

City Council Work Session

July 19, 2010

5:30 PM

Council Chambers

ATTENDANCE:

Mayor/Council (please check) Hanel, Ronquillo, Gaghen, Cimmino, Pitman, McFadden, Ruegamer, Ulledalen, McCall, Astle, Clark.

ADJOURN TIME: 8:40 p.m.

Agenda

TOPIC #1	<i>Shiloh Conservation Storm Water Basin Report</i>
PRESENTER	
NOTES/OUTCOME	

Public Works Director Dave Mumford described west end drainage problems and Shiloh Drain/Hogan's Slough. He said a technique to deal with the problem was to create a wetlands detention and sedimentation/clarification basin. He described the elements of the wetlands and explained that they would clean the water while it was being detained. He said the pollutant and nutrient removal would exceed DEQ standards. He commented that the timing was right because a lot of the improvements could be done while growth was low and then it would be ready for higher growth rate when it occurred. He said the design was for 10 year storms and Planning was working on a 100 year storm threat.

Mr. Mumford advised that creating wetlands was a unique way to deal with the issue and the Council would see future proposals using creative solutions. He said they were working with the Parks Department to include some amenities with the projects.

Councilmember McCall asked if there was funding for the project. Mr. Mumford advised there was funding to pay for the land and design. He said other groups were interested in assisting with the funding because of the type of project it was.

Councilmember Pitman asked if it would still remain a Public Works area. Mr. Mumford said it would, and they would work with the Parks Department and Planning Division regarding the connection to the trail system.

The public comment period for the item was opened. There were no speakers, and the public comment period was closed.

TOPIC #2	<i>Medical Marijuana Ad-Hoc Committee Report</i>
PRESENTER	
NOTES OUTCOME	

Councilmember Pitman asked to allow committee member Connie Wardell to make her comments because she had to leave to attend the School Board meeting.

- **Connie Wardell**, provided an brief overview of the committee process. She said that at the beginning, her preferred option was a complete ban, but it became clear that was not an option without inviting a lawsuit. She said the committee tried to address the primary concerns expressed by the public which included a 1000' separation from schools, and signage. She said the proposal was for a fairly restrictive ordinance, but many of the caregivers spoke at the last ad-hoc committee meeting and indicated they could live with the restrictions. She mentioned that as long as the businesses were legitimate, the City had to find a place where they could exist. She referred to the three aspects of the business and compared them to other agricultural products to use as a guide for zoning. She reported that the caregivers suggested the Council consider allowing businesses to move to the allowed zoning area during the moratorium. She said the committee felt that should be considered.

Councilmember McFadden asked if the caregivers felt the measurement tool to determine the 1000' separation was fair. Ms. Wardell stated that the caregivers felt it was fair, even though it was restrictive. She said the measurement tool of "as the crow flies" was zoning procedure.

Councilmember Pitman expressed appreciation to the committee members and acknowledged those that were present. He advised that the three options that would be presented included everything that had been previously discussed. He noted that the evening's meeting was only for the committee report to the Council and action would not be taken. He said Planning and Community Services Director Candi Beaudry would present the proposal. Councilmember Ruegamer commented that the committee worked well and he felt the committee's recommendation was objective. He said their job was not to judge it, but to make it happen the way it was intended.

Ms. Beaudry presented the recommended proposal from the committee. She explained the 1000' buffer from churches, schools, parks, and recreation areas, the four-year amortization period, and the signage restrictions. Ms. Beaudry displayed a map that showed the allowed areas. She said the three different phases of the business were treated differently and briefly explained the differences. Ms. Beaudry said one very important aspect of the ordinance was that any existing, non-compliant businesses would have four years to get into compliance. She said 26 businesses were located in zones that were compliant, out of the 73 business licenses that had been issued. She added that 15 had withdrawn their licenses or were not operating, so they were not compliant. Councilmember Ruegamer asked if it was known how many businesses were actively selling medical marijuana and were compliant under the proposed zoning. Ms. Beaudry said only one was compliant.

Councilmember Pitman clarified that the four-year amortization was a compromise; not a magic number of any sort.

Ms. Beaudry reviewed proposed signage regulations. She advised that the current signage regulations prohibited much of what could be a concern. She noted that the use of marijuana in the name or any pictures of marijuana leaves was not allowed.

Mayor Hanel asked about hours of business. Ms. Beaudry said they could operate any time and that the ordinance did not address that issue.

Councilmember Pitman referred to Ms. Wardell's comments regarding allowing non-compliant businesses to move while the moratorium was still in effect. He suggested allowing that to occur.

Ms. Beaudry stated that if the Council decided to move forward with the proposed ordinance, it would go to the Zoning Commission for a public hearing, then would return to the Council for a public hearing and first reading ordinance. She reviewed a potential timeline for the process and said if it followed that schedule, it could have an effective date of November 20.

Councilmember Cimmino asked if there was any grandfathering. Ms. Beaudry advised that would be up to the Council to decide.

Councilmember Pitman clarified that the proposal addressed commercial production and sale of medical marijuana, not private individuals that grew it in their home for their own use.

Mayor Hanel asked for comments from committee members.

Committee member Representative Cary Smith referred to a memo from Helen Thigpen, of the State Legislature regarding a conflict with criminal statute. He said he did not think the amortization period should go as long as four years since the area was too gray for that amortization. He added that the zoning did not address other issues with the Medical Marijuana Act. He said he thought the intent of the bill was to have a specialized person provide the marijuana for people that were unable to grow it themselves, not intending it to become a business or industry. He said the legislation did not address regulations for caregivers. Representative Smith advised that for the reasons he just outlined, he did not support the committee's recommendation. He referred to widespread support in his district to ban medical marijuana.

Councilmember Ulledalen stated that he agreed with the unanswered issues, which was why it would be difficult for the Legislature to change it. He said he thought the City would continue the moratorium.

Councilmember Astle stated that it was a zoning problem at the current time and the City was basically in a holding action while waiting for the State to come up with a reasonable solution.

Councilmember McCall stated she felt it was a State legislative responsibility and she predicted appointment of a joint committee at the beginning of the session to work on the issue throughout the session.

Committee member Mark Higgins stated it was his idea to allow businesses to move away from schools during the moratorium. He said he hoped the Council did not accept an amortization at all because he knew the caregivers in business had invested considerable money into their businesses. He spoke about the lack of access for people that lived in the zones that did not allow the businesses.

Committee member Ann Bustell advised that she was a medical marijuana patient and it helped with her medical condition. She said the committee wanted to allow the medical marijuana to remain in Billings with the restrictions.

Councilmember McFadden asked Ms. Bustell if public transportation came into play for her or other patients in similar conditions. Ms. Bustell stated she did not rely on public transportation to obtain her medication, but knew there were many people that did. Councilmember Astle asked if MET's special transit would take people to get their medicine. Ms. Bustell advised that she thought it was possible, but was not sure because she had no personal experience with it.

Councilmember Gaghen asked if it was correct that the zoning did not prohibit delivery to patients. Councilmember Pitman said that was correct.

The public comment period for the item was opened.

The following individuals spoke in favor of or in opposition of the recommendation from the Medical Marijuana Ad-Hoc Committee regarding proposed zoning for medical marijuana:

- **Sheri Walsh, 1439 Lake Elmo Drive**
- **Sandra Post, 522 Sioux Lane,**
- **Tom Zurbuchen, 1747 Wicks Lane**
- **Derek Rogers**
- **Jason Smith, 137 Moore Lane**
- **Jesse Larson, 15 ½ Grand**
- **Brandon Hartford, 2918 1st Ave. North**
- **Gary Bonifay , 1017 Avenue B**
- **Shawn Palmer, 3418 Flagstone Drive**
- **Cameron Andersen, 2916 7th Avenue N**
- **Joe Yates, 417 Lavender**
- **Janice Lynn, 7755 Hwy 3**
- **Susan Smith, 5522 Billy Casper Dr.**
- **William Crain, 711 ½ Terry**
- **Cherrie Brady, Parkhill Drive**
- **Meredith Daniel, 1534 Avenue F**
- **Laura Needham, 1710 Cobble Creek Trail**
- **Will Winterholler, 4392 Ridgewood Lane**
- **Mort Reid, Yale Ave & 1234 Avenue C**
- **Jessica Yates, 417 Lavender**
- **Doug Nash, 2109 Grand Avenue**
- **Kathy Adler, 724 Grand Avenue**
- **William Self, 2347 Columbine Drive**

There were no other speakers, and the public comment period for that item was closed.

Ms. Volek summarized that three options were provided by the ad hoc committee, and that two of the three options would have to go to the Zoning Commission for further action prior to a Council vote. She said staff recommended that the action began no later than September to allow a new ordinance in place prior to the expiration of the current moratorium. She spoke about the option to extend the current moratorium for one year.

A 10-minute recess was taken at 8:15 p.m.

Mayor Hanel asked if the Council had any direction for staff. Councilmember Pitman asked the Council to refer it to the Zoning Commission because that would provide more choices

in November. Councilmember Astle stated he favored extension of the moratorium until they saw what the Legislature was going to do.

Councilmember McFadden stated he agreed with Councilmember Astle. He said he thought the moratorium restored some order.

Councilmember Ruegamer expressed his concern about grandfathering and amortization, and suggested everyone take a tour of a growing facility. He said it looked like a lot of money had to be invested in the business.

Councilmember Clark stated he wanted to see all three options presented for Council action.

Councilmember Ronquillo commented that he looked at it differently – that the people that chose to start the business took a risk investing in the businesses. He said he did not believe in grandfathering the businesses so he favored the second option of banning them, but agreed that all three options should be presented for Council consideration. Councilmember Ulledalen said the Council needed to keep moving because the likelihood of the Legislature getting something done was not good. He said he felt the cities had wide latitude and he did not want to wait for the Legislature.

Mayor Hanel commented that to do anything prematurely would be a mistake. He stated that he respected the individuals that had businesses and were trying to make a living, but the Council tried to be fair and cared about the community. He stated he wanted it to be known that intimidation and threats did not go over with him and those types of conversations would be taken into consideration. He said that when the decision was made, it might not be satisfactory to everyone.

Ms. Volek advised that the item could be on the agenda for the first meeting in August.

TOPIC #3	<i>Public Comment on Non-Agenda Items</i>
PRESENTER	
NOTES/OUTCOME	

The public comment period was opened. There were no speakers, and the public comment period was closed.

Additional Information:

Councilmember Ronquillo advised that he was told that nobody had talked with Billings Clinic about the August 11 concert at Dehler Park. He said the Clinic was concerned about parking, traffic, access for emergency vehicles, etc. Ms. Volek advised that she would check on the arrangements and someone would talk with the Billings Clinic.