

CITY OF SHELTON, WASHINGTON - CITY COMMISSION
Business Meeting Minutes – November 21, 2011 6:00 p.m.
Shelton Civic Center

Presiding: Mayor Tarrant, Commissioner Byrne and Commissioner Pannell

Staff Present: Dave O’Leary, Kathleen Haggard, Vicki Look, Steve Goins, Dave Eklund, Mike Michael, Dennis McDonald and Lesleann Kangas

Mayor Tarrant called the meeting to order at 6:00 p.m.

Commission Reports - None

Public Comment

Mayor Tarrant clarified to the public in attendance that the appeal of the business license is a closed record. Therefore, while citizens are invited to speak during general public comment, the Commission could not consider the comments in making its decision. The following people commented about the Mari Meds business license: Ms. Sarah Short, Ms. Kim Morris, Ms. Christina Maloney, Mr. Jason Maloney, and Ms. Kim Olmstead, Ms. Kim Cookson, Ms. Rhonda Brook, Mr. Rufus Sprague, Mr. Brad Andrews, Ms. Kristie Worthy, Ms. Toni Gormley, Ms. Lori Kent, Mr. Alex Morris, Mr. Pete Kelly, Ms. Jayne White, and Mr. Casey T. Breeze.

Mayor Tarrant thanked all for their comments and reminded them that the comments would not be part of the appeal record.

Mayor Tarrant recessed out of the regular meeting and opened the Closed Record Appeal Hearing at 6:39 p.m.

Mayor Tarrant listed, in chronological order, the documents in the record relating to the application process. He asked the Commission if they have received and reviewed the record. The Commission responded yes.

The Mayor asked the audience if they had any objection to him serving as chairman of the hearing or objection to a member of the Commission hearing and deciding this matter. The audience responded no to both. The Mayor asked if any member of the Commission received ex-parte communications about this application or matter. The Commission responded no. Mayor Tarrant asked all members of the Commission if they could decide this matter in an impartial manner based on the record. The Commission responded yes. The Mayor asked if the Commission had conflicts of interest to disclose. The Commission responded no.

Mayor Tarrant said the process is the City Attorney will present a summary of existing State and Federal Laws of medical cannabis. Then, the applicant and/or attorney will then present his position based on the existing record.

Closed Record Appeal Hearing – Appeal of Denial of Business License – Mari Meds –City Attorney Haggard said the starting point for the decision is the Shelton Municipal Code Title 5 pertaining to licensing of businesses. Title 5.04 prohibits the City from granting a business license to any business activity that is in violation of either state or federal law. State and federal law in regards to cannabis are in conflict at the present time. Federal law categorizes cannabis as a schedule one drug and illegal while state laws allows the possession of cannabis by someone with a prescription for medical cannabis. The current state of the law in Washington is it is an affirmative defense to prosecution for possession or use of cannabis if you have a prescription. Where a patient obtains cannabis is still up in the air because state and federal law both prohibit the sale of cannabis in any form. The law also prohibits anyone besides a qualified patient or designated provider possessing cannabis. A qualified patient is someone who has a prescription and designated provider is someone who is given the permission and request by a single qualified patient to provide a certain amount of cannabis for his or her use. Current state law is clear that a designated provider can only have one patient at a time with a 15 day waiting period in between qualifying patients. Governor Gregoire vetoed all sections of the law, ESSB 5073, that would have legalized dispensaries of marijuana. A few provisions were left in the law authorizing collective gardens and significant clarifications added to provisions pertaining to medical providers that prescribe cannabis. Those specifically

prohibit any economic ties between medical professionals who do authorizations and anyone who dispenses cannabis. The concern is to avoid legitimate medical use of cannabis from evolving into large scale deal operations. Due to the threat of federal prosecution the Commission should be careful what is authorized at the local level. Since City Administrator O'Leary gave his written decision more clarity has been handed down by the courts. California Court of Appeals addressed the issue of preemption of when are state and local regulations with regard to cannabis are preempted by federal law. State and local governments cannot enact any law that is in conflict with federal law. While a state government can decide not to prosecute smaller scale use of cannabis, it cannot affirmatively authorize anything that federal law prohibits such as dispensing of cannabis in return for financial gain or the outright legalization of cannabis. The preemption doctrine can help determine if something can be authorized under state law without being in violation of federal law.

Mayor Tarrant recognized Attorney Dennis Xavier Goss, representing Mari Meds, who stated this position is in a gray area. Attorney Goss said that state law allows people who have proven medical conditions to use marijuana but have not provided a means to procure the marijuana needed. He requested the Commission be leaders and stand up to the federal government and grant a business license allowing Mari Meds to help those who need this type of medicine.

Attorney Haggard clarified that as long as cannabis is a schedule one substance Cities will not get tax revenue from a business.

Attorney Haggard read into the record codified RCW 69.51A.030 that was not vetoed. This addressed the health care professionals and those that do authorizations and what they can and can't do. One provision says a health care professional can not accept, solicit or offer any form of money from or to a licensed dispenser, processor, producer of cannabis products, examine or offer to examine a patient for purposes of diagnosing a terminal or debilitating medical condition at a location where cannabis is produced, processed or dispensed or hold an economic interest in an enterprise that produces, process or dispenses cannabis. Essentially legislation is saying that those who do authorizations are to be entirely separate from those who produces processes or dispenses cannabis.

Mayor Tarrant asked Attorney Goss about Mari Meds proposal to rent or lease a facility on Railroad Avenue, who would pay the rent and employees when no money is being exchanged. Attorney Goss said the business would be run as a co-op.

Mayor Tarrant recognized Mr. Robert Wood of Mari Meds who said he was receiving a year's free lease for the work that he has done to the property and he would pay the employees.

Commissioner Byrne expressed the need to take additional time to review the record and consider the arguments. Commissioner Byrne stated that he disagrees with the proposition that Shelton be a "leader" against the state and federal governments, because the City's role is to apply the law as it currently exists.

The Commission stated that they took oaths to follow the letter of the law but need more time to discuss the options with City Attorney Haggard before making a decision. A later date will be set to discuss the matter further.

Mayor Tarrant reconvened to the regular session at 7:30 p.m.

Consent Agenda

1. Vouchers numbered 76473 through 76574 in the amount of \$890,834.81
2. Payroll Warrants numbered 65711 through 65773 and 65776 through 65929 in the amount of \$675,690.66
3. Transfer and Banking Fees in the amount of \$23,013.59
4. Commission Meeting Minutes of:
 - Study Session of October 31, 2011
 - Business Meeting of November 7, 2011
 - Study Session of November 14, 2011

Commissioner Byrne moved to approve the consent agenda as read, Commissioner Pannell seconded the motion. A vote was taken and the motion passed.

Old Business - None

New Business

1. **Community Development Block Grant** – Regional Projects Manager McDonald reported that Community Development Block Grant (CDBG) General Purpose Grants are made available annually through a competitive application process to assist small cities and counties to conduct projects principally benefiting low and moderate income persons. These funds are to improve and maintain the economic and physical environment of eligible cities and counties, for such projects focused on public facilities, infrastructure, community centers, and micro-enterprises resulting in direct job creation. Before the City can submit an application, the City must provide public participation by providing a Public Hearing to inform the community regarding the CDBG program and the potential for partnering with the City in submitting a joint project funding application. The City Commission is responsible for selecting a single application to CDBG from the City. Staff will be available for public proposals and submit a recommendation to the Commission for review and final decision. The application is due March 1, 2012. Staff requested the Commission hold a Public Hearing on December 19, 2011 to announce availability of CDBG funding and the start of the City process.

The Commission concurred to hold a Public Hearing December 19, 2011 to announce availability of CDBG funding.

2. **Satellite Water Reclamation Plant - Membrane Plate Purchase** – City Engineer Michael reported that the City is continuing to move toward a final resolution and repair for the Satellite Water Reclamation Plant (SWRP). This process has been slow due to the need to work within limited sewer reserve funds as well as the need to work with our contractor on the project toward resolution of the issue. Recently, the City has received partial payment for the damages due to faulty equipment in the amount of \$250,000. In the last discussion with Ovivio, the manufacturer of the treatment equipment, they no longer had plates available at this time. It is expected to have at least an order of 2000 plates available for shipment the second week of December. Staff is prepared to order 2000 plates to repair a single tank which will be slightly over the \$250,000 including taxes and shipping. CE Michael requested the Commission concur and authorize the Mayor to sign a purchase order or purchase orders for the total purchase of approximately 3400 plates that are needed to complete the repairs to the plant. The price on the plates is still stable at \$125.00 for each plate.

Mayor Tarrant said issues with the plant caused the plates to malfunction. The City has received the partial payment of \$250,000 keeping us even with the sewer fund. This is not a matter of settling or further money due to the City, it is just a matter of fixing the plant.

Commissioner Pannell said the City is continuing to work towards some kind of a settlement with either the contractor or insurance companies.

The Commission concurred to place this under Old Business for the week of November 28, 2011 for an update and approval.

Administration Reports

- Manangement Assistant Look announced a Civil Service Commission opening.
- City Administrator O’Leary said he has been working on binders of information for the new Commissioners. He will be meeting with each of them to help with the transition.

Public Comment

Mayor Tarrant recognized Mr. Tom Davis who spoke on the City of Shelton and Port of Shelton controversy concerning the development of Shelton Hills. Mr. Davis said the City cannot afford to lose that area for economic growth.

Mayor Tarrant recognized Mr. Gary Cronce who commended the Commission for the fantastic job they did tonight on the medical marijuana issue.

Administrative Final Touches

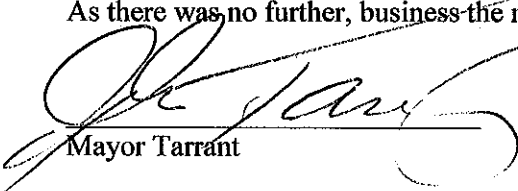
- DH Goins – Historic Preservation Board Appointment Recommendation
- DH Goins – Basin 3 Funding
- MA Look – Wage opener with Police Guild
- MA Look – Update Public Records Ordinance

Announcement of Next Meeting

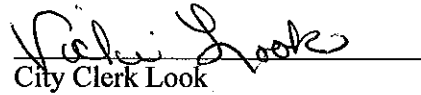
Mayor Tarrant announced the next Commission meeting of Monday, November 28, 2011, 2:00 p.m.

Adjournment

As there was no further business the meeting was adjourned at 8:00 p.m.



Mayor Tarrant



City Clerk Look