

MOSES LAKE CITY COUNCIL  
August 26, 2014

Council Present: Dick Deane, Bill Ecret, Karen Liebrecht, Jason Avila, Jon Lane, and Todd Voth Absent: David Curnel

The meeting was called to order at 7 p.m. by Mayor Deane.

PLEDGE OF ALLEGIANCE: Mr. Ecret led the Council in the pledge of allegiance.

PRESENTATION AND AWARDS - None

CONSENT AGENDA

Minutes: The minutes of the August 12 meeting were presented for approval.

Approval of Claims, Prepaid Claims, Checks, and Payroll: Vouchers audited and certified by the Finance Director as required by RCW 42.24.080, and those expense reimbursement claims, certified as required by RCW 42.24.090, have been recorded on a listing which has been made available to the Council for approval and is retained for public inspection at the Civic Center. As of August 26, 2014 the Council does approve for payment claims in the amount of \$1,427,951.82; prepaid claims in the amounts of \$21,226.33 and \$250,147.65; claim checks in the amount of \$1,843,382.71; and payroll in the amounts of \$387,797.19.

Accept Work - 2013 Sewer Force Main Project: Pegram Construction, Inc. has completed work on the 2013 Sewer Force Main Project. The work should be accepted and the 60-day lien period entered into.

Action Taken: Mr. Voth moved that the Consent Agenda be approved, seconded by Mr. Avila, and passed unanimously.

COMMISSION APPOINTMENTS

LODGING TAX ADVISORY COMMITTEE

The membership of the Lodging Tax Advisory Committee is to be confirmed on a yearly basis. The current members include Debbie Doran-Martinez, Moses Lake Chamber of Commerce and Tourism Commission, Brenda Teals, Allied Arts, Friends of the Adam East Museum and Art Center, and Tourism Commission, Tim Molitor and Mayor Deane is the Chairman. Laura Susserman, who was also on the Committee has left the community and Kim Kirkbride, General Manager of the Comfort Inn and Suites, has expressed interest in serving on the committee.

Action Taken: Mrs. Liebrecht moved that the Kim Kirkbride be appointed and the current members of the Lodging Tax Advisory Committee be confirmed, seconded by Mr. Lane, and passed unanimously.

CONSIDERATION OF BIDS AND QUOTES - None

PETITIONS, COMMUNICATIONS, OR PUBLIC HEARINGS

BUSINESS LICENSE - APPEAL

Alan Heroux, on behalf of Brent Heroux, appealed the denial of a business license for The Hydrofarmer. He provided information on the proposed marijuana business proposed to be located at 1450 Wheeler Road in a Light Industrial Zone. He stated that the City denied the business license based on its definition of agricultural use, which he feels conflicts with the state's definition of marijuana being a non-agricultural use. He feels that the manufacture of marijuana as a food product fits in the Light Industrial Zone.

Katherine Kenison, City Attorney, reminded the Council of previous discussions on the definition of agriculture uses in the City and the Council determined that the growing of marijuana would be considered an agricultural use, which is prohibited by the City's existing code. The request from Mr. Heroux is to change the existing code to make allowance for an agricultural use in the Light Industrial Zone. If the Council is inclined to consider a change to the code, the ramifications of that change should be discussed not only by the Council but possibly by the Planning Commission.

Joseph K. Gavinski, City Manager, pointed out that cities have a great deal of discretion in the interpretations of its codes. He stated that staff is comfortable with the advice given to Council that this is an agricultural use and is not allowed under the current code.

There was considerable discussion by the Council on agricultural uses.

Action Taken: Mayor Deane moved that the appeal be denied, seconded by Mrs. Liebrecht, and failed with Mayor Deane and Mrs. Liebrecht in favor and Mr. Lane, Mr. Ecret, Mr. Avila, and Mr. Voth opposed.

There was additional discussion by the Council.

Action Taken: Mr. Ecret moved that the Light Industrial Zone be investigated as it relates to marijuana producers and that it be brought back to the Council at the next meeting, seconded by Mr. Lane, and passed with Mr. Lane, Mr. Ecret, Mr. Avila, and Mr. Voth in favor and Mayor Deane and Mrs. Liebrecht opposed.

#### BUILD ON UNPLATTED PROPERTY - CRAB CREEK PROPERTIES

Richard Penhallurick, representing Crab Creek properties, requested the Council approve an extension of the 30 day time limit for the submission of an easement granting access to the property behind Walmart. He stated that he submitted an easement, but was informed by staff that since it did not include a legal description of the access and the 30 days had elapsed, that another request would need to be submitted. He felt that he had provided a legal easement according to case law and requested that his request to build on unplatted property be granted.

Joseph K. Gavinski, City Manager, stated that the easement included a sketch of the easement but did not include a legal description of the easement. The easement as provided would encompass the entire Walmart property. He pointed out that in the future there is the possibility of the easement being revoked and that could leave the City open to a lawsuit by a subsequent owner of the property because the City permitted the development of the property without proper access.

There was considerable discussion by the Council.

Action Taken: Mr. Ecret moved that the request to build on unplatted property be granted with the stipulation that an easement be provided within 30 days and a building permit is requested, seconded by Mr. Voth, and passed unanimously.

#### ORDINANCES AND RESOLUTIONS

##### ORDINANCE - AMEND 13.12 - WATER, SEWER, AND STORMWATER RATES - 2<sup>ND</sup> READING

An ordinance was presented which increases the rate for the delinquent service charge and for turn-ons or turn-offs after 4 p.m and before 8 a.m.

The ordinance amending Chapter 13.12 of the Moses Lake Municipal Code entitled "Water, Sewer, and Stormwater Rates" was read by title only.

Action Taken: Mr. Lane moved that the second reading of the ordinance be adopted, seconded by Mr. Avila, and passed unanimously.

##### ORDINANCE - AMEND 2.48 - PLANNING COMMISSION - 1<sup>ST</sup> READING

An ordinance was presented which changes the requirements to serve on the Planning Commission to include the requirement that a voting member reside within the City limits.

The ordinance amending Chapter 2.48 of the Moses Lake Municipal Code entitled "Planning Commission" was read by title only.

Joseph K. Gavinski, City Manager, stated that requiring members of a planning commission to reside within a city's limits is a common requirement and it is unknown why that provision was not included for the City's Commissioners in the past. The two members that may be appointed from within the urban growth area has never been invoked and those members would not have a vote.

Mr. Voth provided information on other commissions for the City which do not require residency. He also felt that nine members on the Planning Commission were enough but perhaps two of those should be allowed to reside outside the city limits if they own property or businesses within the City.

There was discussion by the Council on the proposed residency requirements for members of the Planning Commission and staff was requested to amend the language to allow a business or property owner to serve.

#### ORDINANCE - AMEND 3.30 - UTILITY OCCUPATIONAL TAX - 1<sup>ST</sup> READING

An ordinance was presented which adds a time limit for refunds on tax payments.

The ordinance amending Chapter 3.30 of the Moses Lake Municipal Code entitled "Utility Occupational Tax" was read by title only.

Katherine Kenison, City Attorney, explained the reasons for limiting the time a refund could be required for an overpayment on a voluntary tax payment.

Action Taken: Mrs. Liebrecht moved that the first reading of the ordinance be adopted, seconded by Mr. Lane, and passed unanimously.

#### ORDINANCE - AMEND 8.28 - NOISE CONTROL - 1<sup>ST</sup> READING

An ordinance was presented which exempts noise emanating from temporary construction sites in commercial zones.

The ordinance amending Chapter 8.26 of the Moses lake Municipal Code entitled "Noise Control" was read by title only.

Joseph K. Gavinski, City Manager, stated that this amendment would address those situations where contractors have requested to work during night hours to facilitate construction work.

Action Taken: Mr. Lane moved that the first reading of the ordinance be adopted, seconded by Mr. Avila, and passed unanimously.

#### RESOLUTION - BUILD ON UNPLATTED PROPERTY - PERDUE

A resolution was presented which would allow the construction of a 28,000 square foot facility to house a portion of the Sonico, Inc. facility on property located at the corner of Patton Boulevard and Randolph Road.

The resolution allowing William Perdue to build on unplatted property was read by title only.

Joseph K. Gavinski, City Manager, stated that there is a requirement for the property to be platted within one year and the owner has no objections to that stipulation.

Action Taken; Mr. Avila moved that the resolution be adopted, seconded by Mr. Lane, and passed unanimously.

#### RESOLUTION - NUISANCE ABATEMENT COSTS - 2118 SPRUCE - PENCE

A resolution was presented which authorizes staff to collect the funds expended for the nuisance abatement at 2118 Spruce. The property is owned by Lorance Pence.

The resolution establishing the billing to be imposed against Lorange Pence, as the owner of certain real property upon which the City caused abatement of a nuisance to be performed after a failure of the property owner to abate the same was read by title only.

Action Taken: Mr. Ecret moved that the resolution be adopted, seconded by Mr. Voth, and passed unanimously.

#### RESOLUTION - ANNEXATION POLICY

A resolution was presented which amends the policy with regard to the provision of water and/or sewer utilities outside the corporate limits of the city by eliminating the time limit to connect up to nine residential lots to City services.

The resolution repealing Resolution 3396 and adopting a new resolution setting forth a policy with regard to the provision of water and/or sewer utilities outside the corporate limits of the City and setting forth an annexation policy for the City of Moses Lake, Washington was read by title only.

Joseph K. Gavinski, City Manager, stated that the change was suggested in order to accommodate those individual residential lots requesting city services. The two year time limit was mainly established for commercial and industrial users who would request a large amount of the City's water and sewer capacity. The two year time limit prevents those users from essentially reserving that capacity for a long period of time without actually connecting to the City's services.

Action Taken: Mr. Ecret moved that the resolution be adopted, seconded by Mr. Avila, and passed unanimously.

#### RESOLUTION - ABANDON EASEMENT - KERANOV

A resolution was presented which abandons a portion of the easements located along the rear and interior side lot lines of Lot 9, Block 1, Crossroads Phase 4, 1625 E. Filmore Drive.

The resolution authorizing abandonment of easements was read by title only.

Anne Henning, Senior Planner, stated that the easements are not needed and the owners have requested that they be abandoned.

Action Taken: Mr. Avila moved that the resolution be adopted, seconded by Mr. Voth, and passed unanimously.

#### RESOLUTION - NUISANCE ABATEMENT - 2404 LAKESIDE - GIBSON

A resolution was provided which provides for the abatement of nuisances at 2402 W. Lakeside Drive, owned by Vona Gibson.

The resolution determining that Vona Gibson is the owner of certain real property within the City; that a nuisance requiring abatement by City forces or forces contracted by the City exists on such property; and directing the use of such forces to abate the nuisance found was read by title only.

Clair Harden, Code Enforcement Officer, was sworn in and provided testimony concerning the nuisance violations.

There was no other testimony. The hearing was closed.

Action Taken: Mr. Ecret moved that the resolution be adopted, seconded by Mr. Avila, and passed unanimously.

ANNEXATION - DESERT GOLF

Desert Golf, LLC submitted a Notice of Intent to Annex and a Petition for Annexation for 7.2 acres of property located north of I-90 and off of Road F.2.

Joseph K. Gavinski, City Manager, stated that this property is adjacent to the City's limits and the owner requires water service and is willing to annex the property. He suggested that to expedite the annexation the Notice be receipted and accepted and the Petition be accepted.

Action Taken: Mr. Lane moved that the Notice be receipted and accepted and the Petition be accepted, seconded by Mr. Avila, and passed unanimously.

REQUEST TO CALL FOR BIDS - None

REFERRALS FROM COMMISSIONS - None

OTHER ITEMS FOR COUNCIL CONSIDERATION - None

NON-AGENDA ITEMS AND PUBLIC QUESTIONS AND COMMENTSTRAFFIC CONTROL - IRONWOOD DRIVE

Peter Stephens, 836 Plum Street, stated that he is concerned about the drag racing that is taking place on Ironwood Drive.

Police Chief Ruffin stated that they would investigate the situation.

COUNCIL QUESTIONS AND COMMENTS - None

CITY MANAGER REPORTS AND COMMENTSSHORELINE MASTER PLAN UPDATE

Anne Henning, Senior Planner, provided the Responsiveness Summary to the comments received on the Shoreline Master Plan Update. Once the Responsiveness Summary is accepted and the Shoreline Master Plan amended, the next step is for the Council to formally adopt the document.

There was some discussion by the Council.

Action Taken: Mr. Voth moved that the Shoreline Master Plan be forwarded to the Department of Ecology for approval, seconded by Mr. Lane, and passed unanimously.

The regular meeting was recessed at 9:15 p.m. and the Council met in an executive session with the City Attorney to discuss labor relations. The executive session was adjourned at 9:45 p.m. and the regular meeting was reconvened. The regular meeting was adjourned at 9:45 p.m.

ATTEST

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Dick Deane, Mayor

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W. Robert Taylor, Finance Director