

WALLA WALLA CITY COUNCIL
Regular Meeting Minutes
October 23, 2013

1. CALL TO ORDER

At the request of Mayor Pro Tem Cavazos, City Clerk Hill called the meeting to order at 7:00 p.m. Mayor Pro Tem Cavazos has requested, due to his major dental surgery, he be excused from the duty of chairing this meeting in the absence of Mayor Barrow. He suggested that Councilmember Cummins serve as Chair Pro Tem. Councilmember Cummins was selected Chair Pro Tem by unanimous consent of the Council.

Present: Councilmembers Conrado Cavazos, Jr., Barbara Clark, Jerry Cummins, Mary Lou Jenkins, Shane Laib, and Chris Plucker.

Absent: Mayor Jim Barrow.

City staff in attendance: City Manager Nabel Shawa, City Attorney Tim Donaldson, Assistant City Attorney Preston Frederickson, Assistant Development Services Director Brian Walker, and City Clerk Kammy Hill.

Also present: Jon Maland, Walla Walla Joint Community Development Agency Principal Planner.

2. PLEDGE OF ALLEGIANCE/MOMENT OF SILENCE

Councilmember Clark led the pledge of allegiance followed by a moment of silence.

3. PUBLIC COMMENTS

Chair Cummins invited public comments. No one in the audience chose to address the City Council on any item not on the agenda.

4. CONSENT AGENDA

Chair Cummins announced that Item B, a Washington State Liquor Control Board license for Andrae's Kitchen, is being removed from the Consent Agenda for separate consideration.

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City Clerk Hill introduced the Consent Agenda, Items A, C, D, and E, as follows:

- A. Acceptance of resignation of Jay Grantier from the Bicycle & Pedestrian Advisory Committee.
- C. Washington State Liquor Control Board application for added privilege for South Fork Grill, 1129 South 2nd Avenue, Suite D.
- D. Washington State Liquor Control Board new application for Early-Repass Golf, 201 E. Rees Avenue (Veterans Memorial Golf Course).
- E. Resolution No. 2013-118 adopting a joint self-insurance health and welfare benefit program and authorizing the City Manager to execute an intergovernmental agreement regarding such program and amendments thereto, and taking other action connected therewith. (Association of Washington Cities Employee Benefit Trust Self-Insured)

Chair Cummins invited public input. No one in the audience chose to address the City Council on any of these items.

Councilmember Plucker moved to adopt Consent Agenda Items A, C, D, and E. Councilmember Clark seconded the motion. The motion unanimously carried with 6 yes votes and 0 no votes.

- B. Washington State Liquor Control Board new application for Andrae's Kitchen, 706 W. Rose Street, Suite B.

Chair Cummins reported Councilmember Laib has a potential conflict of interest and will not be participating in voting on this item.

Chair Cummins invited public input. No one in the audience chose to address the City Council on any of these items.

Councilmember Plucker moved to adopt Consent Agenda Item B. Councilmember Clark seconded the motion. The motion unanimously carried with 5 yes votes, 0 no votes, and 1 abstention by Councilmember Laib.

6. ACTIVE AGENDA

- A. Ordinance No. 2013-28 vacating a portion of the alley right-of-way located east of Park Street to Grove Street within Truax Block of the amended plat of Park Addition to the City of Walla Walla, adjacent to Lot A, B, I and L of Truax Block.

City Manager Shawa reported the Planning Commission has reviewed this request and recommends approval. The City Council had held a public hearing and directed staff to proceed with the alley vacation and to waive the requirement for payment of one-half the appraised value of the property. This ordinance will approve the alley vacation as requested by the YMCA.

Chair Cummins invited public input. No one in the audience chose to address the City Council on any of these items.

**Councilmember Laib moved to adopt Ordinance No. 2013-28.
Councilmember Jenkins seconded the motion.**

There were comments on the benefits of this street vacation to the project proposed by the YMCA.

The motion to adopt Ordinance No. 2013-28 unanimously carried with 6 yes votes and 0 no votes.

- B. Ordinance No. 2013-29 amending Sections 13.03.610, 13.03.630, and 13.03.660 of the Municipal Code. (Repeal of wastewater failure to connect penalty)

City Manager Shawa reported this issue of whether to repeal the wastewater failure to connect penalty was discussed by the City Council at their June Work Session. Consensus was reached to have staff draft the enactments necessary to repeal this penalty provided citizens were required to hook up to sewer if their septic systems failed. This policy doesn't appear to be serving as an incentive to have property owners' hook up to the sewer and abandon their septic systems. It actually appears to have an adverse effect on seniors and younger families that might otherwise have been able to save to connect to the wastewater system. City Manager Shawa outlined the budgetary impacts to the wastewater fund by eliminating this penalty. The ordinance would

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become effective December 1, 2013. The 2014 budget modification has been made in anticipation of Council action and no rate increases are proposed over those already established.

There was discussion on:

- Whether those residents paying the failure to connect penalty will be able to make a claim against the City for those payments. City Attorney Donaldson indicated this type of claim would have no merit.
- Modifications to the wastewater fund budget. City Manager Shawa reported there will be no impact to the current utility rate structure.

Chair Cummins invited public input. No one in the audience chose to address the City Council on this issue.

Councilmember Plucker moved to adopt Ordinance No. 2013-29. Councilmember Jenkins seconded the motion. The motion carried with 5 yes votes and 1 no vote by Councilmember Laib.

- C. Public Hearing and Ordinance No. 2013-30 adopting interim amendments to Title 20 of the Municipal Code regarding zoning and land use matters to address Initiative 502 and related regulatory matters. (Recreational marijuana facilities)

City Attorney Donaldson reported this item had been discussed at the October 21 Work Session and Council directed staff to proceed with interim zoning regulations. The following issues were reviewed:

- The protections offered by an interim zoning ordinance are much greater than a moratorium. The State Liquor Control Board has deferred all zoning and site issues to local jurisdictions. The Liquor Control Board may issue a license even if a local jurisdiction has a moratorium in place.
- The Liquor Control Board has designated two retail outlets within the City of Walla Walla. The proposed interim zoning ordinance protects the residential zones and limits the potential sites meeting the buffer requirements.
- The proposed interim zoning ordinance includes the buffer zones specified in the Washington Administrative Code.
- Staff investigated the concerns expressed at the Work Session regarding the potential for a retail establishment being located in

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the Edith/Carrie neighborhood. No retail outlet would be allowed and the property cannot be rezoned to highway commercial. The proposed ordinance provides further protections for this neighborhood.

- Staff advises the Council to approve the interim zoning ordinance instead of establishing a moratorium. Recreational marijuana facilities will be required to go through a conditional use process due to their potential impacts on the surrounding properties.
- The ordinance will establish a work plan and a zone amendment process. Amendments can be made to the interim ordinance if they are found to be necessary.

There was discussion on:

- The Edith/Carrie neighborhood park and community center does not appear to qualify for a buffer zone as a public park in accordance with the Liquor Control Board definitions because it is maintained by the Blue Mountain Action Council.
- Whether a marijuana production and processing facility would become a vested use if the property was later to be found within a buffer zone. City Attorney Donaldson indicated these businesses are subject to a renewal process each year with the State Liquor Control Board so it is not clear if there would be a vested interest. The interim zoning code would require the business to have a valid state license.
- The Municipal Research and Services Center newsletter has also addressed this issue with an analysis similar to the City Attorney's office that jurisdictions are better protected by regulations rather than a moratorium.

Chair Cummins declared the public hearing open at 7:31 p.m.

Debra Callahan, 1017 Preston Avenue, Waitsburg, reported she was a Waitsburg Councilmember and commented that all of the marijuana tax money will go to a State general marijuana fund without any coming back to local government agencies for enforcement, except perhaps through grants. A local sales tax can be imposed to fund oversight and the Liquor Control Board has given leeway to local jurisdictions to determine how to zone and regulate.

Jim Johnson, 985 Reser Road, Walla Walla County Commissioner, clarified the reasons for the County's moratorium due to delay of regulations from

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the Liquor Control Board and to ensure that adequate time is allowed for correct implementation. Mr. Johnson read and submitted a letter asking for a continuance because of the limited time they have had to analyze and review the City's proposed regulations. The County also has concerns with the potential for a retail establishment allowed to be located near the County fairgrounds.

Jennifer Falk, 660 Village Way, Walla Walla, expressed concerns for users of medical marijuana with the impacts of the recreational marijuana regulations. Medical marijuana patients want to feel safe and secure when going to a retail outlet.

City Attorney Donaldson reported he has filed the required staff analysis and documents with the City Clerk.

There being no further public comments, Chair Cummins declared the public hearing closed at 7:44 p.m.

There was discussion on:

- The relationship between medical and recreational marijuana. City Attorney Donaldson explained that medical marijuana does not have a robust set of controls because of the previous position of the Federal government. Recommendations for control of medical marijuana have just been released by the legislative work group. It is likely the legislature will establish a similar licensing system for medical marijuana.
- The concerns expressed by Commissioner Johnson regarding the property near the County Fairgrounds. City Attorney Donaldson reported the property zoned highway commercial near the County Fairgrounds is owned by Walla Walla County. The conditional use permit process requires approval by the property owner. Walla Walla County would have to approve the use before a retail facility would be approved.
- Results if the City Council was to delay a decision. City Attorney Donaldson outlined the risk if the City doesn't move forward with regulations.

**Councilmember Clark moved to adopt Ordinance No. 2013-30.
Councilmember Cavazos seconded the motion.**

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There were comments by Council regarding the passage of Initiative 502 and the need to protect residents from the impacts. Council thanked Commissioner Johnson for his comments and commended staff for their work on the interim regulations.

The motion to adopt Ordinance No. 2013-30 unanimously carried with 6 yes votes and 0 no votes.

D. Approval of minutes of the regular meeting held October 9, 2013.

Councilmember Laib moved to approve the minutes of the regular meeting held October 9, 2013. Councilmember Clark seconded the motion. The motion unanimously carried with 5 yes votes, 0 no votes, and 1 abstention by Councilmember Cavazos.

7. COUNCIL MEMBER MEETING REPORTS

Councilmember Laib reported attendance at the ad hoc aviary design committee meeting held October 18; and the Work Session held October 21.

Councilmember Jenkins reported attendance at the Work Session held October 21.

Councilmember Plucker reported attendance at the Public Library Board meeting held October 16; the Valley Transit Board meeting held October 17; the Work Session held October 21; and the Prime Time at the Library program held October 21.

Councilmember Clark reported attendance at the Chamber of Commerce quarterly meeting held October 16; the Water & Wastewater Advisory Committee meeting held October 16; and the Valley Transit Board meeting held October 17.

Councilmember Cavazos was excused from providing his meeting report.

Chair Cummins reported attendance at the joint regional transportation planning organization meeting and legislative breakfast on October 10; a meeting with the Assistant Director of the Department of Commerce held October 14; the Chamber of Commerce quarterly meeting held October

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16; the Valley Transit Board meeting held October 17; the Freight Mobility Board meeting held October 18; and the Work Session held October 21.

8. UNFINISHED AND NEW BUSINESS

Councilmember Laib moved to reappoint Jane Ellen Innes to the Public Library Board for a term expiring December 31, 2018; and Rebecca Abenroth and Meagan Allen to the Parks, Recreation & Urban Forestry Advisory Board for terms expiring December 31, 2016. Councilmember Jenkins seconded the motion. The motion unanimously carried with 6 yes votes and 0 no votes.

Councilmember Plucker asked for a brief update on the Human Resource Manager recruitment. City Manager Shawa reported this recruitment is proceeding with in-house staff.

9. ADJOURNMENT

There being no further business, Councilmember Laib moved to adjourn at 8:03 p.m. Councilmember Jenkins seconded the motion. The meeting adjourned at 8:03 p.m.