

MOSES LAKE CITY COUNCIL  
September 9, 2014

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

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

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

PRESENTATION AND AWARDS - None

CONSENT AGENDA

Minutes: The minutes of the August 26 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 September 9, 2014 the Council does approve for payment claims in the amount of \$373,874.21; prepaid claims in the amount of \$16,406.62; claim checks in the amount of \$1,727,436.81; and payroll in the amounts of \$392,172.36 and \$4,010.15.

Davisson Final Major Plat and Findings of Fact: Davisson Enterprises has submitted a final plat application for a one-lot plat of 17.74 acres. The site is vacant and is located west of Road N and north of Wheeler Road. The area is zoned Heavy Industrial, which corresponds with the Comprehensive Plan Land Use Designation of Industrial. There have been no significant changes from the preliminary plat. The Planning Commission recommended that the final plat be approved with conditions. The Council's approval of this decision incorporates and adopts the Findings, Conclusion and Decision of the Planning Commission.

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

COMMISSION APPOINTMENTS - None

CONSIDERATION OF BIDS AND QUOTES

BIOSOLIDS LAND APPLICATION PROJECT

The City received three bids on the Biosolids Land Application Project. This project includes loading, hauling, and land applying approximately 400 dry tons of biosolids from the Sand Dunes Wastewater Treatment Facility lagoons.

Gary Harer, Municipal Services Director, stated that this is the first time the City has hauled biosolids off site and it has involved working with the contractor, property owners, and the Department of Ecology and involved a number of permits.

Action Taken: Mr. Lane moved that the bid be awarded to Northwest Cascade, Inc. in the amount of \$150,120 with the approval to increase the quantities to spend up to the \$200,000 budgeted for the project, seconded by Mr. Avila, and passed unanimously.

PETITIONS, COMMUNICATIONS, OR PUBLIC HEARINGS

PORT OF MOSES LAKE - ADVANCED PLANNING GRANT PROGRAM

The Port of Moses Lake requested time before the Council to discuss a Department of Commerce grant program that provides funds to assist a county or city in paying for the cost of preparing an environmental analysis that advances environmental permitting activities in and around current and future large manufacturing sites for aerospace and other key economic growth centers.

Patrick Jones, representing the Port of Moses Lake, explained the project and requested the City to make a pre-application to support the process as there is Port property that would be ideal for an aerospace industry. There would be no costs to the City although the City would be the applicant and facilitator and participate in the administrative committee that manages the consultant that does the analysis.

Action Taken: Mr. Lane moved that staff be authorized to join with the County and Port to apply for an advanced planning grant, seconded by Mr. Avila, and passed unanimously.

Mr. Jones also introduced Jeff Bishop as the new director of the Port of Moses Lake.

#### REQUEST TO USE CITY PROPERTY - IRONWOOD BAND

Tracy Ekstedt requested the closure of Commerce Way on Sunday, October 12 in order to film a music video.

Mr. Ekstedt stated that his band, Ironwood, is planning to film a music video and would like to use Commerce Way for a short time on Sunday, October 12. The street would be closed during short intervals between 9 a.m. and 10 a.m. and 4 p.m. and 5 p.m. He contacted the neighbors and had no negative responses.

Action Taken: Dr. Curnel moved that the request to close Commerce Way on October 12 be granted, seconded by Mrs. Liebrecht, and passed unanimously.

#### ORDINANCES AND RESOLUTIONS

##### ORDINANCE - AMEND 3.30 - UTILITY OCCUPATIONAL TAX - 2<sup>ND</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.

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

##### ORDINANCE - AMEND 8.28 - NOISE CONTROL - 2<sup>ND</sup> READING

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

The ordinance amending Chapter 8.28 of the Moses Lake Municipal Code entitled "Noise Control" was read by title only.

Joseph K. Gavinski, City Manager, suggested that the noise be exempted in the industrial zones also.

Action Taken: Mr. Lane moved that the ordinance be amended to include "and industrial" and the second reading of the ordinance be adopted, seconded by Dr. Curnel, and passed unanimously.

##### ORDINANCE - AMEND 13.08 - WATER AND SEWER CONNECTIONS - 2<sup>ND</sup> READING

An ordinance was presented with amends Chapter 13.08, Water and Sewer Connections, by establishing a reimbursement for the installation of the sewer main on Randolph Road to serve AstaReal.

The ordinance amending Chapter 13.08 of the Moses Lake Municipal Code entitled "Water and Sewer Connections" was read by title only.

Action Taken: Mr. Avila moved that the second reading of the ordinance be adopted, seconded by Mr. Lane, 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 that a member shall reside within the city limits or shall own property or a business within the city limits. Since this change would include people within the UGA, the ex officio members from the UGA are eliminated.

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

Mrs. Liebrecht was in favor of 9 members but felt that only 2 should be outside the City's limits.

Mr. Voth also in favor of 9 but only 2 from outside the City limits.

Mr. Deane felt that all members of the Planning Commission should reside inside the City's limits.

Joseph K. Gavinski, City Manager, suggested that the ordinance could be amended to read ". . . seven (7) members shall reside within the City limits and two (2) members shall either reside within the City limits or own property or a business within the City limits and shall be appointed by the Mayor. . ."

Action Taken: Mr. Ecret moved that the ordinance be amended as suggested by the City Manager and the first reading of the ordinance be adopted, seconded by Mr. Lane, and passed unanimously.

ORDINANCE - CREATE 18.50 - RECREATIONAL MARIJUANA BUSINESSES - 1<sup>ST</sup> READING

An ordinance was presented which regulates marijuana businesses in the City's limits.

The ordinance creating Chapter 18.50 of the Moses lake Municipal Code entitled "Recreational Marijuana Businesses" was read by title only.

Katherine Kenison, City Attorney, stated that this ordinance would consolidate all the recreational marijuana uses into one chapter, adopts the state definitions, and adds some facilities within the 1,000' limit, limits the cultivation to indoor only, restricts the locations to permanent facilities with no drive through service, adds security requirements, and requires additional screening for the loading docks, and allows for retailers to locate in the C-1A and C-2 zones and allows the production and processing in the Light Industrial and Moses Lake Industrial Park Zones.

Ms. Kenison provided information on the medical and recreational litigation on-going in the state. She mentioned that many jurisdictions have established moratoriums on marijuana issues until the court cases have been resolved or the legislature addresses the issues.

There was some discussion by the Council.

Chris Reese, 324 S. Ash, Suite B, representing Brent Heroux and Wheeler Corridor, LLC, owner of the building at 1450 Wheeler Road, stated that he is mainly interested in obtaining a business license for Mr. Heroux at the location on Wheeler Road, either under the existing ordinance or under the proposed new ordinance. he mentioned that the prohibition of a marijuana operation within 1,000' of a courthouse would not allow such an operation in the proposed location as it is about 500' from the courthouse in Moses Lake. He was concerned about the required building materials since the existing building is made of metal. He was also concerned that the requirement to provide the City with the business plan would mean that it could be available to anyone through a public records request which it is not at the state level.

Mr. Reese argued that the current business license submitted by Mr. Heroux is for a use appropriate in the Light Industrial Zone and should be permitted.

Alan Heroux, 1156 Grand, requested that the Council approve the appeal of the denial of the business license application.

Ms. Kenison pointed out that there is no appeal process to a denial of a business license.

There was some discussion and it was pointed out that there is no process in the ordinance which authorizes the City Council to hear an appeal on the denial of a business license. Should the Council wish to allow the business, an amendment to the ordinance would need to be adopted.

Mr. Voth suggested that the ordinance be amended by deleting from Section 18.05.030, item H., the words "such as two-inch by four-inch or thicker studs overlain with three-eighths-inch or thicker plywood or equivalent building materials", delete from Section 18.50.040, item A, and delete from Section 18.50.050, items K and T. 3.

Mr. Ecret felt that the existing ordinance already allows the production and manufacturing in the Light Industrial Zone.

Action Taken: Mr. Ecret moved that the marijuana producers be allowed in the current Light Industrial Zone, seconded by Mr. Voth.

Mrs. Liebrecht was opposed to allowing the marijuana business at this time and felt that a moratorium should be established to see how the court cases play out.

Motion failed with Mr. Ecret, Mr. Voth, and Mr. Avila in favor and Mayor Deane, Mrs. Liebrecht, and Dr. Curnel opposed and Mr. Lane abstaining as he felt it is not an allowed use in the current zone and would be in favor of the adoption of the proposed ordinance.

Action Taken: Mr. Lane moved that the ordinance be amended by deleting from 18.50.030, Section H the words "such as two-inch by four-inch or thicker studs overlain with three-eighths-inch or thicker plywood or equivalent building materials" and deleting Sections A, K, and T 3 under 18.50.040, seconded by Dr. Curnel, and passed with Mrs. Liebrecht and Mayor Deane opposed.

#### ORDINANCE - DESERT GOLF ANNEXATION - 1<sup>ST</sup> READING

An ordinance was presented which provides for the annexation of approximately 8.12 acres located adjacent to Fairway Drive and includes the right-of- of Fairway Drive.

The ordinance annexing property commonly known as the Desert Golf Annexation to the City of Moses Lake, Washington, and incorporating the same within the corporate limits of the City of Moses Lake was read by title only.

Gilbert Alvarado, Community Development Director, pointed out that the legal description was amended to include Fairway Drive.

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

#### RESOLUTIONS - NUISANCE ABATEMENTS - 2003 BEAUMONT AND 210 LINDEN

Resolutions were provided for the abatement of nuisances at 2003 Beaumont and 210 Linden.

Gilbert Alvarado, Community Development Director, stated that staff needs to clarify some issues on the nuisances and requested that the hearing on the nuisance abatements be tabled until the next meeting

Action Taken; Mr. Voth moved that the hearing on the nuisance abatements be tabled until the next Council meeting, seconded by Mr. Ecret, and passed unanimously.

REQUEST TO CALL FOR BIDS - None

REFERRALS FROM COMMISSIONS - None

OTHER ITEMS FOR COUNCIL CONSIDERATIONREQUEST FOR CITY SERVICES - 2247 WESTSHORE DRIVE

Bret Hammond requested permission to connect 2247 Westshore Drive to City sewer without annexing the property into the City. It would be impractical for the property to be annexed at this time since there are no properties in the area with Extra Territorial Utility Extension Agreements or property owners that want to annex.

Action Taken: Dr. Curnel moved that the request for City services be granted with the stipulation that an Extra Territorial Utility Extension Agreement be required, seconded by Mr. Avila, and passed unanimously.

REIMBURSEMENT - ASTAREAL

Council confirmation was requested of the City Manager's signature on the Sewer Reimbursement Agreement with AstaReal Technologies, Inc. for the sewer line installed on Randolph Road. Those properties connecting to the sewer main constructed by AstaReal will be required to pay their share of the costs to the City and the City will forward those funds on to AstaReal.

Action Taken: Mr. Lane moved that the City Manager's signature on the contract be ratified, seconded by Mr. Avila, and passed unanimously.

NON-AGENDA ITEMS AND PUBLIC QUESTIONS AND COMMENTSCHICKENS

Zachary Troupe, 29 Nob Hill Drive, Ephrata, stated that he also owns property in Moses Lake and would like to relocate to Moses Lake and bring his chickens, which are allowed in Ephrata but not in Moses Lake. He requested that the code be amended to allow the keeping of chickens inside the City's limits. He mentioned that the regulations in Ephrata prohibit roosters and shelter for the chickens has to be on the side or rear of the house and 10' away from property lines. The limit is 3 chickens per lot except that 1 additional hen is allowed for every 1,000' over the average sized city lot.

Gilbert Alvarado, Community Development Director, pointed out that the issue of keeping chickens inside the City limits was discussion with the Council previously and Council was not in favor of the idea at that time as one of the concerns was the issue of dogs chasing and killing the chickens, which would then deem the dog as dangerous.

There was some discussion and staff was requested to provide information on the keeping of chickens.

AIRPORT

Tom Dent, Airport Commissioner, reported that the overlay project of the runways at the Municipal Airport has been completed and wanted to thank the Council for their support. He invited the Council to tour the Municipal Airport on Friday, September 12 at noon. He mentioned that the new fuel system has been installed and is operational.

COUNCIL QUESTIONS AND COMMENTS - NoneCITY MANAGER REPORTS AND COMMENTSAMBULANCE REPORT

The cash report on the ambulance operations for the month of August was provided.

BUILDING ACTIVITY REPORT

The August Building Activity Report was provided.

INVESTMENT REPORT

The City received \$18,427.81 in investment income for July 2014.

SALES TAX/TRANSIENT RENTAL INCOME

The City received \$512,038.78 in sales tax and \$70,246.58 in transient rental income in August.

BUDGET - GRANT COUNTY BOARD OF EQUALIZATION DECISION - REC

A letter from the City Manager was presented which gave the background of the appeal by REC of the county's assessed value of their property. The Grant County Board of Equalization set the assessed value of the property at \$250,000,000, which is a reduction of \$421,255,765 in the assessed value established by the county. The City established its 2014 budget based upon the \$671,255,765 assessed value for REC. Because of the reduction in the assessed value, there is a loss to the City of approximately \$1,327,000. The City will need to make up this shortage by replacement revenue or cuts in the General Fund budget.

Joseph K. Gavinski, City Manager, gave some background on the REC appeal of their assessed valuation and requested Council direction in the near future on how to make up the approximately \$1.3 million that the City will not receive in tax revenue. He pointed out that there are no reserves to cover this loss. There are several options to make up the loss including not operating the ice skating rink, the Larson Recreation Center, or the BMX track beginning this fall. This would save the City about \$125,000. In 2015 the City could eliminate the summer concert series and marketing program for a savings of \$179,000. These funds would go to support the Museum and Art Center. Additional revenue suggestions include taking the utility tax currently going to the Street Repair and Reconstruction Fund and returning it to the General Fund. Another option is to eliminate the General Fund subsidy to the Ambulance Fund and increase the ambulance utility rate to \$11.10 per month. Other revenue is limited and consists of requesting the voters to approve the ¼ of 1% in real estate taxes and a 1/10 of 1% increase in sales tax and perhaps raise some of the utility taxes.

There was some discussion by the Council on revenue sources and necessary cuts.

Chuck Perry, 4204 Lakeshore, stated that the Parks and Recreation Department is second to none in the State of Washington and contributes to businesses locating in the area. He would be opposed to any reduction in the Parks and Recreation programs.

Robert Dahlgren, BMX track operator, stated that he is opposed to any cuts to the Recreation Department since those cuts will affect the children in the City.

Debbie Talbot, 2278 Gladys, representing the Hockey Association, stated that the hockey program has grown each year and there are players that come from Seattle, Spokane, Moscow, Tri-Cities, among other places. She felt that having the ice rink and BMX track are great assets to the community.

There was some discussion and staff was requested to provide information on what type of fees could be charged to keep the facilities open.

Jonathan Smith, 1604 E. Truman, stated that the reductions proposed in the Parks and Recreation programs simply point up the fact of the budgetary crisis the City is facing and felt that volunteers may be a resource the City could use.

There was some discussion and the Council was in favor of returning the utility tax to the General Fund and increasing the ambulance utility fee.

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

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

Staff was directed to bring back a resolution to increase the ambulance utility fee by \$2.80.

The regular meeting was adjourned at 9:40 p.m.

ATTEST

\_\_\_\_\_  
Dick Deane, Mayor

\_\_\_\_\_  
W. Robert Taylor, Finance Director