



POULSBO CITY COUNCIL MEETING OF JUNE 11, 2014

MINUTES

PRESENT: Mayor Erickson, Berry-Maraist, Henry, Lord, McGinty, Musgrove, Stern.

Absent: Nystul.

Staff: Planning Director Berezowsky, Associate Planner Boughton, City Engineer Kasiniak, Parks and Recreation Director Mc Cluskey, Parks and Rec Programmer Goodfellow, Deputy City Clerk Stephens, IT Manager Stenstrom

Also present: City Attorney Summerfield

MAJOR BUSINESS ITEMS

- * * * 7:00PM Public Hearing: Zoning and Code Enforcement Ordinances
- * * * Agreement with Western Washington University – Western Kids Camp
- * * * Ordinance No. 2014-__, Parks and Recreation Fees
- * * * Resolution No. 2014-__, Parks and Recreation Park Fee Schedule
- * * * Public Hearing: 2014 Zoning Ordinance Amendment – Marijuana Related Uses
- * * * Liberty Bay TMDL Plan Scope and Budget
- * * * Resolution No. 2014-__, Amending Planning Department Fee Schedule
- * * * Request to Add 1.3 FTEs to the Planning Department

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Erickson called the meeting to order in the Council Chambers at 7:00 PM and led the Pledge of Allegiance.

2. AGENDA APPROVAL

Motion: Move to approve the agenda.

Action: Approve, **Moved by** McGinty, **Seconded by** Musgrove.

Motion passed unanimously.

Absent: Nystul

Mayor Erickson introduced City Attorney Summerfield, who is present for the public hearing.

3. ► **COMMENTS FROM CITIZENS**

Mayor Erickson called for comments from citizens. No comments received.

3. ► **MAYORS REPORT AND COUNCIL COMMENTS**

- a. Councilmember Stern commented on his attendance at a meeting the Suquamish Tribe.
- b. Mayor Erickson reminded the Council about the Joint meeting with Bainbridge Island and Suquamish on July 1st.
- c. Councilmember Lord commented on her attendance at the Grand Opening of Fishline at their new location.

4. ► **CONSENT AGENDA**

Motion: Move to approve Consent Agenda items a through e.

Action: Approve, Moved by McGinty, Seconded by Stern.

Motion passed unanimously.

- a. Minutes of May 14, 2014 City Council Meeting
- b. Minutes of May 21, 2014 City Council Meeting
- c. Minutes of May 28, 2014 Special City Council Meeting
- d. Payable Disbursements for May 1 through May 31, 2014, in the amount of \$1,334,816.79 to include accounts payable check numbers 10024935 through 10025168, payroll check numbers 30022915 through 30023170 and Electronic Disbursement Numbers 24-0032 through 24-0039.
- e. Special Event Application: 3rd of July

5. **BUSINESS AGENDA**

a. ► **Agreement with Western Washington University – Western Kids Camp**

Poulsbo Parks and Recreation Programmer Goodfellow reported is joining with Western Washington University to offer the 2014 Western Kids Camp at the OC Poulsbo campus July 14-17 from 9am-4pm. This camp is for grades K-4, and is titled "Deep in the Forest". Participants will start the morning with enrichment activities that encourage exploration and discovery utilizing university classrooms, labs and equipment. Morning enrichment will focus on environmental science themes while the

afternoon will be filled with recreation activities including karate, self defense, foam sword activities and Nerf archery and with Poulsbo P&R. Participants will enjoy a blend of academics and recreation in an engaging and fun learning environment unique to a college campus.

Motion: Move to approve the Agreement with Western Washington University for the 2014 Western Kids Camp as presented.

Action: Approve, **Moved by** Berry-Maraist, **Seconded by** Stern.

Motion passed unanimously.

b. ► Ordinance No. 2014-11, Parks and Recreation Fees

Councilmember Berry-Maraist reported City is moving towards removing fees from the Poulsbo Municipal Code (PMC), and instead setting fees using resolutions. This will result in a cost savings by reducing the amount of codifying needed for the PMC. This ordinance removes the park and recreation facility fees from the PMC, and refers the fee schedule information via resolution.

Motion: Move to approve Ordinance No. 2014-11, an ordinance of the City of Poulsbo, Washington, amending subsection 3.12.050(A) and subsection 3.12.050(B) of the Poulsbo Municipal Code in order to allow for fee changes by resolution as provided in subsection 3.12.010(B); providing for severability and establishing an effective date.

Action: Approve, **Moved by** Berry-Maraist, **Seconded by** Lord.

Motion passed unanimously.

c. Resolution No. 2014-08, Parks and Recreation Park Fee Schedule

Motion: Move to approve Resolution No. 2014-08, a Resolution of the City of Poulsbo, Washington, adopting a fee schedule for Park and Recreation fees and charges pursuant to PMC 3.12.010, 3.12.050(A) and 3.12.050(B).

Action: Approve, **Moved by** McGinty, **Seconded by** Berry-Maraist.

Motion passed unanimously.

d. ► Public Hearing: 2014 Zoning Ordinance Amendment – Marijuana Related Uses

Mayor Erickson opened the public hearing 7:16 PM.

Associate Planner Boughton reported the Poulsbo City Council adopted interim zoning regulations on August 14, 2013, assigning the light industrial zoning district and regulations for Initiative 502 authorized retailers, producers, processors and collective

gardens. The interim zoning regulations were extended for an additional six months on February 5, 2014.

The Planning Department initiated amendments to the zoning ordinance which propose a continuation of the interim zoning regulations. Amendments to the zoning ordinance are processed as a Type IV permit under the procedures established in PMC 19.01, and require a public hearing before both the Planning Commission and City Council.

The Poulsbo Planning Commission held a public hearing on the proposed amendments on May 13, 2014, took public testimony, and considered the proposed amendments. After deliberations, the Commission voted to recommend approval of the proposed zoning ordinance amendments.

Mayor Erickson asked for public comments.

- a. Brandon Heinemann stated he is Poulsbo resident, Navy veteran and a medical marijuana patient. Heinemann expressed his concern when reading the history of the marijuana topic in Poulsbo City government and the harsh response by the City Council. Heinemann does not feel the response is in regards to the Economic reasons and is concerned with the perception that is being portrayed of the individuals that use medical marijuana. Noting that Kitsap County had the greater percentage of people that approved I-502, then the state average. Heinemann stated he voted against I-502, because he felt it was bad legislation. In an article Mayor Erickson stated she has spoken with her neighbors, however there are 10,000 people in the City and it is diverse. The City should allow peoples diversity to flourish; if there are problems, those can be dealt with.
- b. Brian Myers stated he attended the last Council meeting where the interim zoning code was discussed, and expressed his disagreement with negative Economic impact of marijuana. If there was a business in Poulsbo that did \$1 million in business would benefit the City by bringing in employees thought live and spend money in the City; and use of public utilities. Myers stated he served in the Military as a Marine; and has entrepreneurial desire to start a business and be a part of multi-million dollar business and industry that will boom in the United States. and would bring in taxes, employment,
- c. Troy Barber spoke to email he sent to the Council and Mayor, and encourage the Council to read it. Barber stated he did read the Attorney Generals opinion last spring and believes the opinion and didnt think the City would be in danger of

a lawsuit if the Council pursued a ban. However just because the Council can ban business, they should ask themselves if they should. If a ban was pursued, whether recreation or medical, the Council would be undermining the point of democracy that the citizens of Washington engaged in when they approved I-502. Barber referenced the City of Kent case banning medical marijuana, to serve as validation of banning medical marijuana; stating Kent lost on procedural issues, some of the evidence they tried to bring forth wasnt actually heard. However, one of thing the case did establish is medical marijuana is an affirmative defense. Collective gardens were designed to follow under the category of affirmative defense, and is therefore not subject to licensing or zoning. Barber stated he doesnt feel a ban is necessary, mostly due to the restrictive zoning, he didnt feel a business would site a business with Poulsbo city limits due to the investment cost to construct a building and the federal government ability and authority to put a stop to the business.

d. Sheila Loe, retired teacher of 34 years, encouraged the Council to watch some things on the medical marijuana aspects, commented on the beneficial uses for medical marijuana, specially the story about the little girl in Colorado that suffers from Dravets syndrome and the only thing that saved her from 300 seizures a week to one a month, was cannabidiol (a cannabinoid of cannabis). There was another little girl with Dravets syndrome in New Jersey, where medical marijuana was not allowed, who died because of the amount of seizures she was having. Most of the clientele of the collective garden her son and her opened, are her age. Doctors and Oncologist send their patients to them, and has been very rewarding to see patients struggling and wanting to get off pharmaceutical drugs and prefer cannabis. Loe stated she believes in the ability for people to choose and hopes that the people of Poulsbo that could benefit, would have the opportunity to get their medical marijuana.

e. Kent Lord requested the Council not approve any applications to open a marijuana type business in the City. The people suffering from illnesses are managing to get their treatment without having a business setup in the city limits. Research is being done more and more, as it marijuana is being used more and more; and the city shouldnt authorize a business in the city to sell a dangerous and addictive drug, as research has shown.

f. Jusup Lowry, stated there are overwhelming facts that there are many benefits to medical marijuana. There are psychoactive strains of marijuana, that can be harmful and dangerous to some; and there is the non-psychoactive strain. As a medical marijuana patient and father, Lowry stated he has been to many dispensaries, some not ideal type of place however others are very

professional. It depends on the business and business owner. One thing that can be done is change the perception on dispensaries. Lowry stated he opted not to take potentially harmful narcotics or have surgery, and decided to try medical marijuana. Although there are people who use and abuse drugs, marijuana can be heavily regulated and taxed. To not support and to look away from the facts, does not make sense. Lowry expressed his frustration that it appears the Council already has their minds made up, while looking only at what they know about marijuana and not the facts.

g. Susan Ogilvie stated her property is ten acres and has been in their family for seventy-four years; two acres of their property next to the actual property site for the proposed zoning. Snyder Park has countless children going in and out of the park. The only way the children can get to the park is to walk, ride or drive past the proposed property. There were five small lots next to hers that went up for sale as soon as this issue came up. Ogilvie stated her mother-in-law has cancer and gets her treatment, a marijuana derivative, from Franciscan Hospital. Ogilvie requested the Council say no to this, for the good of the community. This will not stop medical marijuana. The Council has the authority and the ability on this issue. Ogilvie stated her property will be devalued as much as fifty percent, and has purchased five extra lots to prevent a marijuana business from possible going in there. Ogilvie also recently applied for a home day care license and ready to open up; and read in the paper that home day cares will not be protected by the thousand foot buffer. Ogilvie questioned if a child in her home less important than one in the city; and requested the Council to make the right decision.

h. Robin Wise, Poulsbo resident and Navy veteran, spoke in support of those not in favor of marijuana production in Poulsbo. Wise was a drug addict and user for twenty years, and knows of the damage it can do to young people and impact it can have on families. Wise urged the Council to reject any marijuana production in Poulsbo city limits.

Mayor Erickson closed the public hearing at 7:52 PM.

Councilmember Stern stated the issue before the Council is for recreational marijuana, not medical marijuana or the community gardens associated with it; and explained the minimal amount of sales tax the city actually gets from sales tax collected.

Councilmember Henry expressed he is not anti-medical marijuana and has deep concerns with recreational marijuana.

Motion: Move to deny a proposed amendment to the Poulsville Municipal Code to add a new Section 18.90.075, allowing marijuana uses be located within city limits and identifying development standards for such uses. In support of this decision, the City Council concurs with the findings of fact identified in Section E.2 of the City Council memo dated June 4, 2014.

AND, the City Council repeals Ordinance 2014-01 and Ordinance 2013-10, which established interim zoning regulations allowing marijuana use within the light industrial zoning of the city;

AND it is the City Council decision to prohibit marijuana uses, including recreational and collective gardens within the city limits, in accordance with Section 18.20.050 "Legal uses" of the Poulsville Municipal Code, which states that the no land use which is prohibited by state or federal law will be allowed by the city;

AND directs the City Attorney to prepare an ordinance to this effect.

Action: Approve, **Moved by** Henry, **Seconded by** Lord.

Motion: (to be added to the 3rd paragraph of the original motion) And the City also notes that unlike past practices of the State legislature, to share in those revenues derived from those activities that have a direct impact on the cities, the enabling legislation authorizing recreational marijuana retail sales within the state, specifically excludes the Cities from any level of the excise tax levy.

Action: Amend, **Moved by** Stern, **Seconded by** Musgrove.

Discussion: Mayor Erickson asked City Attorney Summerfield if the amendment would invalidate any portions of the resolution or motion; Summerfield stated it would not.

Councilmember McGinty questioned if the context of the amendment would affect the outcome of the Councils decision, if that statement was not in the ordinance; by approving the amendment the Council would be saying if the City gets revenue they wouldnt be voting this way. Planning Director suggested Councilmember Sterns amendment language be put in a findings of fact instead of in the motion; Council concurred.

Councilmember Stern withdrew his amended motion; Councilmember Musgrove withdrew his second.

Continued Discussion: Councilmember Lord stated she is fully in support of medical marijuana, however her biggest concern is the constituents, and the vote on I-502 had a difference of less than one percent within the city limits. Lord also expressed her deep concern with home day cares not being protected under the thousand-foot buffer and wellbeing of the citizens; and she is not feeling under the gun that the city needs to provide a place for entrepreneurs to make money.

Councilmember Musgrove stated as much information as the Council has, the way the State is issuing licenses Poulsbo will not get a license, no licensed businesses within Poulsbo. Can the City just do nothing, since it will not matter; or does the City need to ban it? However the one thing the City can do, is make a statement to the State that they are taking 25% taxes and putting the burden on the City to enforce and regulate, with no support.

Councilmember Berry-Maraist questioned if the motion prohibits recreational and collective gardens; and clarification on family day cares. Associate Planner Boughton stated the Liquor Control Boards one thousand four buffer does not include home daycares the RCW citations are two different numbers and regulated differently; and the proposed amendment does include collective gardens and I-502 uses together. In the staff report provided in the council packet there is discussion on the City of Kent appellant case that determined collective gardens are illegal.

City Attorney Summerfield stated the Kent case has been petition to appeal to Supreme Court, however at this time collective gardens are considered an illegal use. Summerfield further clarified that people can no longer use medical marijuana if they are qualified patients, there is an affirmative defense; there is not the ability to sale.

Councilmember McGinty stated he is not willing to allow any establishments at this time, this has nothing to do with his opinion on marijuana use, it has to do with what it does to the community and other issues it would introduce to us right now.

Councilmember McGinty called for the question.

Vote: Original motion passed unanimously.

e.  Liberty Bay TMDL Plan Scope and Budget

City Engineer Kasiniak be presented the scope and budget for the Liberty Bay Total Maximum Daily Load Implementation Plan with Parametrix. The City has been awarded a grant by the Department of Ecology for preparation of the Liberty Bay Total Maximum Daily Implementation Plan. The TMDL Plan described in this Scope of Work

mirrors the grant application proposal.

Motion: Move to approve the Liberty Bay TMDL Plan scope and budget development with Parametrix in the amount of \$215,000 as presented by the City Engineer.

Action: Approve, **Moved by** Musgrove, **Seconded by** Stern.

Motion passed unanimously.

f. ► Resolution No. 2014-09, Amending Planning Department Fee Schedule

The City of Poulsbo has not adjusted the Building Department's Fee Schedule since 2004 and the fee schedule should be adjusted to reflect the City's policy that growth pays for growth and to reflect increased business costs due to inflation and the CPI. Comparing building permit and plan check fee schedules among jurisdictions is difficult as many, while having similarities, use different methodologies. After much consideration the Building Department is proposing a straight forward methodology and one that is consistent with the Mayor's directive to begin annual fee schedule amendments based on the CPI. Therefore, the Building Department is proposing to adjust its fee schedule based on the CPI adjustments over the past 10-years.

Motion: Move to approve Resolution No. 2014-09, amendments to the Building Department's fee schedule, for services provided but not charged such as Fire Plan Check and Inspections and provide for biannual review of fees.

Action: Approve, **Moved by** Berry-Maraist, **Seconded by** McGinty.

Motion passed unanimously.

g. Request to Add 1.3 FTEs to the Planning Department

Planning Director Berezowsky reported the Planning & Building Department has been operating below full staffing since the City reduced services during the 2008/09 "recession". The City's building plan check/permit and inspection activity has rebounded since this time and the Department is in need of additional staff resources to maintain a reasonable level of service (LOS). The City cannot expect planners to continue collating meeting/hearing materials and preparing mailing labels, nor should it allow development permits and inspections to continue to be delayed due to a lack of staffing. To date, in 2014 the Department has issued 138 permits, conducted 961 inspections, issued 42 certificates of occupancy and has 31 miscellaneous permits waiting to be reviewed. In addition we expect over 1200 new single-family units to come on line over the next 5-years and a department with one person to do plan check and inspections cannot be expected to handle this huge work load efficiently. If approved the revised building fee schedule should more than cover the cost of the 1.3 FTEs (estimated cost year 1 is \$62,330.00 due to only half a year). In addition, we have

spent over \$30,000.00 on outside plan check/inspections over the past 8-months to try to keep up with the work load. The new SFR permits alone are estimated to generate approximately \$155,000/yr in new revenue. Add in new revenues (~\$25,000) and money spent on outside plan check (~\$30,000) and the 1.3 FTEs are fully funded over the next 3-5 years with no impact to the general fund.

Motion: Move to approve\deny the addition of 1.3 FTEs for plan check and building services and administrative support for the Planning & Building Department in the amount of \$65,000.

Action: Approve, **Moved by** Berry-Maraist, **Seconded by** McGinty.
Motion passed unanimously.

6. COUNCIL COMMITTEE REPORTS

Community Services Committee: Councilmember Berry-Maraist reported on upcoming public events that will be coming forward for approval; funding of Police overtime for the Police Street Dance; and review of the special event process over the next year.

7. DEPARTMENT HEAD COMMENTS

None.

8. CONTINUED COMMENTS FROM CITIZENS

Mayor Erickson called for comments from citizens. No comments received.

9. COUNCILMEMBER COMMENTS/BOARD/COMMISSION REPORTS

Mayor Erickson commended the Council on taking a brave step in approving the marijuana related uses ban.

10. ADJOURNMENT

Motion: Move to adjourn at 9:58 PM.

Action: Adjourn, **Moved by** McGinty, **Seconded by** Stern.

Motion passed unanimously.

Rebecca Erickson, Mayor

ATTEST:

Nicole Stephens, Deputy City Clerk, CMC