

POT

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prosecution has not been the case historically.

The Oregon State Legislature has already taken action to protect the identities of citizens purchasing marijuana legally within the state and to allow a recreational marijuana store to quickly change its license to medical to avoid federal obstacles.

Nevertheless, if the cities wish to create obstacles to counter a "yes" vote, there are

a number of ways to accomplish that. Those include land use code restrictions; denying business licenses; or making changes in the development code that would exclude any business that violates state or federal law.

City Administrator Michele Young reminded the council members that the city had spent time examining options when the issue first arose in 2014.

"I guess we'll just revisit that," she said.

To that end, they accepted the suggestion of the mari-

juana coalition to read Oregon's 48-pages of rules and regulations for marijuana cultivation and sale.

At the time the city chose to "opt out," it gave as a primary reason the fact that the state had not come up with a plan to manage marijuana.

The situation is different now, Thompson said.

"This is not going to be a half-way endeavor," said Thompson. "We welcome police (oversight). Just like when I operated a bar, I wanted them walking through. I want their presence to be known."

Marijuana sales supporters have barraged County Commissioners and cities with evidence and personal stories of how the use of marijuana has benefited their health, and now that the first numbers are tallied, Thompson was able to emphasize the financial benefits to cities.

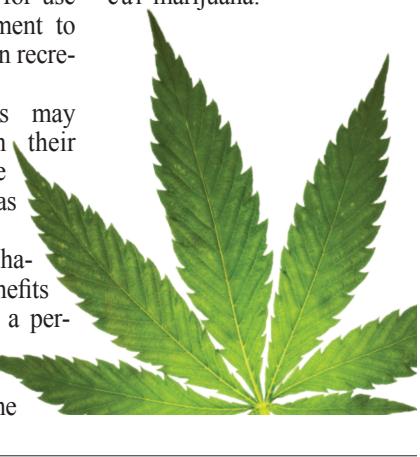
In October 2016, the Oregon Department of Revenue sent out \$85 million in pot taxes for schools, public health, police and local governments. The 10 percent (of state total taxes) tax available to local government is distrib-

uted proportionally based on the number of licenses issued for premises located in each city and is earmarked for use by local law enforcement to assist them in regulation recreational marijuana.

Local governments may also tax sales within their cities for another three percent to be used as they see fit.

Thompson also emphasized the collateral benefits to the cities and gave a personal report of job growth and commercial revitalization she

and others had observed taking place in cities that allowed the sale of recreational and medical marijuana.

**SAMARD**

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fourth degree and a charge of harassment. Samard was found guilty on the assault and harassment charges.

The two-day trial took place on Dec. 13-14.

The incident stemmed from an alleged drug deal gone bad in July 2015. According to Williams' opening statement, Brandon Matthews received a call from a friend wanting to buy methamphetamine. Matthews traveled to the apartment where a deal was transacted in one of the rooms with the friend. Williams said that Samard attacked Matthews in the room and demanded money.

Schaeffer argued the case was about overreaching on the part of the state and the police. He said the two entities were trying to connect the dots on certain crimes. He prophesied the jury would find the dots didn't connect beyond a reasonable doubt.

He noted that Matthews did not report the alleged crime until a year after it happened. The attorney also said that the defendant was upset with Matthews for selling methamphetamine to his girlfriend's daughter and confronted Matthews and an altercation ensued in which Samard brandished a gun only because he feared his accuser would take it from him.

"At most, this is a case of harassment," Schaeffer said.

Matthews testified he had a criminal history, much of it drug and theft related. He also admitted to using drugs: "Any I could get my hands on." He added he had been clean for

more than a year.

Matthews said he resided on the Alpine House apartments on 303 Residence St. in Enterprise when a friend called wanting to buy methamphetamine. He went to the friend's house, where Matthews was invited to a room, and he sat and smoked marijuana with the friend. He said he also had a bag of methamphetamine and some money on his lap.

The friend asked his opinion of the defendant and after Matthews replied, Samard burst through the door, threw a drink in his face and punched him while he gathered the methamphetamine and money. Matthews was knocked from his chair but stood up and began to trade blows with Samard. According to the testimony, the defendant turned around during the fight and turned back with a gun, smashing Matthews across the mouth with the barrel of the pistol.

He then ordered Matthews to get on the ground and turn out his pockets, which Matthews refused to do, so Samard told him that he would hurt and kill Matthews' family members, including his daughter if he refused, according to court documents.

"I had that mentality then, that nobody was going to take anything from me," Matthews said.

Matthews testified he suffered two broken front teeth, two split lips and a small cut on his forehead from the incident.

On the stand, he did not mention an incident specifically stated in the harassment count of the indictment that stated Samard had placed the gun in his mouth.

Matthews said he did not call law enforcement at the time of the incident because of his drug use and anti-

'YOU MAY NOT HAVE BEEN FOUND GUILTY OF THE FELONIES, BUT WHAT YOU DID WAS DEPLORABLE.'

— Judge Russell B. West
Wallowa County Circuit Court

law enforcement feelings. He added he decided to tell law enforcement of the affair when he was later questioned by police, who he said had heard about the incident.

On cross-examination, Matthews admitted that he had not been honest in the past and had suffered an overdose of methamphetamine and Oxycontin near the time of the incident. He also could not pinpoint the month the event occurred.

Schaeffer also unsuccessfully tried to get Matthews to admit his broken front teeth stemmed from drug abuse rather than Samard's gun. He did get Matthews to admit that the muzzle, not the barrel of the gun, hit him in the mouth, something later partially contradicted by evidence.

The other party to the drug sale, Joshua Clayton, testified that he did not remember a conversation about Samard prior to the incident and that Matthews did not have time to put anything in his pockets before the attack. The witness could not specifi-

cally remember whether Samard had hit Matthews in the mouth with the gun. He also said he did not set up Matthews for a robbery by the defendant and that no robbery occurred because Samard let Matthews pick up his belongings before he left. The witness also stated that he did not hear Samard threaten Matthews' family.

The following day, Judge West allowed Williams request that lesser assault charges be included for the jury to consider as well as the first degree assault charge. These included third and fourth degree assault. The first degree robbery charges were also withdrawn on West's order.

A lab tech with the Oregon state police testified that she had taken swabs of the weapon involved, including a small brown stain near the ejection port of the pistol. She also testified that the gun was sent back to Enterprise Police Department for date discrepancies.

The department fixed the issue and sent the gun back to the state and then sent it to a DNA lab for analysis. Another tech who did the DNA analysis testified that he compared the swabs from the gun with swabs taken from Matthews. He stated that the DNA swabs from both items matched.

On cross examination, Schaeffer tried to show that it was possible during the chain of custody of the gun that it was tampered with. He asked for the removal of the gun from evidence after the lunch break. West denied the request.

Samard testified that he entered Clayton's room of the apartment with a gun in his waistband. He said he punched Matthews in the mouth

and that during the altercation, he felt Matthews reaching for the gun and he took the gun out and pointed it at Matthews but did not threaten or hit him with the gun.

The jury returned to the courtroom after less than three hours of deliberation. Williams asked for a poll of the jury on the other two charges. The polling found the jury voted 11-1 to acquit on the original charge and voted 12-0 to acquit on the third-degree assault charge.

Williams encouraged the judge to consider Samard's long criminal history upon sentencing and asked for a 270 day executed sentence on the assault charge and 30 days on the harassment conviction. Schaeffer noted Samard had already served nearly five months in jail on the charges and asked that any additional time sentenced would be to work crew or community service.

Samard said he took responsibility for his actions and wanted to apologize for his actions to Matthews. The victim did not attend the sentencing hearing.

"You may not have been found guilty of the felonies, but what you did was deplorable," West said. He also noted that although the jury did not convict Samard for using the gun in the crime, DNA evidence indicated he had.

"You're lucky you didn't get convicted on Measure 11. Your lawyer did a good job," West said.

The judge sentenced Samard to eight months in jail along with a \$500 fine and \$500 in attorney fees on the assault charge with credit for time served. He added 60 days jail time to be served concurrently for the harassment charge.

- CULINARY AMBITION -

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