

**City of Benton City
Planning Commission Board Meeting Minutes
August 27th, 2014**

CALL TO ORDER – (368/4/677*Audio recording begins) Commissioner Allen called the August 27th, 2014 Planning Commission Board Meeting to order at 6:00 p.m.

ROLL CALL – (371/1/842*)**Commissioners Present:**

**Commissioner Gary Robins
Commissioner Don Allen (Temporary Chair)
Commissioner Steve Zetz
Board Vacancy**

Commissioners Absent:

Commissioner Ivan Howard

City Professionals Present:

Stephanie Haug, Clerk of Board

Other Professionals Present:

**Eric Ferguson, City Attorney, Kerr Law Group
Randy Rutledge, Consultant, Benton City E.D.C.**

PLEDGE OF ALLEGIANCE TO THE FLAG/U.S. – Commissioner Allen led the Board and audience in the Pledge of Allegiance - (378/3/686*)

APPROVAL OF MINUTES FOR JULY 22ND, 2014 PLANNING COMMISSION BOARD MEETING
(393/4/751*)

Commissioner Robins: I approve the Minutes of the last meeting.

Commissioner Allen: I'll second it.

MOTION #1 – C. G. Robins moved and C. D. Allen seconded to approve the Minutes of the July 22nd, 2014 Planning Commission Board Meeting as presented.

VOICE VOTE #1 –C. D. Allen, C. G. Robins, C. S. Zetz
ALL YEAS. Motion carried.

DISCUSSION – AUTO-ORIENTED USES - (431/4/679*)

A. Staff Report – (432/2/033*)

Commissioner Allen – Review - B.C.M.C. 20.60.040, 20.09.370 and 20.33.030

Ms. Haug – Overview of changes

B. Public Hearing – (527/3/831*)

***** Public Hearing begins at 6:05 p.m. *** (529/1/147*)**

Mr. Rutledge – Tracy is daughter of Masons – Ten or fifteen vehicles exempt – Just making sure

Commissioner Allen – Fifteen or less – Will be gravel or compacted surface

Mr. Rutledge – Very compacted – Wouldn't require them to pave whole lot

Commissioner Allen – Other issues there may benefit him – Item specific to help out – Spelled out now

Tracy (Mason) – Were packets sent? Do my folks have that?

Ms. Haug – Available at City Hall

***** Public Hearing ends at 6:07 p.m. *** (592/1/409*)**

C. Findings of Fact – (595/2/368*)

Commissioner Allen – Any questions or comments? Any changes you'd like to see?

Commissioner Robins – States what we discussed at last meeting – Agrees with what it says

Mr. Ferguson – One of the goals – Not specific to particular site – Not making exceptions - Changes affect all – Still a Conditional Use – Will have process

Commissioner Robins – Anything in here site specific?

Commissioner Zetz – Text amendment – Some surfaces required for A.D.A. Compliance – How does that work?

Mr. Ferguson – Other regulations still apply – State/Federal regulations

Commissioner Zetz – Can still be conditions for Conditional Use

Commissioner Allen – Each individual case be reviewed – Case specific – Conditional Use

Mr. Ferguson – Through process for Masons – Realized what we had was so strict – Couldn't do for one and not others – These are permitted – But we're going to do it as Special Use – Allowed but reviewed

D. Recommendation of Planning Commission – (740/2/879*)

Commissioner Robins: I recommend we approve the ordinance to go forward to the City Council pertaining to the, how do I put this... Service Station section Conditional Use Permit.

Commissioner Zetz: I'll second.

MOTION #2 – C. G. Robins moved and C. S. Zetz seconded to recommend to City of Benton City Council to adopt the changes to B.C.M.C. regarding Auto-Oriented Uses.

VOICE VOTE #2 – C. D. Allen, C. G. Robins, C. S. Zetz
ALL YEAS. Motion carried.

DISCUSSION – DRAFT MARIJUANA REGULATIONS - (761/3/273*)

Vice Commission Chair Allen – Prosser addressing issues now – One way to handle - Memo from attorney – Option to extend moratorium additional six months – Allow issues to potentially be resolved – City can supplement the work plan – City can also have Public Meeting prior to passing resolution

Mr. Ferguson – Should be renew moratorium – Not extension – Changes to process - Update on City of Fife – First one to identify Federal law – Federal vs. State vs. City jurisdiction – Don't see any way around it – Congress can regulate drugs – Interstate Commerce Law – Idea of supremacy – If Federal Government has ruled – State cannot – Courts have said its Federal jurisdiction – Cases consolidated in Pierce County – Bet it will go straight to Washington State Supreme Court – If court upholds Federal pre-emption – End of state system for marijuana sales in Washington – Distinct possibility

Commissioner Robins – Recommend for now – Ride the fence – No legalities for City?

Mr. Ferguson – Yes – Moratoriums can easily become de facto bans – Marijuana use not constitutionally protected – Not much upside for anyone to sue our community for not allowing – All avenues have litigation risk associated with it

Commissioner Allen – What date would moratorium we're discussing now take effect?

Mr. Ferguson – Think we're covered until October - Would need to renew prior to October 14th

Ms. Haug – Would have to have Public Hearing first meeting October

Commissioner Allen – Then this one would kick in after that if we so choose

Ms. Haug – Question – Our Business License regulation prohibit us from issuing licenses for businesses against state or federal law – Is City protected either way

Mr. Ferguson – No – That's the danger – Why other cities have dug heels in – Not going to tell city employees to knowingly violate local ordinances stating they're not to violate local city ordinance – This particular administration is okay with it – Earlier memo only pertains to this particular Justice Department head – Can be change in Justice Department – Could be change in Administration – May change next election – This could all change – May decide to start prosecuting

Commissioner Robins – Suggestion for us to go with extended moratorium for six months

Mr. Ferguson – Correct – Renew moratorium – Whether leaning towards regulating or banning – Still recommend renewal – So much can change in six months – Every single day something new happens – Will have much better idea how to proceed

Commissioner Zetz – Prosser update – Requires any medical marijuana dispensary to obtain state license – No grow in industrial

Commissioner Allen – Example – Store opens in Benton City – One customer happens to be P.O. worker –
In trouble – City liability

Mr. Ferguson – Anything is possible – City defense - Following state law – Most likely no risk to City – Unlikely for particularized contact creating the liability – In general – Liability wouldn't apply

Commissioner Allen – Federal vs. State – Can go either way

Commissioner Robins – Do we have to make amendment to extend moratorium today? Good through October?

Mr. Ferguson – Just a matter of what Planning Commission wants to recommend to City Council

Ms. Haug – Correct – Everything will go to City Council

Recommendation of Planning Commission – (1444/4/249*)

Commissioner Robins: I make a motion to extend the moratorium...renew the moratorium on the marijuana issue for next six months

Commissioner Zetz: I'll second.

MOTION #3 – C. G. Robins moved and C. S. Zetz seconded to recommend to the Benton City Council renew moratorium six more months to amend the work plan.

VOICE VOTE #3 – C. D. Allen, C. G. Robins, C. S. Zetz
ALL YEAS. Motion carried.

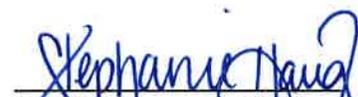
NEXT MEETING – WEDNESDAY, SEPTEMBER 24TH, 2014 (1491/1/644*)

ADJOURNMENT (1493/3/043*)

Commissioner Allen: This meeting is adjourned

Commissioner Allen adjourned the Planning Commission Meeting at 6:37 p.m. (1494/4/000*Audio recording ends)


Don Allen, Temporary Commission Chair
Planning Commission Board


Stephanie Haug, CMC
Clerk of the Board

Date: 1-28-15