MEETING OF THE WOOD VILLAGE CITY COUNCIL
January 14, 2016
MINUTES

PRESENT: Mayor Patricia Smith, Council President Tim Clark, Councilors Scott Harden, Bruce Nissen, and Jimmy Frank via phone, City Attorney Jeff Condit, City Manager Bill Peterson, Finance Director Peggy Minter. Public Works Director Scott Sloan, and interested parties.

ABSENT: None

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

PRESENTATION: 2014-15 AUDIT

Tonya Moffitt of Merina & Company gave the presentation. Moffitt stated that the City received an unqualified clean opinion on the latest audit. That is the highest rating available. Moffitt explained that there were no management disagreements, or issues when asking for documents. Moffitt stated that there are two new GASBE requirements, and those have been followed. Moffitt explained that the only recommendation is for the City to capture a screen shot when the budget notices are posted on the webpage. Moffitt stated that overall it was a very good audit, and is confident that the City will receive another CAFR award.

The Council thanked Moffitt and the Finance Team for the work on the audit.

PUBLIC SAFETY REPORT

Commander Reiser of the Multnomah County Sheriff's Office presented the report. Reiser stated that there were 354 incidents in December with a total of 259 minutes of dedicated patrol service. There were 75 traffic stops, 19 subject stops, and 18 traffic collisions. Reiser stated that December was a busy month especially with the responses to the weather, and road closures. Reiser stated that there are new teams on patrol as shift assignments have been made. There could be some new faces in and around the community.

Reiser stated that the MCSO received about $50,000 in a justice assistance grant. Those funds will be used to purchase between 12 and 15 AED's for patrol vehicles, upgrades to their mobile command unit, homeless outreach, and new tactical gear for their response teams. Reiser asked if there were any questions.

Nissen stated that there has been a group of people riding mini-bikes along 238th at night. This group does not wear helmets or have lights, and Nissen stated that he is concerned that there will be an accident. Reiser stated that he will have patrol look into the issue.

The Council thanked Reiser and the MCSO for the service.

CONSENT CALENDAR:

a. Review of bills paid in December, 2015

b. Contracts $2,500 - $50,000
   - Peterson Machinery – Annual Generator Maintenance: $5,525

d. Council Minutes:
   - December 8, 2015

Upon motion by Clark, seconded by Harden and passing 5-0, the Consent Calendar was approved.

ORDINANCE 1-2016: MARIJUANA LAND USE DESIGNATIONS

Smith read the hearings disclosure statement.

Smith asked if there were any conflicts of interest, ex-parte contacts, or personal bias.
There were none.

Peterson presented the staff report. Peterson stated that there was a workshop with the Planning Commission this past September. Peterson explained that there was a Public Hearing with the Planning Commission in December, and the Council is required to make the final decision on the matter with findings. Peterson stated that the staff report for both the Planning Commission and City Council relied heavily on a report put out by the League of Oregon Cities. Peterson explained that the OLCC has published draft rules and handbooks which were also utilized in the formation of the report.

Peterson stated that the history of marijuana in Oregon has been discussed before. Peterson stated that this is all based on Measure 91 which passed in Wood Village with about 61% of the vote. Peterson explained that Measure 91 does not legalize marijuana, but protects people from state charges. Marijuana is still illegal under Federal law. Peterson stated that the City enacted a moratorium to have time to work through some of the medical marijuana zoning, and that has since been completed. Peterson explained that medical and recreational marijuana retail facilities can locate in the Neighborhood Commercial Zone as a conditional use subject to specific requirements.

Peterson stated that there will not be a discussion on the merits of using home rule authority to ban marijuana. Peterson explained that the state will be collecting a tax on marijuana, and cities are

eligible for some of the distribution but only if they have permitted all the use categories. Peterson stated that enabling some, but not all of the permit categories will prohibit the City from received the shared revenue. Peterson explained that even if the City did not permit these land uses, the state law permits individuals to grow and consume marijuana. The City cannot prohibit that activity.

Peterson stated that there are permits for medical and recreational marijuana sales. The additional land uses that are being considered include production, warehousing, and wholesales. Peterson explained that the Planning Commission conducted a hearing and made a specific set of recommendations to permit these uses as a conditional use in the Light and General Manufacturing Zones. Peterson stated that the Planning Commission felt very strongly about prohibiting outdoor commercial grows. Peterson explained that prohibiting outdoor grows would still permit the City to participate in revenue sharing as long as production is allowed. Peterson stated that there can also be requirements for air cleansing measures for indoor grow operations.

Peterson presented a zoning map, and stated that the LM and GM zones are between the Neighborhood Commercial Zone along Halsey and I-84. Peterson explained that the Planning Commission recommended the 1,000 foot buffer from schools, parks, and other marijuana uses. Peterson presented a map of the proposed exclusion zone. Peterson stated that the code amendments define the uses, allows the uses with restrictions and as a conditional use, and prohibits the use in all other categories.

Peterson stated that processing facilities take the raw materials, and creates something new like a compound or oil. Production is the actual growing of the products. Peterson explained that growing and processing facilities cannot be combined. Peterson stated that medical grows are not regulated by this code, and there are currently five medical grow operations in the City. It is only the commercial activities that can be regulated by the code. Peterson stated that there are new state rules for medical grow operations, and that has limited the amount of plants that can be grown for medical users.

Peterson stated that wholesalers purchase from producers, and then resell the products. They can warehouse and store the products before shipping to businesses for retail sales or processing. Peterson stated that based on the Planning Commission's recommendations, there could be a maximum of five facilities if they were optimally located, or as few as two facilities depending on the location.

Harden stated that there seems to be concerns about pricing out other industries for the industrial space. Peterson stated that is a real concern for a lot of areas as the marijuana industry can afford to pay more for the industrial space than other users. While they can pay more for the space, the employment levels can be relatively small, and displace employment opportunities.

Peterson stated that the Council can adopt the code revisions as recommended by the Planning Commission, amend the proposed revisions, or reject the amendments. Peterson stated that the staff recommendation is to adopt the revisions as recommended by the Planning Commission.

Harden asked about the constraints that can be placed in the conditional use process, and asked if that could include a prohibition on hash oil extraction. Peterson stated that the OAR's covered oil extraction, and prohibited the use of flammable gas in the extraction process. The real danger in the oil extraction has been removed by the OAR's and OLCC. Peterson stated that it could still be prohibited, but the state rules have removed the concerns around explosions.

Harden asked if a conditional use permit could be denied if an applicant meets all the criteria. Condit stated that it could not be denied for a baseless reason, but a conditional use can be denied if there is a rational basis.

Smith opened the floor for the Public Hearing.

Julie Lofstedt of 24221 NE Halsey stated that she lives across from the park, and has real concerns about the proposed zoning location. Lofstedt stated that the LM and GM zones are behind her house, and is concerned about the potential odor that can occur from a grow site. Lofstedt explained that the wind often blows from the north during the summer which would push the odors directly to her house.

Peterson stated that odor mitigation or air cleansing measures can be added as part of the conditional use process.

Lofstedt stated that she is also concerned about the number of sites that could potentially locate in the City. Smith stated that there is a 1,000 foot buffer between facilities. Lofstedt stated that nothing would prevent a business from purchasing a large area in the LM or Gm zone. Lofstedt asked if the buffer includes medical grow operations. Peterson stated that medical marijuana facilities are treated separately, and would not be regulated by this code. Condit agreed, and stated that there would probably be some revisions at the state level to help with that matter.

Lofstedt asked if the 1,000 foot buffer could be expanded. Harden stated that the 1,000 foot buffer from schools and state licensed day cares is a state law. The City added parks to the list, but the distance could not be expanded. Smith stated that there is only so much that the City can do.

Smith closed the public hearing.

Nissen asked about the infrastructure requirements, and if there would be additional demands on the City's system. Sloan stated that he does not know what the water needs would be for these facilities, but the City does have an adequate supply. Peterson stated that there have been discussions on the treatment of water from grow sites, and the City does have a pre-treatment program for industrial applications.

Frank stated that he could be open to regulating the land uses in a controlled and reasonable way, but is concerned about potential issues down the line. Frank stated that there could be unintended consequences that cannot be anticipated, and there may not be an easy way to fix those issues. Frank stated that he is concerned with the permanency of the land use.

Condit stated that this would be the law of the City, and that can always be amended. Condit explained that there are often revisions after a code is approved, and this area is very new. It is likely that there would be changes down the line. Peterson stated that there will probably be changes at the state level. Harden stated that there could also be changes with a new administration at the Federal level.

Harden stated that the use is already moving forward in the City with permitting retail sales. Frank stated that if there were assurances that errors could be fixed, then it might be okay. Clark stated that the Council decides what and when to amend the code. Peterson stated that there are 77 pages of revised code, and there will probably be changes to that at some point. Peterson stated that you cannot take away a right from an existing user though.

Clark asked if there is a current application for a site in the LM or GM zone. Peterson stated that there is not.

Upon motion by Harden, seconded by Nissen and passing 3-2 with Clark, Harden and Nissen Yea, and Smith and Frank Nay, Ordinance 1-2016 establishing marijuana land use designations was adopted.

ORDINANCE 2-2016 ACCEPTING FOR THE CITY OF WOOD VILLAGE REVENUE SHARING PROGRAM OF THE STATE OF OREGON

HR/Records Manager Greg Dirks presented the ordinance. Dirks stated that this is an annual ordinance that allows the City to receive state shared revenues. Dirks explained that this is the start of the budgeting process, and last year the City received nearly $40,000 in shared revenues.

Upon motion by Nissen, seconded by Clark and passing 5-0, Ordinance 2-2016 accepting state shared revenues for fiscal year 2016-17 was adopted.

RESOLUTION 1-2016: 2015 SYSTEM DEVELOPMENT CHARGES REPORT

Minter presented the report and stated that this is the annual report on system development charge funds. Minter explained that SDC's pay for the required improvements necessary to accommodate a new development. Minter stated that there had been SDC payments in 2011, 2012, and 2013, but none since that time. Minter stated that there is $22,304 in the Water Fund,and $26,225 in the Sewer fund.

Harden asked when the SDC's would be spent. Peterson stated that there is a reimbursement and prospective SDC. Peterson explained that about 45% of the Halsey project is SDC eligible, as will future capacity projects.

Upon motion by Harden, seconded by Nissen and passing 5-0, Resolution 1-2016 accepting the 2015 System Development Charges report was approved.

FINANCE DIRECTOR'S REPORT

Minter presented the report and stated that the report is for November. Minter explained that we are on target for revenues and expenditures. Minter stated that there are some individual line items that are over budget, but they do not affect the overall bottom line. Minter stated that the investment report will be provided at the next meeting so the Council has the most current numbers.

Peterson stated that the City has just emerged from five of the toughest economic years since the Great Depression, and the City was able to contain costs and add to fund balances during that time. Peterson stated that the City was also able to retire all debt, and add new revenue sources.

ADJOURN

With no further business coming before the Council, and upon motion by Harden, seconded by Clark and passing 5-0, the Council adjourned at 7:34pm.

Patricia Smith
Mayor

2-9-16
Date

ATTEST:

Greg Dirks
Recorder