

City Council
October 8, 2013

Mayor Johnson called the regularly scheduled meeting to order at 7:00 P.M.

Upon roll call the following members were present: Howard, Irons, Leggett, Rose, Tremblay and Boyle Barrett. Council member Montgomery arrived late. Also in attendance was City Administrator David Schmidt.

Mayor Johnson stated you have before you an agenda that has been modified and asked if these are the only additions, corrections or changes this evening. City Administrator Schmidt said yes, just the two items for Executive Session. **Council member Tremblay moved to accept the agenda as amended. Council member Howard seconded the motion and the motion carried.**

Finance and Public Safety:

Council member Boyle Barrett stated that they missed their last meeting so we will need to reschedule. Their next scheduled meeting is October 21st at 2:30 PM at City Hall, but we need a meeting before that so she will be in contact to schedule that. Council member Boyle Barrett stated that the Fire Chief has some items on the agenda tonight; things that have been talked about before and which you are already aware of.

Streets & Utilities:

Council member Tremblay stated they have not had a meeting since their last one. They have a meeting next Tuesday night and will be wrapping up their budget discussions.

Community Services and Economic Development:

Council member Howard stated they had a meeting on September 19th and most of their discussion had to do with the budget. They talked about the Comp Plan and code update and the need to do both of those. Council member Howard reminded everyone that there is a Parks Department Open House on October 19th, which is a Saturday, and there is a Youth & Senior Center Dinner Auction on November 16th, at 5 PM. They also had a discussion about the sign code ordinance. Their next meeting will be the 17th of October at 7 PM, at City Hall.

Mayors Reports:

Mayor Johnson stated tonight we will swear in two new Assistant Fire Chiefs, and we will also have a presentation for retiring Assistant Fire Chief, Bill Boyle. We will also be swearing in a new Fire Captain. Mayor Johnson proceeded to administer Oaths of Office to Eric Skogen and Kenneth Whitmore as Assistant Fire Chiefs, and to Angela Riggsby

as Fire Captain, after which retiring Assistant Fire Chief Bill Boyle was presented with a badge for his years of service.

Staff Reports:

Chief Arsanto stated that he completed the Carbonado contract today and will have Wilkeson's before the next meeting.

Chief Predmore reported that last Wednesday we had an inspection by the Washington State Department of Health, and we were granted our full time ALS provider license.

City Administrator Schmidt stated that week before last PSE informed us that there has been an error in the calculations on some of the commercial business rates for natural gas. Large natural gas companies, when they meter and bill, they convert the cubic foot natural gas over into energy units and BTUs. The City of Buckley doesn't do that; we measure and bill on cubic feet. When you take those two differences and convert them, the commercial businesses are not going to realize the cost savings that PSE put into their proposal. I think you will remember that when PSE gave their proposal to the City there were questions about what that cost savings would be. In the explanatory statement on the ballot measure, for residential customers it says it is up to a certain percentage, but for commercial businesses it actually says approximately a percentage. So, there is not "up to" and that became a problem; we now actually have a conflict and a misstatement in the explanatory statement on the ballot measure. We've talked to the County Auditor and we've talked to the PDC; the ballot title is fine, there is no misstatement in the ballot title. Since that is fine they left it up to the City whether we wanted to send something out to the voters making a correction to that statement. So, we've been working with the City Attorney and PSE's attorney to draft just a letter explaining that there is a correction based on that conversion factor. We are hoping to get that out in the next day or two. A lengthy discussion ensued regarding the City making an equitable resolution and the wording of the letter.

City Planner, Kathy Thompson, reminded everyone of the Parks Open House on October 19th at 9:30 AM.

Jenny Smith stated that both she and Ellen will be attending different conferences at the end of the month.

CITIZEN PARTICIPATION

Chee Chee Gregg, 322 Dundass Avenue, Buckley. She handed out copies of Buckley Ordinance No. 08-09 regarding fencing, as well as Chapter 16.12 that relates to that. She also provided everyone with a copy of the fencing ordinance that Bonney Lake is using. Her problem is with a fence going up as of yesterday, and she has been trying to resolve this fencing issue with the guidelines we have in Buckley. She feels that there are gray

areas in the ordinance in Buckley because this fence is going up 8 inches from the side of her house, so she has windows that will be covered by a six foot fence. She was in the process of putting in a storm drain along the east side of her house where this fence is located. Plus, her gutter was disconnected as a part of incorporating the drainage through her property on that side of her house. Now she can't get to it; it is unfinished. The other side of her house is finished, but the east side of her house has been stopped by this fence going up 8 inches from her house. This is unconscionable. Ms. Gregg stated that we have a State law, a Pierce County law and we have laws protecting our property. Her house was built in 1955 and her understanding is it was eight feet from the property line at that time. Unfortunately, it wasn't. A home owner needs to maintain their home, and have police and fire protection on the side of their homes; I am not going to have that. I cannot even get in there to finish the job I just told you about, or maintain it from this point forward. Ms. Gregg said this issue is critical to her, it is devaluing her property, and it is unfair under the guidelines of law. She applied Bonney Lake's ordinance which would have helped her in this situation; it's Chapter 18.22 of their residential development standards. Now she is totally land locked on her property. Ms. Gregg said she wanted to present this because she feels we have gray areas in Buckley law, and she stated words from Bonney Lake's law that could protect her, specifically "fences built on property lines so close as to require trespass on adjoining land for maintenance shall require written approval of the neighboring property owner before such fence is constructed." I had my survey in August 2012 and they disputed it. The neighbors over wrote it with their survey in August of 2013, which showed a 12 inch difference between the two surveyors. That has not been resolved; there hasn't been time. Their survey was recorded in September and the fence is going up. That is my dilemma and I would appreciate the Council looking at it because I feel we have land protection by law.

City Administrator Schmidt stated that this issue should go to the Planning Commission. He would like to caution Chee Chee that if the Planning Commission recommends changes and the fence is already up, it would be after the fact. It would be grandfathered in and there would be no enforcement. Chee Chee Gregg said she understands that; she is doing this for the good of the citizens of Buckley. Council member Tremblay said he also wants to caution the Planning Commission, because he's run into this before, what we have may not be a fence problem; it may be a lot size and a lot setback issue.

MAIN AGENDA

Public Hearing: Extending Moratorium – Medical Marijuana Dispensary & Collective Gardens

Mayor Johnson recessed the City Council meeting and opened the Public Hearing at 7:48 PM.

Julie Bevaart, 315 No. McNeely, Buckley. She is asking that the Council please consider continuing the moratorium. She works with mostly low income residents in

Buckley and other towns around here and she gets to see first-hand medical marijuana recipients, and they may not be the most upstanding citizens, and they are very proud to have their cards. My concern with that is being privy to some of their information and watching as I am doing outreach in the community. I watch these clients come in and talk among themselves about how awesome it is that they have their cards, and they get to basically do something that they've been doing since they were teenagers, and mostly they don't work and they don't pay taxes; we are supporting them. For the most part I don't have an issue with those that truly have a medicinal need for it, that's fine, but I have an issue with the people that see this as potential for an opening for crime. If we have a collective garden here, I want to know and have it very well stated how we're going to protect the citizens in this city. This is my backyard and my neighborhood and I have a strong desire to help the people here, but I also don't want to have somebody taking advantage of a crime of opportunity, and I don't think we have enough police presence and enough force behind us. I think we need to have that infrastructure first so that we have a way to keep those who could be coming to look for a crime of opportunity and take advantage of that. These are the people she sees; not all of them, but a large contingent of these people is looking. I worry too about what this is saying to our kids and our community. As you know my office is inside the Youth Center and I have the opportunity to get to know the kids who are there and I am a parent myself and I work with the parents of these kids. What are we saying to those kids if we have a collective here? We already know from the school district's healthy kids surveys that we have this preconception that it's totally cool to drink. If you look at the police files, look at all the DUIs. We know our issues with alcohol. I want to have a community where we are raising kids that look out and say I'm proud because we have the integrity that even though we could have taken the road less traveled, we didn't. We could have put our collective garden in, and made our money from the dispensaries and the tax revenues, but we stand up and say to our kids that we really want you to have a better life; we want you to reach higher and dream bigger, don't just settle for something that could potentially be the easy way. I've got my prime issues that I'm concerned about. I'm concerned about the kids, and my other issue is with our prevalence for DUI up and down Hwy. 410. What's going to happen if we have a dispensary or a collective garden, and how many of them are going to get their marijuana and then get in their car and head down the road? I know how many of my clients don't have insurance, but how many of them could potentially have an accident, ruin my car and hurt me, and not be able to pay for it. That disturbs me and it is another big issue that I have with this. I have a lot more I could say; I am very passionate about this. I want this town to thrive; I want to see something better for us.

Herb, Professional Services Coordinator for the White River School District. He discussed a survey given to 5th, 6th, 7th and 8th grade students in 2007 and again two years ago regarding the perceived risk in using marijuana. In the 2007 survey about 90% of the kids said it was very risky, but when asked the same question two years ago the perception was that it is just slightly risky. Due to media saturation, about 70% of our

kids now perceive the risk as just slightly risky. He sees the effect of marijuana at school and in our graduation rates.

Tom Bevaart, 315 N. McNeely, Buckley. My question is why? Is the main reason to grow pot in Buckley to generate revenues? If that's the only reason, I really don't think that is a good way to get more revenue into the City. I don't think being the pot capital of the state is a good reputation to have and word is going to travel that Buckley grows the best stuff and we are going to attract the wrong people. I do not want to see it; it just isn't good for the reputation of the City.

Jake Vandervies, 299 N. McNeely, Buckley. I agree 100% with what the Bevaarts and everyone else has said so far. I understand that some people need medical marijuana, but you see some of the people who are getting it, like a 22 year old man with back pain – give me a break! The problem I see with it is maybe some people need it, but it leads to something worse. It starts with marijuana and it gets worse and worse and then it leads to other things and we don't need it in this community.

Marvin Sundstrom, 881 Sheets Road, Buckley. He was just reading an article about Colorado's marijuana initiative, and they have some interesting things in the law. The City of Greenwood, CO banned all possession of marijuana on city property. That includes city streets, city sidewalks, etc. The marijuana people feel that it will be subject to challenge in court, but I thought that was an interesting way of approaching it. Personally, I am against having pot smokers walking down the street.

Mayor Johnson closed the Public Hearing and resumed the City Council meeting at 8:01 PM.

ORD No. 15-13: Extending Moratorium – Medical Marijuana Dispensary & Collective Gardens

Council member Tremblay moved to approve Ordinance No. 15-13 extending the moratorium a third time on the establishment, location, operation, licensing, permitting, maintenance or continuation of medical marijuana collective gardens or medical marijuana dispensaries. Council member Howard seconded the motion. Council member Tremblay said he wants people to understand that what we are doing here is basically extending the moratorium. One of the reasons we're doing this is to understand more fully what the rules are, which the state has not yet clarified. There are regulations now and it is a state law, and there are things we have to do as a City; we have to respond to that state law in a manner that is appropriate. Doing nothing is not an alternative for us, so extending the moratorium is even risky because the sense from those on the other side of the fence is that we are just extending the discussion. We are continuing the discussion, and we want the community to know that, and we are very sensitive to what marijuana does and what having it in this community could do. We're

trying to get a handle on what we can do. We have to balance what we are legally obligated to do against what we can do because we cannot afford as a City to do something that is very subject to legal challenge. We know some communities right now are undergoing extensive cost to fight something that may be marginal. That is why we are extending it and we want the community to know that we are extending it not because we want to avoid the question, but because we are trying to clarify not only the question but what the community senses is where we want to go with this, and I have a pretty strong sense of where we want to go, but we want to make sure of what we can do. Council member Howard said he wants to emphasize that it was the voters who approved the medical marijuana dispensaries and collective gardens, and the City is required to adopt regulations to allow them, but we have hunted for six months, and now for potentially another six months, and we are not allowed to pass that dollar anymore. When the next six month moratorium comes up we have to have regulations in place that will allow for gardens, and zoning that designates areas for gardens. We don't have a choice because it was approved by the voters. City Administrator Schmidt said actually this is the 3rd punt, and it is going to get pretty dicey if we don't get something done. Council member Howard said pretty soon we can get sued and it will cost the city a lot of money trying to defend something that has been passed by the voters. So, we have to pass something; we're just trying to get our heads around it and think of a way to pass it in the smartest way possible. Discussion continued. **Motion carried.**

RES No. 13-09: Interlocal Agreement re AWC Health Care Program

Council member Montgomery moved to approve Resolution No. 13-09 adopting the Interlocal Agreement with AWC Creating the Health Care Program. Council member Boyle Barrett seconded the motion. City Administrator Schmidt said AWC is becoming self-insured and under the Insurance Commission anyone who is going to continue to participate with AWC has to adopt the Interlocal Agreement. **Motion carried.**

Proclamation – Domestic Violence Awareness Month

Council member Boyle Barrett moved to approve Proclamation Recognizing October as Domestic Violence Awareness Month. Council member Howard seconded the motion. Council member Boyle Barrett stated she feels the City should appoint an advocate. **Motion carried.**

IAA Pierce County Fire District #25 – Use of Fire Engine

Council member Boyle Barrett moved to approve a motion authorizing the Mayor to sign the Interlocal Agreement between the City of Buckley and Pierce County Fire District No. 25 for the loaning of a fire engine. Council member Howard seconded the motion. Chief Predmore said this is similar to an agreement we did with Greenwater and provided a brief explanation. **Motion carried.**

PW Contract: Fire Station Paving & Spiketon Road Repair (tentative)

City Administrator Schmidt stated we have provided an amended Agenda Bill with the bid tabulations from the City Engineer. That information should be in front of each of you. **Council member Howard moved to Award Schedules A & C to Asphalt Patch Systems for a total cost of \$28,890. Council member Tremblay seconded the motion.** City Administrator Schmidt stated the reason for this is explained in the memorandum, and provided a brief review. **Motion carried.**

Project Acceptance – Trail Well Drilling & Testing

Council member Montgomery moved to approve Final Acceptance of the Trail Well Drilling & Testing Project. Council member Rose seconded the motion. Motion carried.

Agreement – PW Project: Well #4 Investigation

Council member Boyle Barrett moved to approve the Public Works Contract/Agreement with Charon Drilling for Investigation of Well #4 at a cost of \$3,000 + Sales Tax. Council member Howard seconded the motion. City Administrator Schmidt provided a brief explanation. **Motion carried.**

BLA File #2013-01: Vandervies Boundary Line Adjustment

Council member Montgomery moved to approve BLA #2013-01. Council member Rose seconded the motion. Motion carried.

Council member Boyle Barrett moved to approve the Consent Agenda. Council member Tremblay seconded the motion and the motion carried.

Approve the minutes of the September 24, 2013 City Council meeting.

City Council retreated into Executive Session at 8:25 PM, for approximately fifteen minutes for the first issue, with notice to be given for time once discussion begins on the second issue, to discuss a real estate sale and then Spiketon Ditch Litigation,

with possible action to follow. At 8:40 another 15 minutes for the second issue was requested.

City Council returned from Executive Session at 8:55 PM.

Council member Tremblay moved to adjourn the meeting. Council member Montgomery seconded the motion and the motion carried.

With nothing further the meeting was adjourned at 8:56 PM.


City Administrator


Mayor