



City of Clarkston

City Hall: (509) 758-5541 • Police: (509) 758-1684 • Fire: (509) 758-8681 • Fax: (509) 758-1670

829 5th Street • Clarkston, WA 99403

PLANNING COMMISSION

AGENDA

February 22, 2012

CITY HALL
829 5TH STREET

CALL TO ORDER: 5:30 P.M.

ROLL CALL:

APPROVAL OF MINUTES:

January 17, 2012

REGULAR BUSINESS:

- A. Collective Marijuana Gardens
- B. Tri-State Hospital Annexation - Discussion

UNFINISHED BUSINESS:

COMMUNICATIONS:

- A. From Public
- B. Written
- C. From Planning Commission
- D. Staff Reports

ADJOURN:



TREE CITY USA.

CITY OF CLARKSTON
PLANNING COMMISSION MINUTES
January 17, 2012

CALL TO ORDER: 5:30 P.M., Clarkston City Hall, Chair Murray
ROLL CALL: Bob Gilbertson, Larry Moser, John Murray, Jim Merrill, Margo McCroskey

Staff: Jim Martin, Vickie Storey, Joel Hastings

APPROVAL OF MINUTES:

Minutes of the May 16, 2011 meeting were approved on a motion by Merrill/McCroskey. Motion carried.

PUBLIC HEARINGS:

REGULAR BUSINESS:

A. Collective Marijuana Gardens

Chief Hastings recapped the state legislation that has made collective marijuana gardens legal in Washington. A collective garden can consist of up to ten authorized individuals and contain up to 45 plants. Prior to this legislation an individual with a medical marijuana card could grow up to 15 plants for their own use. Hastings said he has several concerns with collective gardens, one of which is the quantity that can be grown. Many cities have adopted moratoriums against the gardens while they study the impacts and work on determining how to regulate them. He said that Clarkston adopted a moratorium in September that is good for six months. He said we are at the point where we need to discuss where we will allow them to be located.

Hastings said some of the impacts are potential crime. He said there have been at least three burglaries in the city. Increased traffic as the growers tend to their plants; odor from the indoor growing system; noise and damage to the homes used for growing. Merrill said since there are no provisions in state law for dispensaries, why are we even discussing growing. Hastings explained that people who are now authorized to grow can only grow for their own use or as a designated grower from someone with a medical card. He said the best we can do now to control the gardens is determine where they could be allowed that would be most compatible.

Murray asked exactly what the city is asking the Planning Commission to do. Hastings said the law already allows individual medical grows and now the collective gardens. Zoning appears to be the only way that the city can regulate location.

Hastings presented some ideas to consider when deciding on zoning restrictions. Things to consider when looking at locations: should they be restricted to indoor gardens only; should they be confined to one zoning district (maybe industrial); should they be prohibited from residential neighborhoods; should there be a certain distance from other collective gardens; should they be located a certain distance from uses such as schools, churches and youth oriented facilities. Other impacts to consider are lighting, odor, noise, security, size limits, and signs. Hastings said there is a big difference in potential impacts between personal and collective grows. The total value of a collective garden could be as much as \$125,000, which can make it an attractive target for theft.

Moser commented that 24 ounces sounds like a lot of marijuana. Hastings said it is. Moser said if it is illegal, why allow it at all. He said he would be in favor of a continued moratorium. Murray said a moratorium is only allowed for six months and can be renewed once. Moser asked if the council could adopt an ordinance that would not allow collective gardens at all within one mile of a school. Murray said maybe, but you would have to show a reason to back up the decision. It appears that the federal government has said they will not pursue medical marijuana users or growers.

McCroskey asked if the collective garden would be considered a commercial use, where would it fit in the zoning matrix. She commented that our zoning matrix does not have an agricultural designation. Martin said he feels it would have to be considered a commercial use because of the impacts on traffic, etc. Murray asked about home occupation. Martin said home occupation limits traffic. He said farming is not allowed in any zone. Merrill pointed out that gardens are allowed.

Hastings said most cities are continuing with a moratorium. He has only found three cities that have adopted any regulations. He said Mukilteo has zoned it for light industrial. Hastings said there are new petitions before the legislature, one that would legalize marijuana and the other changes the rules for medical marijuana. Storey said the city can only continue the moratorium for a year.

Martin said the city attorney should be part of the discussion also. Gilbertson asked if the city can limit the number of gardens allowed in the city. Hastings said we cannot, but setting distance requirements can help limit the number. A

person can only grow in one location, so they would have to choose between an individual grow or a collective garden situation.

Murray stated that potential findings for extending a moratorium could include crime issues, traffic, noise, odor, damage to homes used for growing. Hastings said that extending the moratorium can give the city time to wait while some of the larger cities with more legal staff work through the issues and also to get a better idea of what the legislature might do.

Murray asked if someone from the drug task force could attend the next meeting to answer some specific questions and also have the city attorney here.

Motion by Moser/McCroskey to make a recommendation to the city council to extend the moratorium when the existing moratorium expires. Motion carried.

The next meeting will be set for a time when the attorney and task force officer can attend.

COMMUNICATIONS:

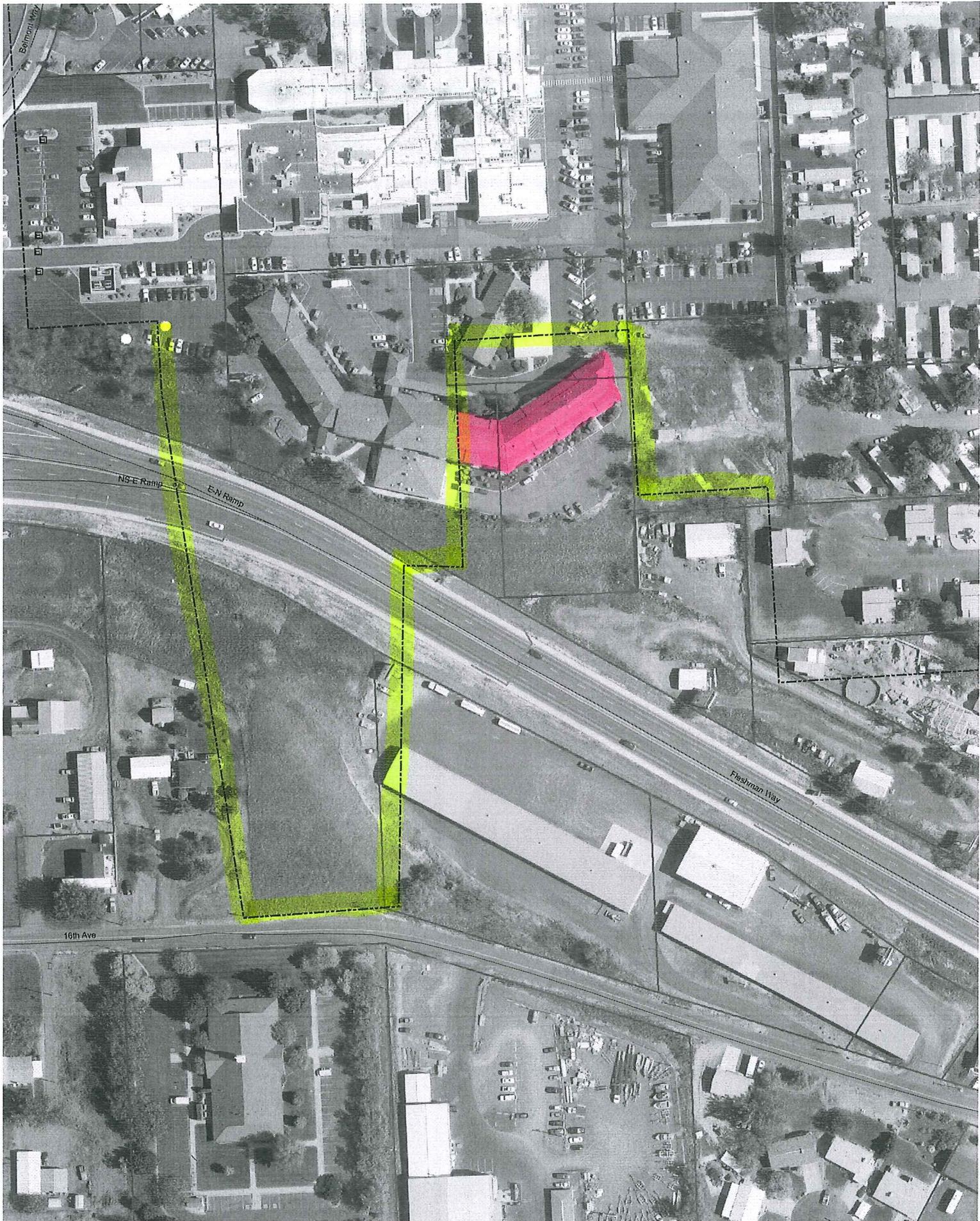
Planning Commission:

Staff:

ADJOURNMENT:

Meeting adjourned at 6:25 p.m.

John Murray, Chair



Feb. 9, 2012

Donald J. Wee, CEO
Tri-State Memorial Hospital
1221 Highland Ave.
PO Box 189
Clarkston, WA 99403

RE: City Limits Change / Annexation

Dear Don,

I've spent some time putting together a summary of what must occur to get the Tri-State property accurately located within the City limits of Clarkston. As part of the review, I've discovered an area other than Evergreen Estates that needs correction. The office located at 1233 Highland that was just recently remodeled is indicated as in the County rather than the City. As odd as that seems, nothing surprises me after all these years in this business. A review of Ordinance No. 1132 that annexes that area specifically exempts an area 90 feet wide by 304 feet deep perpendicular to Highland Ave.

That being said, a review of the State Code indicates that we need to accomplish the following...

- 1) You need to provide us with a notice of intent to annex the specific areas of concern. That could be a simple letter to me with a diagram attached that shows the property involved and its' ownership.
- 2) The City would then set a date with you or another representative or representatives of Tri-State to determine acceptance, rejection or possible modifications to the annexation boundary.
- 3) Following that decision, a hearing date would be determined and properly advertised for a hearing with the Planning Commission. The Planning Commission would review the annexation, take comments, and produce a "findings of fact" that would go to Council either as proponents or opponents of the change. The City Council would be the final decision making body.

I think it is important for us to get together to make sure we are on the same page as soon as we can before we actually get to the step of the first submittal. It is our opinion, that in this case, the city would waive the typical expense for the annexation considering it will be better for all involved. Please give me a call or e-mail and I would be happy to provide some preliminary information and go over some of the information compiled so far.

Sincerely,

James E. Martin
Public Works Director

Feb. 9, 2012

Donald J. Wee, CEO
Tri-State Memorial Hospital
1221 Highland Ave.
PO Box 189
Clarkston, WA 99403

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Sincerely,

James E. Martin
Public Works Director



RECEIVED

RECEIVED BY
ALL COMMISSIONERS

U.S. Department of Justice
Drug Enforcement Administration

www.dea.gov

8701 Morrisette Drive
Springfield, VA 22152

JAN 17 2012

Tom Mielke
Marc Boldt
Steve Stuart
Board of Clark County Commissioners
1300 Franklin Street
P.O. Box 5000
Vancouver, Washington 98666-5000

SUBJECT: Application of the *Controlled Substances Act (CSA)* to the Board of Clark County Commissioners and Clark County Employees

Dear Messrs. Mielke, Boldt, and Stuart:

Thank you for your December 2, 2011 letter addressed to Attorney General Eric Holder which was referred to the Drug Enforcement Administration (DEA) for a response.

The Department of Justice has stated that Congress has determined that marijuana is a schedule I controlled substance and, as such, growing, distributing, and possessing marijuana in any capacity, other than as part of a federally authorized research program, is a violation of federal law regardless of state laws permitting such activities. This is reflected in the text of the *CSA* and the decisions of the United States Supreme Court in *United States v. Oakland Cannabis Buyers' Cooperative*, 532 U.S. 483 (2001), and *Gonzales v. Raich*, 545 U.S. 1 (2005). These federal law concepts are premised on the facts that marijuana has never been demonstrated in sound scientific studies to be safe and effective for the treatment of any disease or condition and, therefore, the Food and Drug Administration has never approved marijuana as a drug. As the Supreme Court stated, "for purposes of the Controlled Substances Act, marijuana has 'no currently accepted medical use' at all." *Oakland Cannabis Buyers' Cooperative*, 532 U.S. at 491.

In your correspondence to the Attorney General you quote from an April 14, 2011 letter written to the Honorable Christine Gregoire, Washington State Governor by the U.S. Attorneys for both the Eastern and Western Districts of Washington in which they say that "state employees who conducted activities mandated by the Washington [medical marijuana] legislative proposals would not be immune from liability under the *CSA*." Although that letter pertained to the

Washington state medical marijuana law and Washington state employees, the principles expressed in that letter are useful in addressing any county "medical marijuana" ordinance or provision implementing state law. As that letter indicated, anyone who knowingly carries out the marijuana activities contemplated by Washington state law, as well as anyone who facilitates such activities, or conspires to commit such violations, is subject to criminal prosecution as provided in the CSA. That same conclusion would apply with equal force to the proposed activities of the Board of Clark County Commissioners and Clark County employees.

Such persons may also be subject to money laundering statutes. In addition, the CSA provides for forfeiture of real property and other tangible property used to facilitate the commission of such crimes, as well as the forfeiture of all money derived from, or traceable to, such activity.

Thank you for your inquiry regarding this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph T. Rannazzisi". The signature is fluid and cursive, with a large initial "J" and a long horizontal stroke at the end.

Joseph T. Rannazzisi
Deputy Assistant Administrator
Office of Diversion Control