move to approve, on its Second Reading, the corrected copy of Ordinance 955 of the City of Benton City, Washington, amending B.C.M.C. Chapter 12.05 “Sidewalk Construction, Maintenance and Repair”.

Councilmember Sandretto: I second.

MOTION #4- C. M. Lettau moved and C. D. Sandretto seconded to approve, on its Second Reading, the corrected copy of Ordinance 955 of the City of Benton City, Washington, amending B.C.M.C. Chapter 12.05 “Sidewalk Construction, Maintenance and Repair”.

VOICE VOTE #4- C. J. Mokler, C. D. Sandretto, C. V. Coates, C. M. Lettau, C. L. Stade
ALL YEAS. Motion carried.

2. SECOND READING – ORDINANCE 956 – MARIJUANA ESTABLISHMENT REGULATIONS (00:15:11*)

Councilmember Coates: Madam Mayor, I move to approve on its Second Reading, Ordinance 9556 of the City of Benton City, Washington, creating a new section 5.12.050 “Marijuana Businesses”; amending Section 20.33.030 “Conditional Uses” in C-1 commercial for Retail Recreational Marijuana; and amending Section 20.36.030 “Conditional Uses” in IL, Industrial, Light District for Manufacturing and Production of Recreational Marijuana; and creating a new Section 20.60.290 “Marijuana Control Regulations”.

Councilmember Mokler: Is that possibly, excuse me, Madam Mayor, is that possibly a typo, 9556, it should be 956?

Councilmember Coates: 956

Mayor Lehman: Okay, I’m going to open the floor for discussion, but I kind of want to set the tone; we’re here tonight to look at regulations, to decide whether or not...

Councilmember Lettau: Madam Mayor, we need a second on that motion before we have a discussion.

Mr. Kerr: To make sure we have it before the Council...

Mayor Lehman: Before? Oh, okay. Is there a second?

Councilmember Sandretto: I’ll second it.

MOTION #5- C. V. Coates moved and C. D. Sandretto seconded to approve, on its Second Reading, Ordinance 956 of the City of Benton City, Washington, creating a new Section 5.12.050 “Marijuana Businesses”; amending Section 20.33.030 “Conditional Uses” in C-1 Commercial for Retail Recreational Marijuana; and creating a new Section 20.60.290 “Marijuana Control Regulations”.

Mayor Lehman: All right, thank you. What I want to do is set the tone. We’re here to determine whether or not we want to regulate marijuana. We’re not here to locate a marijuana shop. That is not what is on the Agenda. We’re adopting regulations in order to try to control the use of marijuana in our town, so I would like you to, please keep your comments towards the regulatory aspects of this, as opposed to siting of a marijuana shop and where it’s going to go. This is not, this is not voting to lift the moratorium either, so this is to develop our regulations and a regulatory base should we, at a future date, decide to have a marijuana establishment. These laws, this regulation is quite stringent and it goes over and above what the State Law does in order to protect the citizens. We have instituted a Conditional Use Permit process and so that will give the City more control than just having it (inaudible) where the State Law says it has to be, so that’s how I would like you to proceed, and I don’t want to get in arguments about siting a marijuana shop at this point.

Councilmember Lettau: Madam Mayor, I have a comment. My understanding is if we pass this tonight, within five days, a marijuana store can be located in our town, so if we vote yes on this tonight, it's a done deal; if we vote no on this tonight, the next meeting we can put the moratorium, or continue the moratorium.

Councilmember Sandretto: If we vote yes on this tonight, they still have to permit or request a permit, they have to become before the City Council and we have to approve that Conditional Use Permit, before they can have a store here, so it would be at least two weeks before a permit could come before us and it may be longer than that, because we have, based on these regulations, the right to put more restrictions on that particular store, so our choices right now, I want to address this, our choices right now are to go for an open ban, in which case, eventually, the State Supreme Court is going to overrule that. Right now, we have the choice to put regulations in play where we have control; where we can set the tone, where we put the store, why it's there, not, oh, everybody can put it wherever they want in a Commercial zone. We've tried to limit that. The Planning Commission did a great job at that. A lot of people are very confused as to where stores can go. There's only three locations in this City. Production has only the Industrial locations, yes, but we've also got in that ordinance that they can, they have to be inside a building with filtration. I seen so many emails about the smell concerns. It's not a concern. The Planning Commission ruled that out. So please when you're thinking about this, think about the fact that this is our chance to control it versus get stuck with what the state gives us in the future.

Mr. Kerr: Just to clarify, it's going to be a little longer than a couple of weeks. The process that we have is that the Council affirmably votes and approves it tonight; it then becomes published and is effective five days after its publication, so we've got at least until next Monday before the publication, and we've five days thereafter. At that time, anybody that wishes to make an application for a Conditional Use Permit will have to come and will have to make an application for, here, for Conditional Use, have to demonstrate that they qualify, and then it will go to the Planning Commission for a hearing for identifying specifically the conditions that Councilman addressed, and once they conduct that, make their findings so it will come to City Council, and then City Council can finally have the ultimate determination, so it's, it's going to take, if this is approved, a little longer, it's going to be a fairly complete process.

Councilmember Sandretto: I was just making the point, because I keep hearing that everybody's concerned it's going to happen in their neighborhood tonight. It's going to be tomorrow morning; we're going open a store. It's going to be tomorrow morning, there's going to be an increase in crime. None of these things are true. I've saw statistics; I've read websites; I've talked to the City of Prosser; I've talked to their records people. I'm sorry. I worked in law enforcement for 12.5 years as dispatcher and a jailer. I have been a firefighter in our community for twenty plus years. I've been to many of your homes. It is not going to be the evil that we see. Right now, what we see is it's here. The State has already approved it. Our citizens are going to Prosser to buy it. Our medical patients are going to Prosser to buy it. Pretty soon, all the medical patients in the Tri-Cities are going to Prosser to buy it. We have a chance to regulate it. We have a chance to garner something from it. It may be horrible and many of you may look at it as a basis of morality and say that it is wrong. I, for one, don't use marijuana, I don't believe in it. But I'm going to vote yes on this because it's not about morality, in this particular case. It's not about your individual belief system. It's about what the State is ^{going} ~~to~~ shove down our throat eventually, and it's about what our citizens deserve. Our elderly don't need to be going to Prosser. Our people with chronic migraines don't be needing to go to Prosser. They should be able to purchase that here in our town.

Mayor Lehman: And right now the options are, we have, we have plenty of drug dealers here bringing it in. We have gangs, we have the cartels that are supplying the gangs, and it's not just marijuana that they're getting. They're getting cocaine, they're getting heroin, they're getting crack, they're getting angel dust and whatever kind of chemical cocktail they can come up with that is potentially lethal, and for me, the intent of this law is to stop that. I want to stop that, and the first step is to regulate it. I don't want those drug dealers here and I'm going to do what it takes to get rid of them, and regulating is one

of the first steps we have to take in order to get rid of them. If we don't regulate it, then it's just going to go on like it is and thank goodness for Washington State Patrol, who's here in the room with us, because they've had a undercover sting operation going on for the last three years and because of that, they've gotten rid of quite a few of them here but even in their own words "if we're not diligent, they're just going to come back". One replaced with the other one. The only way we can do this is to financially cut them out of the deal and this is the first way to go about it. *** Council Discussion ***

****Citizen Comments ****

Jordan Sillito, 1310 11th St., Benton City – Pro-Marijuana business

Brenda Trammell, 42901 N. River Rd., Benton City – Pro-Marijuana business

Steve Rouse, 36107 N. Demoss Rd., Benton City – Anti-Marijuana business

Mark Kastl, 1103 E. Corral Creek Rd., Benton City – Chose not to speak

Lynn Leavitt, 29904 N. 113 PRNE, Benton City – Anti-Marijuana business

Sonya Brown, 1541 13th St., Benton City – Anti-marijuana business

Nicole Bragg, 1501 12th St., Benton City – Anti-marijuana business

Jim Von Tungeln, 700 Saturn Ave., Benton City – Anti-marijuana business

Douglas Gale, 36605 N. Demoss Rd., Benton City – Anti-marijuana business

David Bragg, 1501 12th St., Benton City – Anti-marijuana business

Curt Cannon, 1004 Angeline Blvd., Benton City – No longer in attendance

Heather Duncan, 2502 W. Dusty Lane, Benton City - Neutral

Debbie Galat, (Unknown address) – Anti-marijuana business

Joe Lloyd, 40602 N. Highland, Benton City – Anti-marijuana business

Cynthia Tobin, 5704 E. 468 PRNE, Benton City – Pro-marijuana business

Jaime Torres, 1514 W. Sylvester, Pasco – Pro-marijuana business

Javier Madrigal, 811 W. Nixon, Pasco – Pro-marijuana business

Stacy Quick, 821 Fern Ct., W. Richland – Pro-marijuana business

Esther Shorthill, 407 3rd St. #18, Benton City – No longer in attendance

<<< Estimated Ten Minute Break – 8:10 p.m. to 8:20 p.m. >>>

Sherri Page, 314 6th St., Benton City – No longer in attendance

Nila Hodgson, 48602 N. 108 PRNW, Benton City – Anti-marijuana business

Gabriel Navarro, 4525 W. 9th Ave., Kennewick – No longer in attendance

Becca Long - 418 W. 8th St., Kennewick – Pro-marijuana business

Jeanne Wallace, 900 7th St., Benton City – Pro-marijuana business

Mike Null, 400 14th St. #7 Benton City – No longer in attendance

Carolyn Mason, 2105 E. Mason PRNE, Benton City – No longer in attendance

Connie Meredith, 913 13th St., Benton City – Anti-marijuana business

Gary Lyon, 57803 N. Shuler Rd., Benton City – No longer in attendance

Rena McKenzie, 415 Birch Ct., Benton City – Anti-marijuana business

Joshua Daymon, 1825 11th St., Benton City – No longer in attendance

Chelsea Wright, 614 9th St., Benton City – Pro-marijuana business
Carol Martin, 803 Babs Ave., Benton City – Asked to be skipped
Peggy Higham, 717 12th St., Benton City – Anti-marijuana business
Donald Hunter, 315 7th St., Benton City – Pro-marijuana business
Holly Prior, 65207 N. SR225, Benton City – Anti-marijuana business
Candace Crandall, 68403 N. SR225, Benton City – Anti-marijuana business
Tynan Bender, 7604 E. Pendleton Rd., Benton City – Pro-marijuana business
Leroy Peters, 23504 110 PRNE, Benton City – Anti-marijuana business
Victoria Burt, 20948 E. Ruppert Rd., Benton City – Undecided
Michelle McLeod, 1201 Fig Ave., Benton City – Pro-marijuana business
Erin Fuller, 45106 N. 280 PRNE, Benton City – Anti-marijuana business
Dyana Alcazar, 908 Babs Ave., Benton City – Anti-marijuana business
Earl Norman, 66604 N. SR225, Benton City – Anti-marijuana business
Don Arbogast, 29712 E. Kennedy Rd., Benton City – Anti-marijuana business
Bob Brown, Benton City – Pro-marijuana business
Brad Klippert, 2301 S. Ranier St., Kennewick – Anti-marijuana business
Doug Moser, 17305 E. Ruppert Rd., Benton City – Anti-marijuana business

*** Council Discussion ***

Councilmember Mokler: I know we have the motion on the table for Ordinance 956; I would like to propose to the Council that we table this motion, extend the moratorium until this can go to a vote of a general ballot to the public.

Mayor Lehman: I'm sorry, but that's not possible. It's not allowed for this to go to a general ballot, because that's the law. It has to go to, the City Council has the authority.

Councilmember Mokler: So we can't do an advisory vote to see what the public really wants; the citizens of Benton City, who actually were able to vote on it.

Mr. Kerr : If I may, both of you are right. This matter's already gone to the ballot, and the voters of the State of Washington have answered. Advisory ballots, however, are appropriate, if the City Council feels that they need the advice of their citizens through a ballot, they can do so. There is a number of steps we'd have to go through to be able to do so. One, of course, is that we would have to identify what exactly we're going to do in the interim because the first opportunity, first to be able to get it on ballot would August, and the more probable would be the November general and to do that, there's a number of things that would have fall into place. To maintain the moratorium during that pre time until the ballot results are known, then we would, as indicated earlier, we'd have to have a action at the next City Council meeting to continue the moratorium to extend it and followed by another Public Hearing on the moratorium issue, but the advisory ballot is permissible (*inaudible*) to determine whether or not we're going to have a legalized marijuana as such is not so, both of you are correct in that regard.

Councilmember Stade: I'd like to make a motion...regarding 956...

Mayor Lehman: We have, we have a motion on the table...

Councilmember Stade: Okay, so regarding 956 with an addendum, that we extend the moratorium and request procedures as directed by our attorney to find out advisory ballots, find out from our citizens what they want, our community.

Mr. Kerr: As a parliamentary matter, we have a motion to table, which is appropriate, if the motion to table has a second, then that becomes the primary issue on the Council's table.

Councilmember Lettau: I second that motion.

Councilmember Mokler: Do we have to clear the original reading first?

Mr. Kerr: No. What it boils down to right now, is we had a motion for Second Reading; it was surpassed, if you will, by a motion to table. If the motion to table gets a second and passes, then that'll be, that will, that will take the action, and the Second Reading would be postponed. We still have First Reading, opportunity for Council to have Second Reading either after the advisory ballot or sometime in between would still be possibility.

Councilmember Mokler: I make a motion to table the Ordinance 956 Second Reading until we can obtain a vote of the public by General Election ballot.

Councilmember Lettau: I second.

MOTION #6- C. J. Mokler moved and C. M. Lettau seconded to table Ordinance 956 in its Second Reading until an advisory vote is put before the citizens of the City of Benton City by General Election ballot.

VOICE VOTE #6- C. L. Stade, C. M. Lettau, C. J. Mokler – **YEAS**; C. D. Sandretto, C. V. Coates – **NAYS**. Motion carried.

<<< Five minute recess to clear the building >>>
(02:22:44*)

3. RESOLUTION #2016-07 – AUTHORIZING MAYOR TO SIGN PERSONAL SERVICES CONTRACT – ONEZA & ASSOCIATES (02:29:30*)

Ms. Haug – Overview of Resolution

Councilmember Coates: Madam Mayor, I move to approve Resolution #2016-07, authorizing the Mayor of the City of Benton City to sign the Personal Services Contract between the City of Benton City and Oneza & Associates.

Councilmember Mokler: Second.

MOTION #7- C. V. Coates moved and C. J. Mokler seconded to approve Resolution #2016-07, authorizing the Mayor of the City of Benton City, Washington, to sign the Personal Services Contract between the City of Benton City and Oneza & Associates.

ROLL CALL VOTE #7- C. M. Lettau, C. D. Sandretto, C. J. Mokler, C. L. Stade, C. V. Coates **ALL YEAS**. Motion carried.

4. WELL NO. 5 – CHANGE ORDER #1 (02:32:04*)

Councilmember Lettau: Madam Mayor, I move to approve Well #5 – Wellhouse and Site Work Change Order #1 for \$1,542.57 plus WA State Sales Tax.

Councilmember Coates: I second.

MOTION #8- C. M. Lettau moved and C. V. Coates seconded to approve Well #5 – Wellhouse and Site Work Change Order #1 for \$1,542.57 plus WA State Sales Tax.

ROLL CALL VOTE #8- C. J. Mokler, C. D. Sandretto, C. L. Stade, C. V. Coates, C. M. Lettau **ALL YEAS**. Motion carried.

5. VOUCHERS (02:32:43*)

Councilmember Lettau: Madam Mayor, I move to approve payment of Claim check numbers 27575 through 27619 with EFTs as listed in the amount of \$134,454.85 and Payroll checks numbers 27536 through 27546 with EFTs as listed in the amount of \$66,782.68 this 19th day of April, 2016.

Councilmember Coates: Second.

MOTION #9– C. M. Lettau moved and C. V. Coates seconded for the City Council of the City of Benton City, Washington, to hereby authorize payment of Claim Check Numbers 27575 through 7619 with EFTs as listed in the amount of 134,454.85 & Payroll check numbers 27536 through 27546 with EFTs as listed in the amount of \$66,762.68 this 19th day of April, 2016.

ROLL CALL VOTE #9–C. D. Sandretto, C. J. Mokler, C. M. Lettau, C. L. Stade, C. V. Coates
ALL YEAS. Motion carried.

ITEMS FOR DISCUSSION (02:33:42*)

1. DNR Land Discussion * Council Discussion *

Claude Oliver – Statement on current agreement

GENERAL COUNCIL COMMENTS – None (02:43:46*)

ADJOURNMENT – Mayor Lehman (02:43:52*)

Councilmember Sandretto: Motion to adjourn this meeting.

Councilmember Coates: Second.

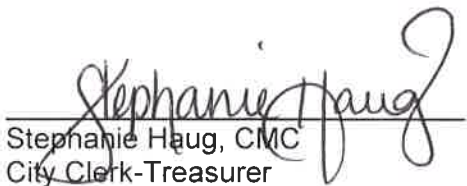
MOTION #10– C. D. Sandretto moved and C. V. Coates seconded to adjourn the April 19th, 2016 Regular Council Meeting 9:50 p.m. (02:44:04*)

VOICE VOTE #10–C. V. Coates, C. L. Stade, C. D. Sandretto, C. M. Lettau, C. J. Mokler
ALL YEAS. Motion carried.

Meeting adjourned at 9:50 p.m. (02:44:06*Audio recording ends)



Linda Lehman
Mayor, City of Benton City



Stephanie Haug, CMC
City Clerk-Treasurer

Date: 5/3/16