1. **CALL REGULAR MEETING TO ORDER:** The regular session of the City Council was called to order at 7:02 p.m. by Mayor Otte.

2. **FLAG SALUTE:** Mayor Otte led the salute to the flag.

3. **ROLL CALL:**
   - **COUNCIL:**
     - Andrew Otte, Mayor
     - Kelly Grassman, Council President
     - Darren Beyer, Councilor
     - Don Fleck, Incoming Councilor
     - Ray Eder, Councilor
     - Karl Bischoff, Councilor
   - **STAFF:**
     - Eileen Stein, City Administrator
     - Justin Hogue, Assistant to the City Administrator
     - Mike Healy, Police Chief
     - Dan Bernt, PW Superintendent
     - Carrie Alexandria Caster, Library Director
     - Chaunee Seifried, Finance Director

   - **GUESTS:**
     - Lauren Sommers, City Attorney

   - **ABSENT:**
     - Teresa Kintz, Outgoing Councilor

4. **PRESENTATIONS, GUESTS, AND ANNOUNCEMENTS:**
   - Mayor Otte recognized outgoing Councilor Teresa Kintz, commenting on her six years of service in the role of city councilor for the city of Mt. Angel. He thanked Councilor Kintz for her service, dedication, and care for the city.

   Marion County Commissioner Sam Brentano thanked the Council for inviting him to the meeting and spoke of his history and past association with the city of Mt. Angel. He expressed his admiration for the Council’s civic mindedness and care for the city. He then proceeded to administer the oath of office to Andrew Otte as Mayor, and Ray Eder, Karl Bischoff, and Don Fleck as City Councilors.

   The Council held a vote, by ballot, for Council President and Mayor Otte announced that Councilor Grassman was elected.

5. **APPEARANCE OF INTERESTED CITIZENS:** None

6. **REVIEW CORRESPONDENCE:** None
7. **REVIEW WRITTEN STAFF REPORTS:**

   Councilor Eder asked City Administrator Stein to talk about the Aquifer Storage and Recovery (ASR) project. Administrator Stein explained that the City communicated to the City of Silverton that the City of Mt. Angel held a neutral position on the ASR project. She stated that she had conveyed to Silverton Councilor Scott Walker that Mt. Angel had supported the ASR project in the past with a resolution of support, but the project was not a high priority for the city.

   Mayor Otte asked if the high school project was continuing to proceed smoothly. Administrator Stein confirmed that it was and stated that she recently met with Superintendent Troy Stoops who conveyed to her that everything was on track and progressing well. Councilor Fleck recognized the Library for all the activity going on lately within that department and for their hard work.

8. **REVIEW ACCOUNTS PAYABLE:** None

9. **CONSENT AGENDA:**
   
a. Approve Regular Meeting Minutes for December 1, 2014.

Councilor Beyer moved to approve the Consent Agenda; Councilor Grassman seconded.

   Beyer: AYE  
   Bischoff: AYE  
   Eder: AYE  
   Otte: AYE

   Fleck: AYE  
   Grassman: AYE  
   Wall: AYE

   The motion passed unanimously. There was discussion and recognition that this was the first vote cast by the Mayor under the new Mt. Angel Charter of 2014.

10. **UNFINISHED BUSINESS:** None

11. **NEW BUSINESS:**
   
a. Appointment of City Manager and City Attorney pursuant to the Mt. Angel Charter of 2014

   Councilor Wall moved to appoint Eileen Stein as City Manager and the legal firm of Local Government Law Group/Speer Hoyt (Christy Monson, Principal) as City Attorney for the City of Mt. Angel; Councilor Fleck seconded.

   Beyer: AYE  
   Bischoff: AYE  
   Eder: AYE  
   Otte: AYE

   Fleck: AYE  
   Grassman: AYE  
   Wall: AYE

   The motion passed unanimously.

   b. Appointment of Design Review Committee Member
Mayor Otte announced that there is a well-respected member of the community, Philip Waibel, who has volunteered for service on the Design Review Board and confirmed that this will fill the remaining vacancy on the board.

Councilor Bischoff moved to appoint Philip Waibel to the Design Review Board for the remainder of a two (2) year term ending June 30, 2016; Councilor Beyer seconded.

Beyer: AYE
Bischoff: AYE
Eder: AYE
Otte: AYE
Fleck: AYE
Grassman: AYE
Wall: AYE

The motion passed unanimously.

c.  Initiation of Legislative Code Amendment – Medical Marijuana Dispensaries

City Manager Stein introduced Lauren Sommers, the City’s legal counsel, who has been providing legal guidance on marijuana related issues affecting the city. Manager Stein then stated that the question before the Council is whether they would be interested in initiating a legislative code amendment with regard to medical marijuana dispensaries. She then reminded the Council that the moratorium on medical marijuana dispensaries adopted last spring, is set to expire April 30th of this year. Manager Stein then stated that without regulations in place, after May 1st, applications for medical marijuana dispensaries will be permitted outright with the only regulatory instrument being the current Development Code. She then informed the Council that if land use regulations are desired, the City Council will need to initiate the code amendment process. She noted that the process will need to be completed by April 30th and that part of the process includes the 45 day notice to the Department of Land Conservation and Development (DLCD) of the date the Planning Commission intends to hold a public hearing. She stated that the hearing can be advertised at the Planning Commission meeting on the 15th of January, during which a workshop can be held so that the Commission can informally discuss what regulations they would like to recommend to the Council.

Manager Stein stated the options for regulating medical marijuana dispensaries from within the staff report. She explained option one (1) was to put land use regulations in place, option two (2) and three (3) were to regulate from a licensing standpoint or permitting process.

Manager Stein then conveyed her perception of the Council’s desire, derived from the recently adopted taxation ordinance, which was to prohibit dispensaries outright. She then communicated that a simple way to achieve the direction expressed by the Council is to require businesses to cooperate with state and federal law, which could be managed through the adoption of a business license for all businesses located within the city. She noted that this could be controversial as Mt. Angel businesses are not accustomed to obtaining such a license. She added that this would create an administrative workload for City staff but could be implemented. Manager Stein then stated that option (4) in the staff report
would include some combination of the previously mentioned options. She then reiterated that the real question is whether the Council is interested in making a code amendment and allowing medical marijuana dispensaries and under what conditions they should be allowed.

Manager Stein then produced maps demonstrating zoning that could occur under various land use actions to illustrate their impact. City Attorney Sommers then reiterated Manager Stein’s comments regarding the timeliness in passing regulatory measures. She then explained that state law will not allow dispensaries to locate within residential zones, but does allow them to locate in commercial, residential commercial, industrial, and mixed use zones. She explained further that state law restricts dispensaries from locating within 1,000 feet of a school or another dispensary and that the City can choose to add additional buffers, which other cities have done, such as around parks, libraries, and residential zones. Attorney Sommers provided another option, which was to allow dispensaries to locate only within designated zones with special conditions that may include lighting, smell, and security, for example. This would create a requirement to obtain a conditional use permit and secure approval from the Planning Commission. She reiterated that there is a time crunch for adopting such land use regulations due to the required notice to DLCD and public hearing process, but that there are other types of regulatory measures that can be adopted through a regular ordinance process, which do not hold the same time limitations such as business type of regulations or those pertaining to nuisance aspects including security, smell, or hours of operation regulated through a business license. Attorney Sommers explained that what would be helpful for staff is to hear from the Council what kind of regulations the Council is seeking. Manager Stein provided the Council with examples of land use actions adopted and proposed by other Oregon cities. She then gave an overview of the illustrative zoning maps previously provided with the first map demonstrating 1,000 foot buffers surrounding libraries, schools, and parks and the second map including the addition of 1,000 foot buffers surrounding residential and multi-residential zones and remaining areas where a dispensary could locate within general commercial and light industrial zones

Manager Stein indicated that enacting regulatory measures that can be viewed as being too restrictive can increase the risk of a potential challenge. Attorney Sommers explained that state law speaks of a city’s ability to impose reasonable restrictions on dispensaries and, as a result, the more restrictive the land use measures that are in place, such as those regulating dispensaries to only one or two locations within the city, raises the likelihood that someone may challenge the regulations as not being reasonable, whereas, allowing more available locations decreases that risk and provides a city with a valid argument if faced with a challenge.

Councilor Grassman asked if an outright prohibition would be challenged. Attorney Sommers explained that there are cities that have banned dispensaries or have done so by having a business license in place that requires the business to abide by state and federal law, with the latter requirement being unobtainable by marijuana dispensaries. Sommers then explained that the City of Cave Junction adopted such a business license requirement, which is being challenged in court. She elaborated, stating that Cave Junction won at the trial court level, but that the ruling is now being appealed.
Mayor Otte wanted to confirm the timeline in adopting land use regulations. Manager Stein responded, stating that a public hearing date will need to be set based on when the we supply the DLCD notice, which provides them with some indication of how the development code will be amended. As a result, the public hearing will be held 45 days after such notification is delivered.

Mayor Otte commented that there is a lot of information and timing that needs to be coordinated and posed the question if while awaiting the Cave Junction ruling, which will take some time to resolve, the City can adopt an outright prohibition through requiring compliance with state and federal law as the City’s action will most likely not be challenged during the Cave Junction appeal period, and adopt other regulatory measures as well to ensure that the City’s bases are covered from a land use perspective with regulations that will not be overly restrictive, but provide the message that we would rather a dispensary locate in another city. Attorney Sommers cautioned there is nothing to stop such a challenge. Mayor Otte agreed and clarified that he was suggesting putting in place a prohibition as a backup so that the City would possess a measure to negate dispensaries while taking the time to adopt land use regulations. Manager Stein acknowledged Mayor Otte’s suggestion and commented that the risk you are taking is that someone challenges to the City ordinance, but you could bring back the ordinance quickly. Attorney Sommers addressed another risk, which is if a dispensary submits a land use application within the general commercial zone, for example, before land use regulations are adopted and cannot operate due to the prohibition, once that prohibition is lifted that applicant may not be regulated as the land use regulations were not yet in place at the time of filing the application.

Mayor Otte asked if the City can simply refuse to accept such an application if a prohibition was in place. Attorney Sommers is unsure if whether that would end the application. Councilor Grassman commented that it appears none of the options will completely prohibit a dispensary as there are loop holes everywhere; especially since no one is sure how everything is going to play out. Attorney Sommers confirmed that there are a lot of unanswered questions at this time and discussed some various perspectives that cities possess regarding Measure 91, adding that it is unfortunate that the moratorium will expire before many of these questions are answered.

Attorney Sommers stated that there is less of a time crunch for recreational marijuana facilities as they go online during the spring of 2016, but that it makes sense to look at both medical and recreational marijuana facilities at the same time as they are similar. Manager Stein did talk with the League of Oregon Cities, which plans on lobbying for a piece of legislation to push back the date of the moratorium, however she was informed that there is not much interest from the Legislature to focus in on medical marijuana dispensaries due to the volume of rulemaking for just Measure 91.

Councilor Wall asserted that the ballot measure prohibits cities from banning recreational marijuana, but that it can be accomplished through a citizen initiative. He further stated that it does not make much sense to prohibit medical marijuana while the City is unable to prohibit recreational marijuana
and that it is his belief that the federal government will not enforce their own prohibition upon marijuana, as a result, he would rather regulate it to general commercial and industrial zones through the City’s own Development Code and does not want to spend time defending a lawsuit.

Mayor Otte asked if while going through the land use process, we need to specifically distinguish between medical and recreational marijuana facilities. Attorney Sommers responded that it is not necessary to distinguish between the two types, except to the extent that there are more variations of recreational marijuana facilities. A medical marijuana facility is essentially a store front that collects marijuana and distributes it to patients, whereas, recreational marijuana facilities include growers, whole sellers, and retailers. Attorney Sommers spoke about looking closely at the Development Code and its potential to be interpreted as permitting uses that were never initially intended.

Councilor Grassman wanted to confirm that the City could require a recreational marijuana facility to acquire a business license. Attorney Sommers answered that anyone operating a business within the city could be required to obtain a business license. She elaborated, stating the rules are very clear in regards to dispensaries, but rules relating to other types of recreational marijuana facilities are not yet clear, however, the City can preemptively put land use regulations in place to regulate such facilities such as limiting place, type of facility, or classification as a conditional use, requiring them to go through the Planning Commission. Attorney Sommers spoke of other cities’ decisions in regards to the timing, adopting ordinances, and land use regulations. Manager Stein commented that the City of Woodburn has chosen to drop the term “medical” so that land use regulations will also apply to recreational dispensaries as well, but they will probably need to go back to modify their development code as this all develops.

Councilor Beyer asked where Marion County stands in regulating marijuana facilities and would they allow a facility to locate just outside of city limits. Attorney Sommers stated that have not provided any indication yet on how they would regulate such a situation. Councilor Beyer remarked that it may not do Mt. Angel any good to put regulations in place if someone can just place a facility outside of city limits. Councilor Eder commented that he would like to at least be able to say that they City did their part in restricting facilities, to which Councilor Beyer agreed.

Councilor Fleck stated that the City needs something in place, such as the involvement of the Planning Commission, to provide a regulating system.

Manager Stein asked about the Council’s interest in initiating the code amendment process and interest in an outright ban adding that the latter option creates some legal risk, but may potentially buy the City some additional time in adopting land use regulations. She indicated that the safest route was to authorize initiating the code amendment, but can come back with an ordinance if so desired. Councilor Bischoff asked about how costly a lawsuit would be for the City. Attorney Sommers indicated that if the City did not repeal the challenged ordinance, it could last several years and cost the City several
Councilor Grassman expressed that allowing marijuana facilities simply because marijuana is going to be here regardless is the wrong attitude to have as it affects everyone by creating other problems that she believes the community would not tolerate. She further stated by allowing marijuana facilities to locate in certain areas under special conditions the City is saying that it is acceptable and that she believes the majority of people in town would not want it and would rather stand up like Cave Junction, even if it means incurring costs to make a stand, and would be in favor of adopting an outright prohibition. Attorney Sommers stated that the City could both adopt an ordinance prohibiting marijuana facilities and explore land use options, but highly suggests doing that sooner rather than later. She also suggested adopting the business license if pursuing both courses of action, but emphasized the importance of having land use measures in place in case federal law ever changed and the City still desired to retain the ability to regulate marijuana facilities. Manager Stein reminded the Council of the citizen referendum allowed under Measure 91 to prohibit recreational marijuana.

Manager Stein suggested having the Planning Commission consider regulatory land use measures for medical and recreational marijuana simultaneously. Mayor Otte had the same suggestion and expressed his concerned over using specific language that would allow marijuana facilities to label themselves something other than what is specified within adopted land use regulations and skirt around the restrictive measures adopted by the Council. Manager Stein suggested having the Planning Commission begin to think about land use regulations for recreational marijuana down the line as they begin the process of discussing medical marijuana land use regulations.

Councilor Grassman suggested that since it appears that the City will be pursuing a business license that an outreach should be made to the business community to educate them as there has never been a business license in Mt. Angel before. She also suggested having a public forum to discuss medical and recreational marijuana facilities so that they can understand the different options for the City and that the Mayor’s town hall meeting may be the appropriate forum for that. Councilor Wall added that he is heavily involved with the Chamber of Commerce and supports business licenses and that within conversations that he has had with business owners regarding business licenses, he has not experienced large opposition to the idea. He added that the only conflict he could foresee was if the City attempted to establish the business license as a revenue generator and made the cost prohibitive. Mayor Otte suggested that the cost of the business license should cover the expense of administering it. He then stated that the safest and best route appears to pursue land use regulations so that the City can touch on the whole recreational marijuana distribution system. Citizen Matthew Eagles suggested enacting land use regulations that prohibit marijuana facilities without utilizing language that specifically bans it. He suggested wording regulations in a manner that encourages the safety of children and will minimize the threat of litigation. Mayor Otte referenced other Oregon cities that mentioned restricting marijuana facilities to 1,000 feet from any area that children gather. Councilor Eder asked if there were any other
cities that have flat out prohibited marijuana facilities. Attorney Sommers replied that there are a few, but most have enacted the business requirement to comply with state and federal law.

Councilor Bischoff stated that he is leaning toward option three and some of option four with Development Code amendments and requiring businesses to comply with state and federal law. There was discussion on scheduling the necessary meetings. Councilor Grassman expressed that she understands the information that has been presented, but will base her vote on what she feels is the right thing to do. Councilor Beyer acknowledged Councilor Grassman’s statement and commented that it is his hope, that through initiating this process, the City will eliminate the possibilities.

Councilor Beyer moved that the City Council initiate the process for amending the Development Code to regulate medical marijuana dispensaries and recreational marijuana facilities and direct staff to issue the 45 day notice to DLCD of the City’s intent to do so; Councilor Eder seconded.

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The motion passed.

12. CITY ADMINISTRATOR’S REPORT:
There was discussion on creating a date for the City Council goal setting session. Manager Stein asked if there was any interest in creating a subcommittee to review letters for interest for the Municipal Judge position. Manager Stein explained that the appointment is made by the City Council. Councilor Wall and Councilor Grassman volunteered to be a part of the committee. Manager Stein stated that they are continuing to look for three (3) Budget Committee members. She added that she would like to invite members to participate in the goal setting session. Councilor Eder asked what other Committees have vacancies. Manager Stein replied that there are a couple of openings on the Park Tree Board. Councilor Wall wanted to confirm that the City allowed people to serve on only one committee. Manager Stein confirmed that he was correct.

13. COUNCILOR/COMMITTEE REPORTS:
Councilor Wall welcomed Councilor Fleck to the City Council. Councilor Grassman spoke about the City recently adding online bill pay and mentioned that she has had citizens tell her how glad they were to see it come to Mt. Angel and that she was impressed by the number participants. Councilor Wall thought that it was very user friendly. Manager Stein expressed her appreciation for Finance Director Seifried. Councilor Grassman has said that the environment that has been created at City Hall is incredible and that people are productive and happy and light. She further added that the Police Department is happy and contagious. Manager Stein commented that city staff is a great team and she enjoys working with them. Councilor Grassman also welcomed Councilor Fleck to the Council.

14. MAYOR’S REPORT:
Mayor stated that he will put together the annual state of the City report and will look at the calendar to plan a town hall meeting to further discuss marijuana regulations.
15. ADJOURNMENT OF REGULAR MEETING:
Mayor Otte adjourned the meeting at 8:43 p.m.

Respectfully submitted by:  Justin Hogue
Justin Hogue, Assistant to the City Administrator

Attested by:  Andrew Otte, Mayor