

**Members**

Jeremy C. Doty, Chair  
Donald Erickson, Vice-Chair  
Chris Beale  
Sean Gaffney  
Tina Lee  
Ian Morrison  
Matthew Nutsch  
Erle Thompson

**Community and Economic Development Department**

Ryan Petty, Director  
Peter Huffman, Assistant Director  
Charles Solverson, P.E., Building Official

**Public Works and Utilities Representatives**

Jim Parvey, City Engineer/Assistant Director, Public Works Department  
Heather Pennington, Water Distribution Engineering Manager, Tacoma Water  
Diane Lachel, Community and Government Relations Manager, Click! Network, Tacoma Power



# Minutes

## Tacoma Planning Commission

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**(Approved on 10-5-11)**

**MEETING:** Regular Meeting and Public Hearing

**TIME:** Wednesday, September 7, 2011, 4:00 p.m.

**PLACE:** Council Chambers, Tacoma Municipal Building, 1<sup>st</sup> Floor, 747 Market Street, Tacoma, WA 98402

**Members Present:** Jeremy Doty (Chair), Donald Erickson (Vice-Chair), Peter Elswick, Tina Lee, Erle Thompson

**Members Absent:** Chris Beale, Sean Gaffney, Ian Morrison, Matthew Nutsch

**Staff Present:** Donna Stenger, Brian Boudet, Elliott Barnett, Ian Munce, Jana Magoon, Shanta Frantz, Lisa Spadoni, Shirley Schultz, Antonio Vasquez, Lihuang Wung (CED); Ramie Pierce, Lorna Mauren, Mike Carey (Public Works)

Chair Doty called the meeting to order at 4:07 p.m. City Clerk swore in the newly appointed Commissioners Tina Lee and Erle Thompson. A quorum was declared present.

### **PUBLIC HEARING**

#### **1. Medical Cannabis Emergency Moratorium**

Chair Doty called the public hearing to order at 4:10 p.m. Donna Stenger, Long Range Planning, provided an overview of the subject. The Medical Cannabis Moratorium, adopted August 2, 2011, prohibits the acceptance of applications for the establishment, location, operation, licensing, permitting, maintenance, or continuation of medical cannabis collective gardens or medical cannabis dispensaries within the City. The moratorium would be in effect for six-months or until February 1, 2012.

Ms. Stenger outlined the procedures used to declare a moratorium and the Commission's responsibilities to conduct a public hearing and to forward back to City Council findings of fact and recommendations. She stated that three individuals submitted written testimony; copies of which were provided to the Planning Commission.



Chair Doty called for testimony. The following individual came forward to testify:

(1) Pennie Smith, 6613 South Proctor Street:

Ms. Smith indicated that she was a member of the South Tacoma Neighborhood Council but was not here representing the Council. She voiced approval of the Moratorium and stated she was all for it because she would like to have more questions answered because she believes that allowing medical marijuana dispensaries as they are currently operating is very destructive for the City and her neighborhood.

With no further speakers coming forward, Chair Doty closed the public hearing at 4:20 p.m.

## **GENERAL BUSINESS**

### **1. Medical Cannabis Moratorium**

Ms. Stenger went over the draft Findings of Fact and Recommendation included in the agenda packet. She noted that there also was a draft letter of recommendation included in the packet. Both documents would need to be revised to reflect the public testimony received.

She explained that according to the direction previously provided by the Commission both the findings and the Commission's letter recommend that the moratorium be longer than six months. State law allows a moratorium to be in place for up to one year if a work plan is developed for the permanent regulations. Ms. Stenger stated that some of the considerations for a longer moratorium are possible legislative changes and the need to collaborate with other City efforts to regulate medical cannabis and the need to consider comments and feedback from the citizen Task Force that will be looking at issues on medical cannabis in a broader perspective.

The Commissioners questioned Ms. Stenger on the state's law allowing the use of marijuana for those patients who have a need for it and how the law addresses acquiring the marijuana. Ms. Stenger said that the law is "silent" on how those patients actually obtain their drugs. It is assumed that the patient either grows the marijuana or has someone grow it for them if they are not able or willing. The Commissioners also asked what the State is doing now about medical cannabis. Ms. Stenger explained the legality of medical marijuana is not the issue for the moratorium but rather it is the development of local regulations as authorized by the State law. She did mention that there could be more guidance from the State legislature this upcoming session. This may be one reason for asking that the moratorium continue longer than six months in order to incorporate any changes that develop with the legislature. The Commissioners asked if the current dispensaries are legal. Ms. Stenger replied that the City's position is that these uses are illegal. A final question was put forth as to how much of this issue is actually a land use issue. Ms. Stenger went over several aspects that tie in to land use concerns, such as the location and size of the uses, odors, and perhaps safety issues. Chair Doty noted that the proposed Task Force is looking at the larger issues. The Commission wanted to know what are other communities are doing. Ms. Stenger stated that the City is researching both Washington cities and cities in sixteen other States that have similar medical cannabis legislation.

The Commissioners expressed their concern that current patients are not adversely affected by the moratorium. The Commissioners unanimously passed the Findings of Fact as amended and that it be forwarded to the City Council.

## **2. Annual Amendment: #2012-6 Urban Forestry Revisions**

Lorna Mauren, Assistant Division Manager for Public Works Environmental Services Science and Engineering Division and manager of the Surface Water Program, introduced the code update project. Ms. Mauren stated that urban forestry is a broad topic with connections to many programs and policies. The impetus for this effort comes from the connection between urban forestry and stormwater objectives and the adoption of the Urban Forest Policy Element last year. The Program has efforts underway on multiple fronts to achieve urban forestry goals, such as education and outreach, city projects, and technical guidance. In addition, the Program is initiating code revisions proposed for private development (through the Land Use Regulatory Code) and for public properties and public rights-of-way (through the future proposal of the creation of Title 18). The focus for the presentation today is on the Land Use Regulatory Code.

Ms. Mauren stated that the Urban Forest Policy Element gives substantial direction pertinent to the Land Use Regulatory Code. It provides policy support for considering a different approach targeting achievement of the 30% canopy cover by 2030 goal. The Element calls for viewing the urban forest as an asset, for linking landscaping requirements to stormwater benefits, and for building flexibility into code requirements.

Elliott Barnett, Associate Planner, stated that there are many other goals pertaining to landscaping that may call for more than just overall canopy coverage. Mr. Barnett stated that some of the key policy themes – in addition to canopy and environmental function – include creating habitat connections; traffic calming and pedestrian friendly streetscapes; urban design; safety; and views. All these policies will guide the project. The Urban Forest Policy Element did emphasize views; however, staff is not proposing to include discussion of regulating views on private property.

Ms. Mauren explained there are many benefits to promoting citywide canopy coverage. The City is currently at 19% canopy coverage. Ms. Mauren stated staff will bring an analysis of current canopy coverage broken out by different types of land uses. This will enable a discussion of how canopy could be broken out by land uses.

The Commission asked whether canopy consists only of trees or if other vegetation also counts. Staff stated that only trees are considered canopy coverage. Mr. Barnett gave an overview of current code for landscaping and reviewed what he called the current “tool box”. He stated that the code is primarily based on zoning districts. The code currently emphasizes streetscape (street trees), softening and breaking up parking lots and building frontages, and buffering between different land uses. Code issues include: some land uses are not addressed; most approaches are prescriptive rather than flexible; mature trees are not recognized; and there are many exemptions – the most notable being single-family land uses. He presented some preliminary benchmarking, noting opportunities to improve how the code supports urban forest health and canopy coverage. He stated that the key focus proposed is to achieve greater canopy and provide more flexibility. He asked the Commission to consider if there are issues that do warrant a more prescriptive approach.

Chair Doty requested that staff provide a rough order of magnitude assessment of what different approaches could achieve in terms of canopy coverage. For instance, how much canopy coverage can be achieved through only street trees? He stated that the Commission needs data on the number of actual properties that will be affected by any proposed canopy requirement. He stated that in his view, putting requirements on private property should be the last resort.

Ms. Mauren stated that the code is only one avenue to get to 30% canopy coverage which staff does not anticipate could achieve the goal by itself. Mr. Barnett stated that the code already places landscaping requirements on private property, and that this is an opportunity to look at how those requirements might be improved in order to achieve canopy objectives.

Vice-Chair Erickson requested more benchmarking looking at peer cities. Specifically, it would be useful to break down how other large cities address landscaping requirements/canopy coverage by different zoning categories. The Commission also requested an explanation of how much 30% canopy coverage translates to in square miles.

Vice-Chair Erickson stated that a prescriptive approach may be called for to achieve a unified street approach for urban design. He asked, if flexibility implies more staff time for review, whether it means a more discretionary approach, and whether it would reduce predictability on outcomes.

The Commission asked how canopy cover is measured. Ramie Pierce, Urban Forester for the City, stated that the individual crown of a tree is what's measured, using LIDAR, which collectively is what makes citywide canopy.

Commissioner Elswick asked if fee in lieu or flexibility would mean that for a project that already has a lot of trees, would the requirement be met elsewhere? Chair Doty stated that fee in lieu is a promising way to get trees on already developed areas where they are lacking. The largest impact we can have is on already developed properties. There are many rights-of-way without trees around the city, but not a lot of undeveloped properties. He speculated whether development could actually get us to the 30%. Staff noted that new development and redevelopment are both part of the discussion. He also stated that the project should look at increasing tree plantings in residential developments because these are the city's largest land use.

Commissioner Thompson asked what is a good tree/not a good tree, and whether that can be part of the approach. He requested a copy of the presentation be provided to the Commission. Ms. Pierce stated that the proposed approach could in some cases decrease the total requirements for landscaping. If a site already has many trees, it may not be required to plant more. The proposal could also lead to a way to give more incentive to retain the mature trees on a site.

Ms. Pierce gave the Commission a brief overview of the business district tree assessment recently completed. She stated that the assessment can be looked at as a sample (but not a random one) of Tacoma's tree canopy. It showed that within the area studied there were many potential locations for planting. Ms. Pierce also stated that the Urban Forestry Program has put its street tree program on hold because many of the trees given out died.

The Commission voiced some concerns for planting the right trees to avoid damage to sidewalks and have proper maintenance. Ms. Pierce explained how the City provides information to the public to support this.

Mr. Barnett stated that the team will come back with benchmarking, data gathering, background on the Urban Forestry Policy and Program, and analysis of how this new proposal would compare with existing approaches.

### **3. Transfer of Development Rights**

Ian Munce, Long Range Planning, presented a condensed version of a presentation concerning the Transfer of Development Rights (TDR) Program that was given to the City Council a month ago. The purpose of this regional program is to transfer the rights from one jurisdiction to another in order to incent development of property and to preserve resource lands. Cities are given grant monies as an incentive to work on developing programs where the goal is to make properties more desirable for development. Mr. Munce went over the list of areas that would benefit by this program.

Mr. Munce talked about the value of property in other municipalities being taken into consideration when working on new inter-city projects. One municipality will pay for development rights in another municipality under the TDR program and this is how certain infrastructure improvements for individual cities may be funded. This whole program is built on the premises that there will be cooperation among cities in the region.

The Commissioners asked how this program would work in a practical sense. Mr. Munce illustrated by giving examples of how the rights are sold and Ms. Stenger explained that that it is really a bank of rights with the ultimate goal of preservation of natural resource land.

Chair Doty asked for clarification of the Commission's role in recommending this TDR Program. Mr. Munce answered that the City Council will be working with "sending areas" and the Planning Commission will make recommendations relative to "receiving areas". The Commission also wanted to know what a reasonable exchange would be. Mr. Munce responded that this information would be forthcoming.

### **COMMUNICATION ITEMS**

Chair Doty acknowledged receipt of the following information:

1. Hearing Examiner's Reports and Decisions.
2. Foss Waterway Development Authority's Invitation to "Revisiting the Foss" Workshop Series on September 27-29, 2011.
3. Comments on Shoreline Master Program Update received after the June 10, 2011 deadline of public comment.
4. Planning Commission Opening – The City Council is seeking interested and qualified citizens to fill a vacant position on the Planning Commission, representing Council District No. 1 (West End and North End), for a term to expire June 30, 2014. Applications must be submitted to the Mayor's Office by September 16, 2011.

### **COMMENTS BY LONG-RANGE PLANNING DIVISION**

Ms. Stenger informed the Commission of the 6-month moratorium adopted by the City Council on August 30, 2011, on the permitting of retail establishments that are greater than 65,000 square feet within the City. The Planning Commission is required to conduct a public hearing and forward its findings of fact and recommendations to the City Council by October 19, 2011, regarding the need for and duration of the emergency moratorium. She said staff will facilitate

the Commission's discussion of the subject at the next meeting on September 21. She asked if the Commission preferred conducting the public hearing on October 5 and making the recommendation on October 19 or having the hearing and recommendation both occur on October 19. The Commission preferred the first option. Chair Doty also indicated that he would have to recuse himself from participating in discussions of this item as Walmart is a client of his firm.

Ms. Stenger announced that the date for the joint study session with the City Council concerning the Commission's recommendations on the Shoreline Master Program Update has been changed from September 20 to September 27, 2011. She said that the City Council would like to hear the rationale of the Commission used to make its recommendations.

The Commissioners shared their opinion about a recent article by Peter Callaghan of The News Tribune that was critical of the Planning Commission's recommendation on public access. The Commissioners indicated that the article was misleading and that there was a significant amount of information that was considered in reaching their final decision.

### **COMMENTS BY PLANNING COMMISSION**

Commissioner Doty introduced and welcomed new Commissioners. The new Commissioners, Earl Thompson and Tina Lee, gave brief biographies and shared what their individual expectations are.

In response to the Commissioners' inquiry, Brian Boudet provided an overview of, and encouraged the Commissioners to participate in, the *Conversations RE: Tacoma* lecture series featuring three sessions in September, October and November, intended to inform, educate and encourage public engagement with urban design issues.

### **ADJOURNMENT**

The meeting adjourned at 6:28 p.m.