
CITY OF SEDRO-WOOLLEY

Regular Meeting of the City Council
June 27, 2012 – 7:00 P.M. –City Hall Council Chambers

ROLL CALL: Present: Mayor Mike Anderson, Councilmembers: Kevin Loy, Tony Splane, Tom Storrs, Keith Wagoner, Hugh Galbraith, Rick Lemley and Brett Sandström. Staff: Recorder Brue, Finance Director Nelson, City Supervisor/Attorney Berg, Engineer Freiberger, Planner Moore, Fire Chief Klinger and Police Lt. Tucker.

The Meeting was called to order at 7:00 P.M.

Pledge of Allegiance

Consent Calendar

- Minutes from Previous Meeting (Including June 6, 2012 Worksession)
- Finance
 - Claim Checks #74643 to #74737 in the amount of \$1,041,079.68 (Voided Check #74666)
 - Payroll Checks #53259 to #53371 in the amount of \$194,962.94
- Designate SWHS Alumni Association Reunion at Riverfront Park a Community Event
- Agreement for Spillman Mobile Usage
- Ordinance 1744-12 – Establishing the Code Enforcement Fund
- Ordinance 1745-12 – Amending SWMC 6.08.120 to exempt Service Animals and Adding a Definition of Service Animals to Chapter 6.08 SWMC

Councilmember Wagoner questioned Item F, whether there was a governing body that regulates what a service animal is.

City Supervisor/Attorney Berg stated the definition was from the state law.

Councilmember Storrs moved to approve the consent calendar. Seconded by Councilmember Galbraith. Motion carried (7-0).

Public Comment

Raymond Fox – 901 Jameson, addressed the Council noting recently the police had confiscated all of his medical marijuana, supplies and paperwork. He wished to address the medical marijuana topic.

Mayor Anderson noted that he would have an opportunity to speak when Council discusses the topic on the agenda.

PUBLIC HEARING

Interim Zoning Control Ordinance Regarding Medical Marijuana

Planner Moore reviewed the proposed interim ordinance regarding medical marijuana. He noted passing of the ordinance would be a continuation of the moratorium and would give more time to allow the Planning Commission to review the issue and come up with regulations. Moore noted the plan is to obtain a legal review and interpretation of various US Department of Justice letters and, depending on the outcome, the Planning Commission will hold public hearings, review draft ordinances in the fall, prepare the required environmental checklist for the state, hold a final Public Hearing with the Planning Commission in October and two public hearings with the Council in November and December.

Council questioned a letter from the Department of Justice on personal liability.

Mayor Anderson opened the Public Hearing at 7:07 P.M.

Raymond Fox – stated he is a lifetime resident of Sedro-Woolley who does not believe in pharmaceuticals but chooses medical marijuana. He spoke of the confusion and grey area of the laws. He said until things are sorted out between federal and state, everyone is caught in the grey area. He believes in the natural growing of marijuana for his cancer and disabled back.

Sharilyn Matthews – 1110 Warner, stated she live three doors from medical marijuana hydroponic grow facility which she opposes because it is in a residential neighborhood. She addressed an increase in traffic because of the facility and questioned the status of the operation. She spoke of the recent ruling in Arizona regarding federal vs. state ruling.

City Supervisor/Attorney Berg reviewed the process noting with the current appeal in process Mr. Swett can continue to operate pending the outcome of the appeal.

Mark Nickerson – owner of an access point in Whatcom County addressed the Council and spoke on moratoriums that have been going on for many years. He addressed standing behind the federal law when the people have spoken. He pointed out the federal governments subsidizing of immigration and asked “when do the state officials start standing up for the people against federal laws”. Nickerson spoke of access points and by not allowing them it only sends the issue back to the streets. He addressed the role of the big pharmaceutical companies. He stated the moratorium is not beneficial to the community and encouraged the Council to think of the safety of access points.

Councilmember Wagoner requested Nickerson clarify his citing of Section 2 of the Constitution.

Nickerson cited a case in Kent and noted the need to look at the scenario on a financial basis.

Mayor Anderson closed the public hearing at 7:16 P.M.

Discussion ensued on the process should the moratorium be approved, extension for an additional 6 months in order to process a plan, State vs. Federal laws, how the marijuana enters the stream of commerce, access points, purpose of the moratorium to freeze the field because without the moratorium the city currently has no regulations that is concurrent with state law. Further discussion ensued regarding the purpose of zoning, benefit to allow larger cities to go first, federal law trumps state law and trying to find a solution that is both within state and federal law.

Mark Nickerson – addressed the collective garden model.

Raymond Fox – stated he is trying to help the community help itself.

Councilmember Wagoner moved to approve Ordinance No. 1746-12 Adopting Finding of Fact and Continuing Ordinances No. 1728-11 and 1733.12, A Moratorium on Permitting Activities Involving Medical Marijuana. Seconded by Councilmember Splane.

Further discussion ensued with Councilmember Loy requesting a copy of the written law for self interpretation. He also stated that he would like a site visit to the current business in order to get his own information.

Mayor Anderson and City Supervisor/Attorney Berg noted the moratorium will allow time to gather more facts.

Motion carried (7-0).

UNFINISHED BUSINESS

Sidewalk Cafes in the Central Business District Ordinance

Planner Moore reviewed the second read of the proposed Sidewalk Cafes in the Central Business District. He stated the Chamber of Commerce with assistance from the Sedro-Woolley Rotary Club has proposed the project to partner with local restaurants in the downtown area to construct outdoor dining areas in the on-street parking stalls in front of restaurants interested in outdoor dining. He noted concerns expressed from the last meeting. The concerns have been incorporated into the ordinance which include: 1) Use allowed only between 6:00 A.M. and 10:30 P.M., 2) Permits are temporary for the calendar year they are issued, 3) Chairs must be removed at the end of day. Tables must be removed at end of day unless permanently affixed and 4) Language to clarify that sidewalk cafes located in parking stalls may not exceed the dimension of the parking stalls. Also added is a hold harmless agreement and insurance clause. The Planning Commission has recommended approval and staff's recommendation is to approve as well.

Discussion ensued regarding implementing on a trial basis using only a couple of sites as a pilot program, applications and installation date and parking spots being public property and not owned by store front.

Pola Kelley – Sedro-Woolley Chamber of Commerce addressed the Council regarding permit fees could be designated for future parking development or maintenance of parking areas within town and concerns of people who are opposed to the concept. She encouraged to allow it as a pilot program.

Discussion continued to include parking spaces to be affected, employees parking on main street for entire day in front of businesses, alternate parking locations available, challenge of walking for some people, need for verbiage of being a pilot program, deadline for application and installation, impact of the Metcalf Street Paving project and potential locations.

Brock Stiles – spoke on the platforms which are built in sections with Rotary funding for six sections. He noted businesses have to make own decision and was in agreement with a time frame for applications and installation. He addressed some concern on the affect on handicap spaces but encouraged Council to give the project a try and see how things go.

More discussion ensued regarding trash pickup and letting the businesses try and see how things go.

Councilmember Galbraith moved to approve Ordinance No. 1747-12 An Ordinance Amending the Sedro-Woolley Municipal Code to Allow Street and Sidewalk Private Dining Areas (Sidewalk Cafes) for restaurants in the Central Business District. Seconded by Councilmember Lemley.

Councilmember Loy questioned if the fees have been determined.

City Supervisor/Attorney Berg noted that the Council will need to establish a fee or establish authority for staff to set the fee.

Discussion ensued regarding having the first year with a maximum of two sidewalk cafes with no fee, application deadline, number of permits for 2012, review period and number of sections.

Councilmember Galbraith made an amendment to the motion under Section 1, 10.44.155 Sidewalk Cafes; A: no more than three permits in 2012, waive the fees and an application deadline of July 13. Seconded by Councilmember Lemley. Motion carried (6-1, Councilmember Wagoner opposed).

A vote was taken on the original motion. Motion carried (6-1, Councilmember Wagoner opposed).

Mayor Anderson stated that if he were voting he would agree with Councilmember Wagoner for various reasons.

Utility Tax Deductions Ordinance

City Supervisor/Attorney Berg reviewed modifications to the utility tax ordinance made by Council last year. He noted that the amendment left intact a deduction for commercial and industrial recycling, which was an oversight. The proposed ordinance would eliminate the deduction, allowing all recycling to be taxed under the city's utility tax. He noted that residential is paying the utility tax but commercial is not.

Berg noted as a side note that we are seeing increased pressure from commercial and industrial operations to take more material that is questionable as recyclables. He stated the County is coming up with a list of goods ranging from carpet to tires, to popcorn packing materials to fats, oils and grease.

Councilmember Wagoner moved to adopt Ordinance No. 1748-12 An Ordinance Eliminating a Deduction from the City's Utility Tax for Commercial and Industrial Recycling. Seconded by Councilmember Galbraith. Motion carried (7-0).

COMMITTEE REPORTS AND REPORTS FROM OFFICERS

Police Lt. Tucker – made clarifications on the task force raid on Mr. Fox's residence. He noted that the Task Force has some clear guidelines pertaining to medical marijuana and he would gladly get the guidelines for Council to look at. He also reported on recent controlled substance buys which resulted in arrests and the seizure of another vehicle. Lt. Tucker reported on a recent accident involving a Sheriff Deputy which damaged one of the City's sewer pump stations.

City Supervisor/Attorney Berg reviewed the damage to the pump station and the monitoring to care for the line until the pump station can be replaced. He noted there has been a task order issued for the design of a new pump station. Berg stated it will be at least 60 days for completion of a new pump station at a rough cost estimate of approximately \$50,000.

Fire Chief Klinger – reported the department is gearing up for the July 4th events, noting that Fireworks will go on sale this weekend. At the request of the Mayor, he reviewed the city's fireworks policy.

Engineer Freiburger – reported on the Metcalf Street paving project which is scheduled to begin in August and has a 35 day construction period. He also reviewed the flyer passed out on the upcoming SR20/Cook Road realignment project open house. He stated DOT representatives will be on hand and will present a slide show and visual analysis.

Freiberger encouraged Councilmember's to attend the open house. He also reported on the completion of two applications for the WSDOT 2012 bicycle/pedestrian program. The projects are the SR9/McGargile to Summer Meadows Sidewalk project and the John Liner Path from Reed to Township Street.

Councilmember Wagoner questioned the issues with the damaged pump station. Engineer Freiberger explained the operation of the specific pump station, the damage and the solution for the interim time.

City Supervisor/Attorney Berg – reported on the recent Jail Project Coordinating Council meeting. He noted they requested a decision on the proposed site of the jail. The County has requested the proposed Port site be taken off the table because having two geographical locations doubles the workload. He questioned Council if they have the objections to narrowing the focus to walking distance within current jail.

Some discussion ensued regarding several proposed locations and significant planning at a minimum of one year.

Councilmember Loy – requested staff keep track of the hours involved for the permitting of the sidewalk cafes.

Councilmember Splane – reported on a letter from a citizen expressing concern of fireworks during the 4th of July.

Councilmember Wagoner – encouraged everyone to stop by the Steelclaw Wrestling food booth for some curly fries.

Councilmember Galbraith – questioned the building setbacks for the portables at the Cascade Middle School project.

Planner Moore noted the buildings are temporary placement portables and as a condition of the permit they are to be removed at the end of the project.

Councilmember Lemley – noted the many community food vendors located at Loggerodeo which help to support many programs in the community and encouraged everyone considering supporting them.

Councilmember Sandström – reported there are no – no smoking signs in place at Riverfront Park. He also reported that \$641.51 has been raised from the music events for benefit of the Skate Board Park. Construction of the Skate Board Park is scheduled to start July 9th. Sandström also commented on the construction at Memorial Park, which is near completion and looking great.

Mayor Anderson – reported he has mailed a letter to all Ferry Street property owners stating that they are not allowed to rope off any of the right-of-ways.

Councilmember Lemley moved to adjourn. Seconded by all. Motion carried (7-0).

The meeting adjourned at 8:30 P.M.