Mayor Patricia Smith
Council President Timothy Clark
Councilors Scott Harden, Bruce Nissen, Jimmy Frank

MEETING OF THE WOOD VILLAGE CITY COUNCIL
April 28, 2015
MINUTES

PRESENT: Mayor Patricia Smith, Council President Tim Clark, Councilors Scott Harden, Bruce Nissen and Jimmy Frank, City Attorney Jeff Condit*, City Administrator Bill Peterson, Public Works Director Mark Gunter, and interested parties.

ABSENT: Finance Director Peggy Minter.

MAYOR SMITH CALLED THE MEETING TO ORDER AT 6:00 PM.

CITIZEN COMMENTS
There were none.

ORDINANCE 2-2015 LAND USE AND MUNICIPAL CODE REVISIONS TO PERMIT MARIJUANA RELATED BUSINESSES IN THE CITY
Peterson presented the ordinance and stated that about a year ago the Council directed that a text amendment move forward to address medical marijuana dispensaries. The Council and Planning Commission met in a combined session, and developed a framework to move forward. Peterson stated that the Planning Commission met on March 30th to discuss the proposed code, and they voted unanimously to recommend to the City Council to adopt the revisions. Peterson stated that the City Council met on April 16th and conducted a public hearing on the issue. Peterson explained that the Council conducted a first reading on the ordinance, but not a second reading.

Peterson stated that the public hearing on the ordinance was closed on the 16th. The public hearing could be reopened with a vote of the Council, but all the disclosure statements would have to be addressed. Peterson explained that there are alternatives for a prohibition. There can be an initiative petition for a prohibition at the next General Election, but that only covers sales and not personal use rights. Peterson stated that the City could also use a home rule argument similar to Cave Junction to overrule the measure.

Peterson stated that the League of Oregon Cities, and the City's insurance provide have provided their legal thoughts and guidance on this issue. Peterson explained that legal costs incurred with a home rule claim will not be covered or paid by the City's insurance policy. Peterson explained that the City's code has language which prohibits facilities that violate local, state, or federal law, and proposed language to revise that section is also proposed.

Peterson stated that the state law permits these facilities to locate where other similar uses would be authorized. Peterson explained that there could be eight locations in the City if the City used the state

law, and were optimally placed. Peterson stated that the City's code revisions would permit up to three locations if they were optimally placed. The locations would be limited to the Neighborhood Commercial zone, and would have to be 1,000 feet from another marijuana facility, school, or park.

Peterson stated that the proposed code would add two new land uses. There would be a land use for medical marijuana, and a separate land use for all other marijuana sales. Peterson explained that both uses would be a conditional use, which has a requirement to notify property owners within 250 feet of the location. Peterson stated that the Planning Commission would have the final say, and can consider potential impacts and aspects of the use.

Peterson stated that the proposed code language was reviewed by legal counsel, and acknowledges the state exemption. Peterson explained that the Council can amend the code, debate the proposal, direct questions to legal counsel, reopen the public hearing, or move in a different direction with the issue.

Clark asked how the Council could reopen the public hearing. Peterson stated that the Council would have to take a vote, and then go over the hearing disclosure statement. Peterson explained that the Council can have any open discussion amongst the Councilors though.

Frank stated that he made a few calls including a call to Cave Junction. Frank stated that Cave Junction feels that they have a good chance at prevailing on the medical marijuana side, but the remaining aspects are unknown. Frank stated that he also read some articles on home rule authority, and there seems to be good support for that argument. Frank explained that he is not necessarily against marijuana, but feels that he is bound by his oath to support local, state and federal law. Frank stated that he feels that he would be breaking his oath if he voted in favor of this revision.

*Condit arrived at 6:15pm.

Frank stated that there is a high probability of litigation with an outright prohibition, but stated that the City should not make decisions just based on legal costs. Frank stated that there is no idea what litigation could cost, but that should not deter a vote. Frank stated that without the oath, he would be okay along with the other 61% of voters in the City who passed the marijuana legislation.

Condit stated that the Federal Department of Justice has issued guidance that they will not prosecute in states that have legalized marijuana. Condit stated that states are often the test cases for changes on the federal side under the 11th Amendment. Condit explained that there is no definitive answer on the question, and we will have to wait for the Court of Appeals decision. Condit stated that the safest route would be to enact the proposed legislation, and then revisit the issue after the Court of Appeals decision has come out. Condit explained that there are also a number of issues in flux at the state legislature as well. Condit stated that the Council could still decide to prohibit the land use, and wait to see if there is litigation.

Peterson asked what would occur if the Council approves the land use, and then removes the use based on the Court of Appeals case and there is an existing facility. Condit stated that any existing facilities would be a legal non-conforming use that could remain in existence until the business closes.

Harden stated that all the Councilors took the same oath, but the document is not frozen in time. Harden stated that a lot of things change overtime, and states are usually at the front of change. Harden stated that government lags behind public opinion, and states are usually the first to catch up. Harden stated that the public opinion right now is to allow the use, and the Council should enable that action.

Peterson stated that if there is no action to prohibit the use, or to enable specific locations then there is no way to prevent the facilities locating anywhere in the City where allowed by state law. Smith stated that the City has licensing requirements for businesses to follow federal law. Peterson stated that is correct.

Harden asked about the conditional use hearing, and if that action would come before the City Council at some point. Peterson explained that the Planning Commission has the final say in that matter. Harden asked if that includes discussing the time, place, and manner restrictions. Peterson stated that it does to a point, and the Planning Commission has authority to review surrounding property impacts, hours of operation, screening, and signage. Harden stated that he does not want the Planning Commission to handle the issues about how products are packaged and sold. Condit stated that the Planning Commission does not have that authority. Peterson stated that a lot of the packaging and sales issues will be handled at the state level.

Smith stated that it could take some time to get those issues figured out at the state. Condit stated that they will probably be in place by July 1st, but there could be some unknowns between now and then.

Clark stated that he has asked his neighbors about the issue, and over 60% of the voters in the City were in favor of measure 91. Clark explained that none of his neighbors were against having a facility in the City. Clark stated that he feels that he represents the people of the community, and they have spoken. Clark stated that he does not feel comfortable taking action that could cause a lawsuit, and cost the City money. Clark stated that this is a land use matter, and not a personal issue. It make sense to have some control over the matter instead of none.

Upon motion by Harden, seconded by Nissen and passing 3-2 with Clark, Harden and Nissen Yea, and Smith and Frank Nay, the second reading by title only of Ordinance 2-2015 amending and revising the wood village zoning and development code to permit medical marijuana dispensaries and recreational marijuana sales as a conditional use in the neighborhood commercial zone was approved.

Peterson gave the first reading by title only of Ordinance 2-2015.

Upon motion by Harden, seconded by Clark and passing 3-2 with Clark, Harden and Nissen Yea, and Smith and Frank Nay, Ordinance 2-2015 amending and revising the wood village zoning and development code to permit medical marijuana dispensaries and recreational marijuana sales as a conditional use in the neighborhood commercial zone was adopted with an emergency adoption clause for an immediate effective date.

RESOLUTION 12-2015 IGA WITH GRESHAM FOR FIRE SERVICE

Peterson presented the resolution, and stated that this topic has been discussed several times with the Council. Peterson stated that there have been four presentations on the fire service and alternatives in this area. Peterson explained that the City opted out of Fire District 10 in 1984, and has contracted with Gresham Fire since that time. Ten years ago the City along with Troutdale and Fairview got together and developed a formal intergovernmental agreement with Gresham for fire service. That agreement expires at the end of June.

Peterson explained that the three cities contracted with Portland State University to review fire service delivery options in anticipation of the expiration of the agreement. Peterson stated that the main purpose was to improve the negotiations for the three cities in dealing with Gresham. Peterson stated that 75% of all fire calls have nothing to do with fire response, and are all medical related. Those calls also make up about 88% of the time spent on calls. Peterson stated that there is a structural fire about once every 25 days in the three cities, and there are three fires a year in Wood Village.

Peterson stated that Gresham operates a three-person crew that is a quality low cost service provider. Peterson explained that on average the three cities pay about 30% less than the residents in Gresham for the fire service. Peterson stated that while there have been some response time issues, those have mainly been in the Fairview Lake areas, and sections east of the Sandy River. Peterson stated that response times for the other areas are close or within the national fire protection standards.

Peterson explained that all but two of the alternatives had higher delivery costs. The first alternative with a lower cost was forming a mega fire district that included portions of Clackamas County. The other lower cost option was to rework the medical response. Peterson stated that all the other alternatives had a higher cost. Peterson explained that there were 12 viable alternatives, and those were narrowed down to four potential options. Peterson stated that those options were presented to Gresham, and Gresham responded with a proposal that resulted in higher costs for the cities as well.

Peterson stated that additional meetings with Gresham were held, and Gresham decided to discount the service costs by eliminating the overhead costs, and reducing the asset calculations. The end result was a first year cost of $1.44 per $1,000 of assessed value, and a second year cost of $1.56 per $1,000 in assessed value. Peterson stated that after year two, the increase will be based on actual costs with a minimum of 2.5% and a cap of 4.5%. Peterson stated that while Gresham did not agree to have service standards in the agreement, they will provide more detailed service reports to the Fire User Board. The

two year opt out provision was retained, and there were limits on what changes could occur at the stations which serve the three cities.

Peterson stated that both Troutdale and Fairview acted to approve the agreement, but there was significant debate about it at Troutdale. Peterson explained that the debate was around a new alternative coming out of Troutdale to form a three-city fire department.

Peterson stated that this contract saves the City a lot of money over time. Peterson stated that the current cost is about $399,000 a year. The first year the rate will be reduced to $371,000 or a $28,000 reduction. Peterson explained that using the cap of 4.5% over the ten years of the contract, the overall savings compared to the current contract is about $130,000. If the cost increases by 2.5%, the savings are about $500,000 over the life of the contract. Peterson stated that there is a real net reduction of cost in the first year, and an accumulative savings over the ten years of the contract. It is a win for the City.

Peterson stated that the Council can approve the agreement, request additional bargaining on the agreement, or reject the agreement outright. Peterson explained that rejecting the agreement could leave the City unprotected.

Harden stated that the Fire Chiefs were at the user board meeting last week, and they were in favor of the agreement. Clark asked when Gresham will act on the agreement. Peterson stated that will occur once it is signed by all three cities, and it is slated to go before their Council as soon as that occurs.

Clark stated that he feels that this is not just about saving money, but the three cities actually got a say in the matter. Having a voice in the negotiations was the goal, and that was accomplished. Clark stated that he is impressed with Gresham's staff, and they worked hard to come up with a fair agreement.

Frank stated that the agreement is a testament to the negotiation team. Nissen stated that he is impressed that costs were actually reduced, and that does not occur very often. Peterson stated that getting a cap of 4.5% was very unique.

Upon motion by Nissen, seconded by Clark and passing 5-0, Resolution 12-2015 authorizing the City Administrator to sign an Intergovernmental Agreement with the City of Gresham for the provision of fire and emergency services was approved.

CITY COUNCIL TABLET TRAINING

HR/Records Manager Greg Dirk provided the training. Dirks provided training on tablet use including connecting to the network, and refreshing email. Dirks explained how to download the City Council packet, and how to navigate within the packet. Dirks asked what training topics the Council would like to cover in future training session.

The Council requested additional information on how to use Skype, and using outlook.

RESOLUTION 13-2015 PMAT IGA TERMINATION, AND MORE IGA EXECUTION
Gunter presented the resolution and stated that the PMAT agreement has been in place with Multnomah County for equipment and service sharing. Gunter explained that the agreement has been updated to the MORE agreement which covers the entire state, and not just within the county. Gunter explained that this resolution would cancel the PMAT agreement, and authorize the MORE agreement.

Smith stated that this seems like a good agreement. Gunter stated that there are several agreements mainly around emergency management that build on each other to share resources and services. Harden asked if that has been done in the past. Gunter stated that the City regularly uses the County and the City of Gresham for services such as sewer cleaning.

Upon motion by Harden, seconded by Nissen and passing 5-0, Resolution 13-2015 terminating the PMAT agreement, and authorizing the MORE agreement was approved.

RESOLUTION 14-2015 2015-16 ANNUAL PERFORMANCE PLAN ADOPTION
Peterson presented the resolution and stated that the full history and review of the APP was presented at the April 16th Council meeting. Peterson explained that the Budget Committee met and took action on the 2015-16 budget, and all the APP items were included in the recommended budget. Peterson stated the plan has been financed, and staff is prepared to complete the plan.

Peterson stated that there were a few revisions to the timeline based on the last meeting. The televising Council meetings project timeline was revised to when the equipment would be installed and meetings actually televised. Peterson explained that the monthly manager meetings, and Metro staff support was kept in the plan, and does extend across the year. Harden stated that those items could at some point be added to the regular list of duties, and not on the APP. Peterson stated that being on the APP ensures that a report is generated and provided to the Council.

Peterson stated that there is enough capacity to complete the plan, and the large time consuming projects include the lunch program in park, the Town Center/TSP update, sewer sdcs, the potential sale of City Hall, the Arata Road project support, the Halsey I & I project, the Halsey corridor project, and the multi-city economic developer position. Peterson stated that the staff recommendation is to approve the plan.

Clark asked about the summer lunch program, and why the timeline starts this summer. Peterson stated that work on the program will begin this summer, but the program will not actually roll out until next summer. Clark asked if the City-wide garage sale event was included. Peterson stated that it is, and it is under the events section.

Upon motion by Frank, seconded by Nissen and passing 5-0, Resolution 14-2015 Adopting the 2015-16 Annual Performance Plan was approved.

PUBLIC WORKS DIRECTOR'S REPORT

Gunter presented the report, and stated that the Waste Water Master Plan is still underway. There was a presentation to the City Council about the plan, and a meeting with Fairview to discuss the plan is being scheduled. Gunter stated that that the Shea lift station project is still underway with the new three-phase power about to go in. That project should be completed by the end of June.

Gunter stated that the quarterly hot spot cleaning is occurring to ensure that the sewer system is clean. The hot spots are known locations where fats, oils and grease accumulate in the system. Gunter explained that the City is also working with the county to repair some patches around the City that need some work.

Gunter stated that new bark chips were delivered to the park, and they will be spread by a work crew this week. New trees will also be planted to replace trees that have died. Gunter stated code violations are increasing, but there is nothing major to report at this time.

Smith asked about the gas line break at the Town Center. Gunter stated that a contractor had nicked a gas line, and the area was monitored but not evacuated. Gunter explained that NW Natural came in and repaired the line with no issues.

Frank asked about the new bark chips, and where in the park they would be placed. Gunter stated that half the trail system is done every year, and this year the lower section of the park will get the chips. Smith stated that there are areas in the upper section that need chips. Gunter stated that they will start with the lower section, and see what can be done with sections of the upper trails.

CITY ADMINISTRATOR'S REPORT

Peterson gave the report and stated that the current APP is in the packet. There are a few items of note, but overall we are on track and on budget.

CITY COUNCIL REPORTS

Clark stated that there is not a lot to report out of EMCTC. Clark stated that ODOT will be putting in more real-time driving times along the freeways in the area. Clark stated that there was an interesting discussion at MPAC about some of the dysfunction going on around Metro. Clark explained that there will often be a unanimous vote in favor of an action, but then there will be a lot of action against the same item. Clark stated that further discussions on how to prevent that from occurring will be taking place.

Clark asked about the Halsey Streetscape Plan, and if folders could be developed similar to what Redmond had created. Clark stated that he would like something that could be given or mailed to new residents and businesses. Peterson stated that does occur now, but not in a folder form. Clark stated that he envisions something like a welcome wagon with coupons and information about the City and area. Nissen asked if the information is currently provided in Spanish as well. Peterson stated that it is not, but that could occur.

Smith stated that she did not attend the last EMEA meeting. Peterson stated that the presentation at EMEA was about the Reynolds bond measure. Smith stated that there was a neighborhood watch meeting, but only about six people attended. Peterson stated that all but two neighborhood watch groups have disbanded, and it is hard to get people engaged.

Smith stated that there has not been a Parks Commission meeting in some time. Peterson stated that the Parks Commissioners will be receiving information about the community website regarding the Park Master Plan update. There will also be a newsletter article about the project and how people can get involved. Smith asked about the camping in the park legislation. Peterson stated that is scheduled for the first meeting in June.

ADJOURN

With no further business coming before the Council, and upon motion by Clark, seconded by Harden and passing 5-0, the Council adjourned at 7:58pm.

Patricia Smith
Mayor

5-12-15
Date

ATTEST:

Greg Dirks