



PACIFIC CITY COUNCIL MEETING AGENDA
Council Chambers - City Hall. 100 3rd Ave. SE

July 28, 2014
Monday

Regular Meeting
6:30 p.m.

- 1. CALL TO ORDER/PLEDGE OF ALLEGIANCE**
- 2. ROLL CALL OF COUNCIL MEMBERS**
- 3. ADDITIONS TO/APPROVAL OF AGENDA**
- 4. AUDIENCE COMMENT**

(Please limit your comments to 3 minutes for items not up for public hearing. When recognized by the Mayor, please state your name and address for the official record. It is asked that you do not speak on the same matter twice.)

5. REPORTS

- A. Mayor**
- B. Finance**
- C. Court**
- D. Public Safety Department**
- E. Public Works/Community Development Department**
- F. Community/Senior/Youth/Services**
- G. City Council Members**
- H. Boards and Committees**
 - i. Finance Committee
 - ii. Governance Committee
 - iii. Human Services Committee
 - iv. Public Safety Committee
 - v. Public Works Committee
 - vi. Technology Committee
 - vii. Civil Service Commission
 - viii. Park Board
 - ix. Planning Commission
 - x. Pierce County Regional Council (PCRC)
 - xi. Sound Cities Association (SCA)
 - xii. South County Area Transportation Board (SCATBd)
 - xiii. Valley Regional Fire Association (VRFA)

6. OLD BUSINESS

- A. AB 14-131:** Discussion of recreational and medical marijuana ordinances and direction to the Planning Commission to hold a public hearing and make a recommendation to the City Council on one or more of the draft ordinances.

- B. **Ordinance No. 2014-1866:** Adoption of an ordinance extending the interim zoning ordinance adopted on February 3, 2014, Ordinance No. 2014-1855, regarding marijuana regulations in the City of Pacific, to be in effect until the city adopts permanent zoning regulations on the same subject, to be effective immediately, setting six months as the effective period of this extension of the interim zoning ordinance, and establishing the date of a public hearing on the continued maintenance of the interim zoning ordinance.
 - C. **Resolution No. 2014-192:** Authorizing the execution of an agreement with Maccaulay & Associates, in the amount of \$65,000 paid from the Valentine Avenue Project fund, for an updated benefitted LID study for the Valentine Avenue Improvement Project.
 - D. **AB 14-134: Approval of the Second Quarter Financial Reports.**
 - E. **AB 14-137: IAFF Local 1352 Picnic Beer Garden**
7. **NEW BUSINESS**
8. **CONSENT AGENDA**
- A. Payroll and Voucher Approval
 - B. Approval of the minutes from the workshop of June 16, 2014.
9. **ADJOURN**

Finance Committee Garberding, Jones, Kave Meets: 2 nd Tuesdays	August 12, 2014 6:30 p.m.	City Hall
Governance Committee Kave, Knudtson, Putnam	TBD 5:30 p.m.	City Hall
Human Services Committee Jones, Knudtson, Walker Meets 1 st Tuesday	August 5, 2014 5:30 p.m.	Senior Center
Park Board Meets 1 st Tuesday	August 5, 2014 6:30 p.m.	City Hall
Planning Commission Meets 4 th Tuesday	August 26, 2014 6:00 p.m.	City Hall
Public Safety Committee Garberding, Kave, Steiger (alt: Knudtson)	TBD TIME	City Hall
Public Works Committee Garberding, Putnam, Steiger Meets 1 st Wednesday	August 7, 2014 7:00 p.m.	City Hall
Technology Committee Jones, Knudtson, Walker Meets 3 rd Thursday	August 21, 2014 5:00 p.m.	City Hall



Agenda Bill No. 14-131

TO: Mayor Guier and City Council Members
FROM: Paula Wiech, Planner
MEETING DATE: July 28, 2014
SUBJECT: Three (3) Ordinances relating to the land use and zoning of Recreational Marijuana uses, business license requirements for Recreational Marijuana uses, and the banning of any Medical Marijuana businesses

ATTACHMENTS:

Ordinance No. 2014-18xx, Allowing Recreational Marijuana producers, processors and retailers as a conditionally permitted use in the Light Industrial Zone;

Ordinance No. 2014-18xy, Adopting Business License Requirements for Recreational Marijuana Uses;

Ordinance No. 2014-18xz, Banning any Medical Marijuana Businesses.

Previous Council Review Date: None

Summary: On February 3, 2014, the City Council passed Ordinance 2014-1855, adopting an interim zoning ordinance prohibiting medical and recreational marijuana uses, to be in effect for 6 months (or approximately August 3, 2014).

On May 27, 2014 the Planning Commission held a Public Hearing to receive comments on the *Marijuana Uses Advisory Report*, and two sample ordinances relating to potential zoning and licensing for Recreational Marijuana uses. They then directed staff to work with the City Attorney to create draft ordinances relating to Recreational and Medical Marijuana uses.

In June 2014 the City distributed three draft ordinances on the subject of marijuana for the public to consider. One of these ordinances allowed recreational marijuana uses as a conditionally permitted use in the Light Industrial Zone. Another ordinance adopted business licensing requirements for recreational marijuana uses. The third ordinance banned all medical marijuana uses. The Planning Commission received these at their June 24th regular meeting, and scheduled a July 9, 2014 Special Meeting for further review. At the Special Meeting they scheduled a Public Hearing for August 6, 2014 to receive comments on these ordinances.

On July 16, 2014 The City Council will hold a public hearing (Town Hall Meeting) on the subject of recreational and medical marijuana. The Council will not take any action after this hearing.

AGENDA ITEM NO. 6A

Recommendation/Action: That the City Council deliberate on the issue of recreational and medical marijuana, then direct the Planning Commission to hold a public hearing and make a recommendation to the City Council on one or more of the draft ordinances.

Motion for Consideration: Motion to direct the Planning Commission to hold a public hearing and make a recommendation to the City Council on one or more of the draft ordinances.

Budget Impact:

Alternatives: The City Council may direct the City Attorney to draft a new ordinance (or make changes in the existing ones) with certain provisions, and direct that such ordinance be forwarded to the Planning Commission for a public hearing and recommendation.

ORDINANCE NO. 2014-18xx

AN ORDINANCE OF THE CITY OF PACIFIC, WASHINGTON, RELATING TO LAND USE AND ZONING, ALLOWING RECREATIONAL MARIJUANA PRODUCERS, PROCESSORS AND RETAILERS AS A CONDITIONALLY PERMITTED USE IN THE LIGHT INDUSTRIAL (LI) ZONE; REQUIRING THAT SUCH USES OBTAIN A LICENSE FROM THE LIQUOR CONTROL BOARD AND CITY BUSINESS LICENSE, PROHIBITING SUCH USES FROM LOCATING WITHIN 1,000 FEET OF CERTAIN SENSITIVE USES, IDENTIFIED IN RCW 69.50.331, REQUIRING A CONDITIONAL USE PERMIT FOR SUCH USES, ESTABLISHING THE PROCEDURES TO OBTAIN THE CUP, THE CRITERIA FOR ISSUANCE, ISSUES FOR THE DECISION-MAKER TO CONSIDER IN FASHIONING CONDITIONS ON THE PERMIT, ADDRESSING SIGNS, SECURITY, REPORTING OF DISTURBANCES AND CITY INDEMNIFICATION; ADOPTING A NEW CHAPTER 20.78 TO THE PACIFIC MUNICIPAL CODE.

WHEREAS, In November of 2012, the Washington voters passed I-502, which directed the Washington State Liquor Control Board (LCB) to regulate recreational marijuana by licensing and taxing recreational marijuana producers, processors and retailers; and

WHEREAS, the regulatory scheme in I-502 required the LCB to adopt administrative rules to address the methods for producing, processing and packaging of recreational marijuana, to establish security requirements for retail outlets, retail outlet locations and hours of operation, labeling requirements and method of transport of product throughout the state, taxing of marijuana-related activities, creation of a dedicated fund is created, consisting of marijuana excise taxes, license fees, penalties and other income: and

WHEREAS, the LCB issued new administrative regulations (adopted in chapter 314-55 WAC), which, among other things, prohibits the establishment of recreational marijuana businesses within 1,000 feet of certain identified sensitive uses, require criminal history background checks for licensees, establish qualifications for licensees, limits the amount of space available for recreational marijuana production, allows marijuana to take place indoors in a fully enclosed, secure facility or outdoors enclosed by a physical barrier with an 8 foot high fence, limits the average inventory on the licensed premises at any time, limits the number of retailers within counties and cities within the counties based on estimated consumption and population data, establishes

insurance requirements for licensees, describes the security requirements, requires employees to wear badges, requiring alarm and surveillance systems on the licensed premises, requires that licensees track marijuana from seed to sale, establishes the manner in which free samples of marijuana may be provided, prohibits the sale of soil amendments, fertilizers and other crop production aids, identifies transportation requirements, sign requirements, recordkeeping requirements, identifies a mechanism for enforcement of violations, including the failure to pay taxes, specifies marijuana infused product serving sizes, maximum number of servings and limitations on transactions, identifies marijuana waste disposal restrictions, describes the process for quality assurance testing, extraction and the requirements for packaging and labeling, describes advertising limitations, explains the process for licensing suspension, revocation and penalties for violations; and

WHEREAS, according to the administrative rules, the LCB will determine whether the recreational marijuana business licensee is within 1,000 feet of the sensitive uses identified in WAC 314-55-050(10) and shall not issue the license if it is within this area; and

WHEREAS, the LCB has begun issuance of licenses for recreational marijuana uses; and

WHEREAS, on January 14, 2014, the Washington State Attorney General issued an opinion finding that local governments are not preempted by state law from banning the location of a recreational marijuana business, even if the business has been licensed by the LCB (AGO 2014 No. 2)); and

WHEREAS, in the same Attorney General Opinion, the Attorney General also gave the opinion that cities could establish restrictions on recreational marijuana businesses licensed by the LCB, even if such restrictions made it “impractical for a licensed marijuana business to locate within their jurisdiction” (AGO 2014 No. 2); and

WHEREAS, the City adopted Ordinances 1804, 1823, 1843, 1848 and 1855, adopting moratoria or interim zoning on marijuana uses (including recreational marijuana uses); and

WHEREAS, on _____, the Planning Director issued a SEPA threshold decision of _____ on this draft Ordinance, which was/was not appealed (if appealed, describe the results of that appeal in a “whereas”); and

WHEREAS, on _____, the Planning Director sent a copy of this draft Ordinance to the Washington State Department of Commerce, pursuant to RCW 36.70A.106; and

WHEREAS, on _____, the Planning Commission held a public hearing on this draft Ordinance, and on _____, transmitted its recommendation to the City Council; and

WHEREAS, on _____, the Council considered this draft ordinance during its regular meeting;

WHEREAS, on _____, the Council decided to adopt this ordinance _____; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF PACIFIC ORDAINS AS FOLLOWS:

Section 1. Ordinance No. _____, adopted on _____, is hereby repealed.

(We will be placing an ordinance extending the interim zoning in Ordinance 1855 by two months before the Council, so we don't want to put 1855 here.)

Section 2. A new chapter 20.78 is hereby added to the Pacific Municipal Code, which shall read as follows:

**CHAPTER 20.78
RECREATIONAL MARIJUANA**

- 20.78.001 Findings and Purpose.**
- 20.78.002 Definitions.**
- 20.78.003 LocationAL Criteria for Recreational Marijuana Uses.**
- 20.78.004 Business License Required.**
- 20.78.005 Recreational Marijuana Uses Conditionally Allowed In LI Zone.**
- 20.78.006 Signs and Advertising.**
- 20.78.007 Security Requirements.**
- 20.78.008 Report of Disturbances and Unlawful Activity.**
- 20.78.009 Visibility of Activities; Control of Emissions and Odor.**
- 20.78.010 No City Liability – Indemnification.**

20.78.001 Findings and Purpose.

A. The Council adopts all of the “whereas” sections of this Ordinance as findings to support this Ordinance.

B. The purpose of this Ordinance is to establish where recreational marijuana producers, processors and retail businesses may locate in the City, and to describe the restrictions upon such uses. In addition to compliance with this Ordinance, every recreational marijuana processor, producer and retail outlet shall obtain a City business license under chapter 5.02 of the Pacific Municipal Code.

C. No part of this Ordinance is intended to conflict with the Uniform Controlled Substances Act (chapter 69.50 RCW) nor to otherwise permit any activity that is prohibited under chapter 69.50 RCW, or any other local or state law, statute, rule or regulation. Nothing in this Ordinance shall be construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of medical cannabis or recreational marijuana in any manner not authorized by chapter 69.51A

RCW or chapter 69.50 RCW. Nothing in this Ordinance shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or that creates a nuisance, as defined herein. It is the intention of the City Council that this Ordinance be interpreted to be compatible with city and state enactments and in furtherance of the public purposes that those enactments encompass.

20.78.002 Definitions. The definitions in this section apply throughout this Chapter, and the City also adopts the definitions in WAC 314-55-010 by reference.

A. “Child Care Center” means an entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington State Department of Early Learning, under chapter 170-295 WAC.

B. “Cultivation” means the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof.

C. “Deliver or Delivery” means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

D. “Elementary School” means a school for early education that provides the first four to eight years of basic education and is recognized by the Washington State Superintendent of Public Instruction.

E. “Game Arcade” means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted.

F. “Indoors” means within a fully enclosed and secure structure that complies with the Washington State Building Code, as adopted by the City, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as 2” by 4” or thicker studs overlain with 3/8” or thicker plywood or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

G. “Library” means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.

H. “Marijuana” means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. For the purposes of this Ordinance, “cannabis” or “marijuana” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the

plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

I. "Marijuana-infused products" means products that contain marijuana or marijuana extracts and are intended for human use. The term "marijuana-infused products" does not include useable marijuana.

J. "Marijuana, Usable" means dried marijuana flowers. The term "usable marijuana" does not include marijuana-infused products.

K. "Outdoors" means any location that is not "indoors" within a fully enclosed and secure structure as defined herein.

L. "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision of agency or any other legal or commercial entity.

M. "Playground" means a public outdoor recreation area for children, usually equipped with swings, slides and other playground equipment, owned and/or managed by a city, county, state or federal government.

N. "Process" means to handle or process cannabis in preparation for medical or recreational use.

O. "Processor, Marijuana" means a person licensed by the State Liquor Control Board to process marijuana into useable marijuana and marijuana-infused products, package and label usable marijuana and marijuana-infused products for sale in retail outlets, and sell usable marijuana and marijuana-infused products as wholesale to marijuana retailers.

P. "Producer, Marijuana" means a person licensed by the State Liquor Control Board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

Q. "Produce or Production" means to manufacture, plant, grow or harvest cannabis or marijuana.

R. "Public Park" means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government or metropolitan park district. Public park does not include trails.

S. "Public place" includes streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; premises where goods and services are offered to the public for retail sale; public buildings, public meeting halls,

lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages, and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, buses, ferries, and other public conveyances of all kinds and character, and the depots, stops, and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

T. "Public Transit Center" means a facility located outside of the public right of way that is owned and managed by a transit agency or city, county, state or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.

U. "Recreation center or facility" means a supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a charitable nonprofit organization, city, county, state or federal government.

V. "Retailer, Marijuana" means a person licensed by the State Liquor Control Board to sell usable marijuana and marijuana-infused products in a retail outlet.

W. "Retail outlet" means a location licensed by the State Liquor Control Board for the retail sale of useable marijuana and marijuana-infused products.

X. "Secondary School" means a high and/or middle school: A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington State Superintendent of Public Instruction.

Y. "Useable cannabis or usable marijuana" means dried flowers of the *Cannabis* plant. The term "usable cannabis or usable marijuana" does not include marijuana-infused products or cannabis products.

20.78.003. Locational Criteria for Recreational Marijuana Uses.

A. No recreational marijuana producer, processor or retail business may locate or operate in any zoning district in the City, other than the Light Industrial (LI) zone, as the same exists within the Pierce County area of the City.

B. No recreational marijuana producer, processor or retail business may locate or operate within one thousand (1,000) feet of any of the following:

1. Elementary or secondary school;
2. Playground;

3. Recreation center or facility;
4. Child care center;
5. Public park;
6. Public transit center;
7. Library; or
8. Any game arcade (where admission is not restricted to persons age twenty-one or older).

20.78.004. Business License.

A. A valid, current license is required from the Washington State Liquor Control Board for operation of any recreational marijuana, producer, processor or retail business. A copy of this license shall be submitted to the City as part of the complete application for a conditional use permit required by Section 20.78.005 below.

B. A business license is required from the City for operation of any recreational marijuana producer, processor or retail business. No conditional use permit may issue unless the City also issues a business license for the recreational marijuana use.

20.78.005 Recreational Marijuana Uses Conditionally Allowed in LI Zone.

In order to operate a recreational marijuana producer, processor or retail business, a conditional use permit under this Section is required.

A. Procedure for Conditional Use Permit Approval. A conditional use permit is a Type IV Permit and is processed under Chapter 16.30 PMC.

B. Requirements for Complete Application. The following materials shall be submitted to the City for a complete application for a conditional use permit:

1. Application form. _____ copies of a completed application form;
2. Date, name, address, telephone number and e-mail of the applicant;
3. Name, address, telephone number and e-mail of the owner of the property identified in the application;
4. Legal description of the subject property;
5. Description and photographs of existing site conditions;
6. Architectural drawings of all structures proposed to be developed on the subject property;
7. Complete application for a site plan, showing the proposed placement of structures on the property, together with access and circulation on the site;
8. Complete application for a grading plan;
9. Complete application for a landscaping plan;
10. Drawings of all proposed signs;
11. A SEPA Checklist;
12. Concurrency determination (water, sewer and traffic?);
13. A copy of all existing and proposed restrictions and covenants;

14. A narrative report or letter describing compliance with all applicable approval criteria in subsection C below.

15. The application fee established by the City.

C. Criteria for Approval. The City shall approve, approve with conditions or deny an application for a conditional use permit (or to enlarge or alter a conditional use permit) for a recreational marijuana business after making findings based on each of the criteria set forth below:

1. Generally.

a. That the conditional use is consistent with the objectives of the Zoning Code and the purpose of the zoning district in which the subject site/property is located;

b. That granting the conditional use will not be detrimental to the public health, safety or welfare. The factors to be considered in making this finding shall include, but not be limited to an evaluation whether:

c. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, and aesthetic considerations;

d. The proposed use raises no concerns regarding property damage or nuisance arising from noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust or visibility;

e. The proposed use presents no hazard to persons or property from possible explosion, contamination, fire or flood; and

f. There will not be an impact on surrounding areas arising from an unusual volume or character of traffic.

g. The characteristics of the conditional use as proposed and as it may be conditioned are reasonably compatible with the types of uses permitted in the surrounding area.

h. All required public facilities have adequate capacity to serve the proposal.

2. Site Design Standards.

a. The application complies with all of the applicable provisions of the underlying zone, including, but not limited to: building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other special standards as may be required for certain land uses;

b. The applicant shall be required to upgrade any existing development that does not comply with the applicable zoning provisions in conformance with chapter 16.12 PMC (Non-Conforming Development);

c. The application complies with all of the design standards in the Zoning Code applicable to: (a) access and circulation; (b) landscaping, vegetation, street trees, fences and walls; (c) parking and loading; (d) public facilities; (e) surface water management; (f) critical areas and any other applicable standards.

d. Existing conditions of approval required as part of a prior land division or permit shall be met.

3. Conditions of Approval. The City may impose conditions that are found necessary to ensure that the use is compatible with other uses in the vicinity, and that the negative impact of the proposed use on the surrounding uses and public facilities is minimized. These conditions include, but are not limited to:

- a. Limiting the hours, days, place and/or manner of operation;
- b. Requiring site or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor and/or dust;
- c. Requiring larger setback areas, lot area, and/or lot depth or width;
- d. Limiting the building or structure height, size or lot coverage, and/or location on the site;
- e. Designating the size, number, location and/or design of vehicle access points or parking areas;
- f. Requiring street right-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways or trails to be improved;
- g. Requiring landscaping, screening, drainage, water quality features and/or improvement of parking and loading areas;
- h. Limiting the number, size, location, height and/or lighting of signs;
- i. Limiting or setting standards for the location, design and/or intensity of outdoor lighting;
- k. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;
- l. Requiring and designating the size, height, location and/or materials for fences; and
- m. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, cultural resources, and/or sensitive lands.

D. Denial. The Director may recommend conditioning or denial of the conditional use permit application based on RCW 43.21C.060 (SEPA). In addition, the City may deny the conditional use permit if it determines that the proposed use is

materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.

E. Deadline for Final Decision. A conditional use permit application shall be approved, approved with conditions or denied within one hundred-twenty (120) days after the application has been determined complete, unless the applicant consents in writing to a longer processing time period.

F. Effect of Approval.

1. Applies to authorized use only. Issuance of a conditional use permit shall be deemed to authorize only the particular use for which it is issued.

2. Binding on subsequent owners. All conditions of approval shall be binding upon the applicant, their successors and assigns, shall run with the land; shall limit and control the issuance and validity of certificates of occupancy; and shall restrict and limit the construction, location, use and maintenance of all land and structures within the development.

G Expiration, Extensions and Permit Implementation.

1. A conditional use permit shall become null and void one year after the effective date, unless one of the following has occurred:

a. A building permit has issued and construction begun and diligently pursued;

b. An occupancy permit has issued and the approved use has been established;

c. An extension has been granted by the Planning Director. Such extension shall be for a maximum of ___ days, and no extension may be granted which would extend the validity of the permit more than 18 months beyond the effective date of the permit. No extension will be granted if it necessitates modification of any condition of approval; or

d. The decision on the Conditional Use Permit has established a different expiration date.

2. Development of the Conditional Use shall not be carried out until the applicant has secured all other permits and approvals required by the City, or any applicable regional, state and federal agencies.

3. Any Conditional Use that has been initiated and then discontinued may not be re-established or recommenced except pursuant to a new conditional use permit. The following will constitute conclusive evidence that the conditional use has been discontinued:

a. A new permit has been issued to change the use of the lot and the new use has been established; or

b. The lot has not been used for the purpose authorized by the conditional use permit for more than 24 consecutive months. Lots that are vacant, or that are used only for storage of materials and equipment, will not be considered as being used for the purpose authorized by the conditional use. The expiration or revocation of a business or other license necessary for the conditional use to operate will suffice as evidence that the lot is not being used for as authorized by the conditional use permit.

20.78.006 Signs and Advertising.

A. All signage and advertising for a recreational marijuana processor, producer or retail outlet shall comply with the applicable provisions of this Code, the Sign Code, Zoning Code and WAC 314-55-155 (and all applicable rules and regulations promulgated thereunder).

B. Violations of this Section relating to the Sign Code or Zoning Code shall result in a _____ fine. The City may enforce this section pursuant to chapter 16.14 of the Municipal Code. For violations of WAC 314-55-155 and 314-55-525, the City may report the violation to the State Liquor Control Board.

20.78.007. Security Requirements. Security measures at all licensed premises shall comply with the requirements of WAC 314-55-083 (and all applicable rules and regulations promulgated thereunder).

20.78.008. Report of Disturbances and Unlawful Activity.

A. All licensees and any agent, manager or employee thereof shall immediately report to the City Police Department any disorderly act, conduct or disturbance and any unlawful activity committed in or on the licensed and permitted premises, including, but not limited to, any unlawful resale of marijuana, and shall also immediately report any such activity in the immediate vicinity of the business.

B. Each licensee shall post and keep at all times visible to the public in a conspicuous place on the premises a sign with a minimum height of fourteen (14) inches and a minimum width of eleven (11) inches with each letter to be a minimum of one-half (1/2) inch in height, which shall read as follows:

WARNING:

The City of Pacific Police Department must be notified of all disorderly acts, conduct or disturbances and all unlawful activities which occur on or within the premises of this licensed establishment.

C. It shall not be a defense to a prosecution of a code enforcement action under this Section that the licensee was not personally present on the premises at the time such unlawful activity, disorderly act, conduct or disturbance was committed; however, no agent or employee of the licensee shall be personally responsible for failing to report any disorderly act, conduct or disturbance and any unlawful activity hereunder if such agent, servant or employee was absent from the premises at the time such activity was committed.

D. Failure to comply with the requirements of this Section shall be considered by the City in any action relating to the issuance or revocation of a permit.

20.78.009. Visibility of Activities; Control of Emissions.

A. All activities of the recreational marijuana business, including, but not limited to, cultivating, growing, processing, displaying, manufacturing, selling and storage, shall be conducted out of the public view.

B. No recreational marijuana or paraphernalia shall be displayed or kept in a business so as to be visible from outside the licensed premises.

C. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting the recreational marijuana business must be in effect at all times. In the event that any odors, dust, fluids or other substances exit a recreational marijuana business, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for the immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

20.78.010. No City Liability – Indemnification.

A. By accepting a permit issued pursuant to this Chapter, the licensee waives and releases the City, its officers, elected officials, employees, volunteers and agents from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of business owners, operators, employees, clients or customers for a violation of federal, state or local laws and regulations.

B. By accepting a permit issued pursuant to this Chapter, all licensees, jointly and severally, if more than one, agree to indemnify, defend and hold harmless the City, its officers, elected officials, employees, volunteers and agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the recreational marijuana business that is the subject of the license.

Section 3. Adoption by Reference. The City hereby adopts WAC 314-55-010 through WAC 314-55-540 by reference, as well as RCW 69.50.101. Pursuant to RCW 35A.12.140 (for code cities), a copy of these rules and the statute adopted by reference has been on file in the office of the city clerk for use and examination by the public. A copy of these rules and statutes has also been on file while this ordinance has been under consideration by the council and after adoption.

Section 4. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 5. Effective Date. This ordinance shall be effective five days after publication of an approved summary, which shall consist of the title.

PASSED by the City Council of _____ this ____ day of _____, 2014.

MAYOR LEANNE GUIER

ATTEST/AUTHENTICATED:

AMY STEVENSON-NESS, CITY CLERK

APPROVED AS TO FORM:
Office of the City Attorney

CAROL A. MORRIS, CITY ATTORNEY

PUBLISHED:
EFFECTIVE DATE:

ORDINANCE NO. 2014-18XY

AN ORDINANCE OF THE CITY OF PACIFIC, WASHINGTON, RELATING TO BUSINESS LICENSES, ADOPTING BUSINESS LICENSE REQUIREMENTS FOR RECREATIONAL MARIJUANA USES, DESCRIBING THE REQUIREMENTS FOR LICENSE APPLICATIONS, FEES, INSPECTIONS, SIGNS, NECESSITY FOR REPORTING OF DISTURBANCES AND UNLAWFUL ACTIVITY, OPERATION AND LOCATION REQUIREMENTS, REQUIRING PAYMENT OF SALES TAX, ADDRESSING NONRENEWALS, SUSPENSIONS AND REVOCATION, INDEMNIFICATION AND ENFORCEMENT, ADOPTING A NEW CHAPTER 5.12 TO THE PACIFIC MUNICIPAL CODE.

WHEREAS, In November of 2012, the Washington voters passed I-502, which directed the Washington State Liquor Control Board (LCB) to regulate recreational marijuana by licensing and taxing recreational marijuana producers, processors and retailers; and

WHEREAS, the regulatory scheme in I-502 required the LCB to adopt administrative rules to address the methods for producing, processing and packaging of recreational marijuana, to establish security requirements for retail outlets, retail outlet locations and hours of operation, labeling requirements and method of transport of product throughout the state, taxing of marijuana-related activities, creation of a dedicated fund is created, consisting of marijuana excise taxes, license fees, penalties and other income: and

WHEREAS, the LCB issued new administrative regulations (adopted in chapter 314-55 WAC), which, among other things, prohibits the establishment of recreational marijuana businesses within 1,000 feet of certain identified sensitive uses, require criminal history background checks for licensees, establish qualifications for licensees, limits the amount of space available for recreational marijuana production, allows marijuana to take place indoors in a fully enclosed, secure facility or outdoors enclosed by a physical barrier with an 8 foot high fence, limits the average inventory on the licensed premises at any time, limits the number of retailers within counties and cities within the counties based on estimated consumption and population data, establishes insurance requirements for licensees, describes the security requirements, requires employees to wear badges, requiring alarm and surveillance systems on the licensed premises, requires that licensees track marijuana from seed to sale, establishes the manner in which free samples of marijuana may be provided, prohibits the sale of soil amendments, fertilizers and other crop production aids, identifies transportation requirements, sign requirements, recordkeeping requirements, identifies a mechanism

for enforcement of violations, including the failure to pay taxes, specifies marijuana infused product serving sizes, maximum number of servings and limitations on transactions, identifies marijuana waste disposal restrictions, describes the process for quality assurance testing, extraction and the requirements for packaging and labeling, describes advertising limitations, explains the process for licensing suspension, revocation and penalties for violations; and

WHEREAS, according to the administrative rules, the LCB will determine whether the recreational marijuana business licensee is within 1,000 feet of the sensitive uses identified in WAC 314-55-050(10) and shall not issue the license if it is within this area; and

WHEREAS, the LCB has begun issuance of licenses for recreational marijuana uses; and

WHEREAS, on January 14, 2014, the Washington State Attorney General issued an opinion finding that local governments are not preempted by state law from banning the location of a recreational marijuana business, even if the business has been licensed by the LCB (AGO 2014 No. 2)); and

WHEREAS, in the same Attorney General Opinion, the Attorney General also gave the opinion that cities could establish restrictions on recreational marijuana businesses licensed by the LCB, even if such restrictions made it “impractical for a licensed marijuana business to locate within their jurisdiction” (AGO 2014 No. 2); and

WHEREAS, the City adopted Ordinances 1804, 1823, 1843, 1848 and 1855, adopting moratoria or interim zoning on marijuana uses (including recreational marijuana uses); and

WHEREAS, on _____, the Planning Director issued a SEPA threshold decision of _____ on this draft Ordinance, which was/was not appealed (if appealed, describe the results of that appeal in a “whereas”); and

WHEREAS, on _____, the Council considered this draft ordinance during its regular meeting;

WHEREAS, on _____, the Council decided to adopt this ordinance _____; NOW, THEREFORE,

THE PACIFIC CITY COUNCIL OF THE CITY OF _____ ORDAINS AS FOLLOWS:

Section 1. A new Chapter 5.12 is hereby added to the Pacific Municipal Code, which shall read as follows:

CHAPTER 5.12 RECREATIONAL MARIJUANA

Sections:

5.12.001	Findings and Purpose.
5.12.002	Definitions.
5.12.003	License Required, Effective Date.
5.12.004	Relationship to Recreational Marijuana Laws and Other Laws
5.12.005	Designation of Licensing Authority.
5.12.006	Requirements of Application for License.
5.12.007	Inspection Fee.
5.12.008	Denial of Application.
5.12.009	Locational Criteria.
5.12.010	Change of Location.
5.12.011	Outdoor Signage and Advertising.
5.12.012	Security Requirements.
5.12.013	Report of Disturbances and Unlawful Activity.
5.12.014	Visibility of Activity and Control of Emissions.
5.12.015	Sales Tax
5.12.016	Inspection of Licensed Premises.
5.12.017	Nonrenewal, Suspension or Revocation of License.
5.12.018	No City Liability – Indemnification.
5.12.019	Other Laws Remain Applicable.

5.12.001. Findings and Purpose.

A. The Council adopts all of the “whereas” sections of this Ordinance as findings to support this Chapter.

B. The purpose of this chapter is to describe the application process, qualifications and requirements to obtain a recreational marijuana business license, terms of such licenses, renewals, violations and penalties.

C. No part of this chapter is intended to or shall be deemed to conflict with the Uniform Controlled Substances Act (chapter 69.50 RCW) nor to otherwise permit any activity that is prohibited under either Act, or any other local, state or federal law, statute, rule or regulation. Nothing in this Chapter shall be construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of medical cannabis or recreational marijuana in any manner not authorized by chapter 69.51A RCW or chapter 69.50 RCW. Nothing in this Chapter shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or that creates a nuisance, as defined herein. It is the intention of the City Council that this Chapter be interpreted to be compatible with state enactments and in furtherance of the public purposes that those enactments encompass.

5.12.002. Definitions. The definitions in chapter 20.78.002 of the City Zoning Code apply to the administration, interpretation and enforcement of this Chapter 5.12 PMC.

5.12.003 License Required -- Effective Date.

A. It shall be unlawful for any person or entity to operate any recreational marijuana producer, processor or retail business without first having obtained a local license under this Chapter and a State license under Chapter 314-55 WAC, for each facility to be operated in connection with such business. Such license shall be kept current at all times, and the failure to maintain a current license shall constitute a violation of this Section.

B. No person shall be deemed to have any entitlement or vested right to licensing under this Chapter by virtue of having received any prior license or permit from the City, including, by way of example, any zoning permit, building permit for a medical marijuana use, wholesale food manufacturer's license, or any other license.

C. This Chapter is not intended to regulate the possession, cultivation or use of marijuana for medical use by anyone who may qualify as a Qualified Patient or Designated Care Provider, under chapter 69.51A RCW. This Chapter is not intended to license any medical marijuana use, collective garden, retailer or any other business associated with the use of marijuana for medical purposes, under chapter 69.51A RCW.

5.12.004 Relationship to Recreational Marijuana Laws and Other Laws.

Except as otherwise specifically provided herein, this Chapter incorporates the requirements and procedures set forth in I-502, as codified in chapter 69.50 RCW and chapter 314-55 WAC. In the event of any conflict between the provisions of this chapter 5.09 and the provisions of chapter 69.50 RCW or chapter 314-55 WAC, the more restrictive provision shall control.

5.12.005 Designation of Licensing Authority.

In accordance with Section _____ of the _____ Municipal Code, the _____ is designated as the local Licensing Authority for the purpose of administering this Chapter. The Licensing Authority shall have the following responsibilities:

A. To grant or deny licenses under this Chapter, to grant or deny transfers of ownership or location of the license and impose penalties against licensees in the manner provided by law.

B. To promulgate rules and regulations regarding the procedures for hearings before the Licensing Authority, and to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records at any hearing which the Authority is authorized to conduct. Any such subpoena shall be served in the same manner as a subpoena issued by the Washington courts.

C. To require any applicant or licensee to furnish any relevant information required by this Chapter.

5.12.006 Requirements of Application for License; Payment of Application Fee.¹

A. A person or entity seeking a license pursuant to Washington State law under chapter 69.50 RCW and the provisions of this Chapter shall submit an application to the City on forms provided by the City. At the time of the application, each applicant shall pay a nonrefundable application fee to defray the costs incurred by the City for the processing of the application, as well as an inspection fee (as described in Section 5.12.007 below). In addition, the applicant shall present a suitable form of identification.

B. The applicant shall also provide the following information on a form approved by, or acceptable to, the Licensing Authority, which information may be required for the applicant, the proposed manager of the recreational marijuana business (production, processing or retail outlet) and all persons having a financial interest in such business that is the subject of the application, or, if the applicant is an entity, having a financial interest in the entity:

1. Name, address and date of birth;
2. An acknowledgement and consent that the City may conduct a background investigation, including a criminal history check, and that the City will be entitled to full and complete disclosure of all financial records of the recreational marijuana business, including records of deposit, withdrawals, balances and loans;
3. If the applicant is a business entity, information regarding the entity, including, without limitation, the name and address of the entity, its legal status, and proof of registration with, or a certificate of good standing from, the Washington Secretary of State, as applicable;
4. If the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for the recreational marijuana use (production, processing or retail outlet);
5. A copy of any deed reflecting the applicant's ownership of, or lease reflecting the right of the applicant to process, the proposed licensed premises;
6. Evidence of a valid State license for the recreational marijuana business;
7. A "to scale" diagram of the proposed licensed premises, no larger than eleven (11) inches by seventeen (17) inches, showing, without limitation, building layout, all entryways and exits to the proposed licensed premises, loading zones and all areas in which recreational marijuana will be stored, grown, manufactured or sold;

¹ Keep in mind that the State will perform a criminal history background check, an investigation into the residency requirements, a financial investigation to verify the source of the funds used for the acquisition and start-up of the business, etc. WAC 314-55-020.

8. A comprehensive business operation plan for the recreational marijuana business which shall contain, at a minimum, the following:

- (a) A security plan meeting the requirements of State law;
- (b) A description of all products to be processed, produced, cultivated or sold;
- (c) A plan for exterior signage that is in compliance with State law, this Chapter and the City's sign code, including photographs and/or illustrations of the proposed signage; and

9. Any additional information that the Licensing Authority reasonably determines to be necessary in connection with the investigation and review of the application.²

C. All recreational marijuana businesses shall obtain other required permits or licenses related to the operation of the business, including, without limitation, any development approvals or building permits required by this Code, the Building Code or the Zoning Code (chapter 20.78 PMC).

D. Upon receipt of a completed application, the Licensing Authority may circulate the application to all affected service areas and departments of the City to determine whether the application is in full compliance with all applicable laws, rules and regulations.

E. The City may, prior to issuance of the license, perform an inspection of the proposed licensed premises to determine compliance with any applicable requirements of this Article or other provisions of this Code, the Building Code or the Zoning Code.

5.12.007. Inspection Fee. In order for the license to issue, and upon renewal thereafter, the licensee shall pay to the City a non-refundable fee in an amount determined by the Licensing Authority to cover the costs associated with the individual inspection conducted pursuant to this Chapter.

5.12.008. Denial of Application. The Licensing Authority may deny any application for a license or license renewal that does not meet the requirements of Washington State Law or this Chapter. The Licensing Authority may deny any application that contains any false, misleading or incomplete information.

5.12.009. Location Criteria.

A. No license shall be issued to a recreational marijuana producer, processor or retail outlet if the proposed licensed business is within one thousand feet of any of the following:

1. Elementary or secondary school;
2. Playground;

² See, chapter 314-55 WAC to determine what factors will be considered by the State of Washington in order to issue a license.

3. Recreation center or facility;
4. Child care center;
5. Public park;
6. Public transit center;
7. Library; or
8. Any game arcade (where admission is not restricted to persons age twenty-one or older).

B. No license shall be issued to a recreational marijuana producers, processor or retail outlet unless the proposed business is located within the boundaries of the Light Industrial (LI) zone, within the Pierce County portion of the City, as required by PMC Section 20.78.003(A).

5.12.010. Change of Location.

A change in the location of a recreational marijuana business occurs any time a move by the licensee results in any change to the physical location address. A change in the location of such business requires the submission of a new application under Section 5.12.006 above.

5.12.011. Outdoor Signage and Advertising.

A. All signage and advertising for a recreational marijuana processor, producer or retail outlet shall comply with the applicable provisions of this Code, the Sign Code, Zoning Code and WAC 314-55-155 (and all applicable rules and regulations promulgated thereunder).

B. Violations of this Section relating to the Sign Code or Zoning Code shall result in a _____ fine. The City may enforce this section pursuant to chapter ____ of the Municipal Code. For violations of WAC 314-55-155 and 314-55-525, the City may report the violation to the State Liquor Control Board.

5.12.012. Security Requirements. Security measures at all licensed premises shall comply with the requirements of WAC 314-55-083 (and all applicable rules and regulations promulgated thereunder).

5.12.013. Report of Disturbances and Unlawful Activity.

A. All licensees and any agent, manager or employee thereof shall immediately report to the City Police Department any disorderly act, conduct or disturbance and any unlawful activity committed in or on the licenses premises, including, but not limited to, any unlawful resale of marijuana, and shall also immediately report any such activity in the immediate vicinity of the business.

B. Each licensee shall post and keep at all times visible to the public in a conspicuous place on the premises a sign with a minimum height of fourteen (14) inches

and a minimum width of eleven (11) inches with each letter to be a minimum of one-half (1/2) inch in height, which shall read as follows:

WARNING:

The City of Pacific Police Department must be notified of all disorderly acts, conduct or disturbances and all unlawful activities which occur on or within the premises of this licensed establishment.

C. It shall not be a defense to a prosecution of a licensee under this Section that the licensee was not personally present on the premises at the time such unlawful activity, disorderly act, conduct or disturbance was committed; however, no agent or employee of the licensee shall be personally responsible for failing to report any disorderly act, conduct or disturbance and any unlawful activity hereunder if such agent, servant or employee was absent from the premises at the time such activity was committed.

D. Failure to comply with the requirements of this Section shall be considered by the Licensing Authority in any action relating to the issuance, revocation, suspension or nonrenewal of a license.

5.12.014. Visibility of Activities; Control of Emissions.

A. All activities of the recreational marijuana business, including, but not limited to, cultivating, growing, processing, displaying, manufacturing, selling and storage, shall be conducted out of the public view.

B. No recreational marijuana or paraphernalia shall be displayed or kept in a business so as to be visible from outside the licensed premises.

C. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting the recreational marijuana business must be in effect at all times. In the event that any odors, dust, fluids or other substances exit a recreational marijuana business, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for the immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

5.12.015. Sales Tax.

Each recreational marijuana business shall collect and remit City sales tax on all recreational marijuana paraphernalia and other tangible personal property used or sold at the licensed premises.

5.12.016. Inspection of Licensed Premises.

During all business hours and other times of apparent activity, all licensed premises shall be subject to inspection by the Police Department and all other City departments, as designated by the Licensing Authority, for the purpose of investigating and determining compliance with the provisions of this Chapter and any other applicable state and local laws and regulations.

5.12.017. Nonrenewal, Suspension or Revocation of License.³

A. The Licensing Authority, may, after notice and a hearing (using the procedures set forth in chapter ____ of this title), suspend, revoke or refuse to renew a license for any of the following reasons

1. The applicant or licensee, or his or her agent, manager or employee, has violated, does not meet or has failed to comply with, any of the terms, requirements, conditions or provisions of this Chapter or with any applicable state or local law or regulation; or

2. The applicant or licensee, or his or her agent, manager or employee, has failed to comply with any special terms or conditions of its license pursuant to an order of the state or local licensing authority, including those terms and conditions that were established at the time of issuance of the license and those imposed as a result of any disciplinary proceedings held subsequent to the date of the issuance of the license.

B. Evidence to support a finding under Subsection (A) above may include, without limitation, a continuing pattern of disorderly conduct, a continuing pattern of drug-related criminal conduct within the premises of the business or in the immediate area surrounding such business, or an ongoing nuisance condition emanating from or caused by the recreational marijuana business. Criminal conduct shall be limited to the violation of state or City law.

5.12.018. No City Liability – Indemnification.

A. By accepting a license issued pursuant to this Chapter, the licensee waives and releases the City, its officers, elected officials, employees, volunteers and agents from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of business owners, operators, employees, clients or customers for a violation of federal, state or local laws and regulations.

B. By accepting a license issued pursuant to this Chapter, all licensees, jointly and severally, if more than one, agree to indemnify, defend and hold harmless the City, its officers, elected officials, employees, volunteers and agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or

³ The City's Business Licensing Title should include procedures for enforcement, including notice to the licensee/applicant of hearing, the procedures for a hearing, issuance of a decision, etc. This chapter should be referenced here.

damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the recreational marijuana business that is the subject of the license.

5.12.019. Other Laws Remain Applicable.

A. To the extent the State or the City adopts in the future any additional or stricter law or regulation governing the production, processing or sale of recreational marijuana, the additional or stricter regulation shall control the establishment or operation of any recreational marijuana business in the City. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this Chapter, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.

B. If the State prohibits the production, processing, sale or other distribution of marijuana through the premises licensed under this Chapter, any license issued hereunder shall be deemed immediately revoked by operation of law.

Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 4. Effective Date. This ordinance shall be effective five days after publication of an approved summary, which shall consist of the title.

PASSED by the City Council of Pacific this ____ day of _____, 2014.

MAYOR LEANNE GUIER

ATTEST/AUTHENTICATED:

City Clerk, Amy Stevenson-Ness

APPROVED AS TO FORM:
Office of the City Attorney

City Attorney, Carol Morris

PUBLISHED:
EFFECTIVE DATE:

Draft – June 12, 2014

ORDINANCE NO. 2014-18XZ

AN ORDINANCE OF THE CITY OF PACIFIC, WASHINGTON, RELATING TO THE MEDICAL USE, MARIJUANA (CANNABIS), BANNING MEDICAL MARIJUANA DISPENSARIES, MEDICAL MARIJUANA COLLECTIVE GARDENS, OR ANY MEDICAL MARIJUANA BUSINESSES, ADOPTING FINDINGS SUPPORTING SUCH BAN, DESCRIBING VIOLATIONS, ALLOWING ENFORCEMENT OF SUCH VIOLATIONS THROUGH THE CITY'S ZONING CODE ENFORCEMENT PROCEDURES, ADDING A NEW CHAPTER 20.79 TO THE PACIFIC MUNICIPAL CODE.

WHEREAS, since 1970, federal law has prohibited the manufacture and possession of marijuana as a Schedule I drug, based on the federal government's categorization of marijuana as having a "high potential for abuse, lack of any accepted medical use, and absence of any accepted safety for use in medically supervised treatment." *Gonzales v. Raich*, 545 U.S. 1, 14 (2005), Controlled Substance Act (CSA), 84 Stat. 1242, 21 U.S.C. 801 et seq; and

WHEREAS, the voters of the State of Washington approved Initiative 692 (codified as RCW 69.51A in November 1998); and

WHEREAS, the intent of Initiative 692 was that qualifying "patients with terminal or debilitating illnesses who, in the judgment of their physicians, would benefit from the medical use of marijuana, shall not be found guilty of a crime under state law," (RCW 69.51A.005), but that nothing in the law "shall be construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of marijuana for non-medical purposes" (RCW 69.51A.020); and

WHEREAS, the Washington State Legislature passed ESSSB 5073 in 2011, which directed employees of the Washington State Departments of Health and Agriculture to authorize and license commercial businesses that produce, process or dispense cannabis; and

WHEREAS, this bill required that the Department of Health develop a secure registration system for licensed producers, processors and dispensers, but these provisions, together with many others relating to dispensaries and definitions, were vetoed by the Governor; and

WHEREAS, ESSSB 5073 provided that a qualifying patient or his/her designated care provider are presumed to be in compliance, and not subject to criminal or civil

sanctions/penalties/consequences, under certain defined circumstances (possession of a limited number of plants or usable cannabis, cultivation of a limited number of plants in the qualifying patient or designated care provider's residence or in a collective garden); and

WHEREAS, Washington's Governor vetoed all of the provisions relevant to medical marijuana dispensaries in ESSSB 5073 but left the provisions relating to cultivation of marijuana for medical use by qualified patients individually within their residences and in collective gardens; and

WHEREAS, ESSSB 5073 was codified in chapter 69.51A RCW; and

WHEREAS, RCW 69.51A.130 allows local jurisdictions to adopt zoning requirements, business license requirements, health and safety requirements, and to impose business taxes on the production, processing or dispensing of medical cannabis or cannabis products; and

WHEREAS, In November of 2012, the Washington voters passed I-502, which directed the Washington State Liquor Control Board (LCB) to regulate recreational marijuana by licensing and taxing recreational marijuana producers, processors and retailers; and

WHEREAS, on the LCB adopted regulations (chapter 314-55 WAC) which: prohibit the establishment of recreational marijuana businesses within 1,000 feet of certain identified sensitive uses, require criminal history background checks for licensees, establish qualifications for licensees, limits the amount of space available for recreational marijuana production, describes the manner in which marijuana growing may take place, limits the average inventory on the licensed premises at any time, limits the number of retailers within counties and cities within the counties based on estimated consumption and population data, establishes insurance requirements for licensees, describes the security requirements, requires employees to wear badges, requiring alarm and surveillance systems on the licensed premises, requires that licensees track marijuana from seed to sale, establishes the manner in which free samples of marijuana may be provided, prohibits the sale of soil amendments, fertilizers and other crop production aids, identifies transportation requirements, sign requirements, recordkeeping requirements, identifies a mechanism for enforcement of violations, including the failure to pay taxes, specifies marijuana infused product serving sizes, maximum number of servings and limitations on transactions, identifies marijuana waste disposal restrictions, describes the process for quality assurance testing, extraction and the requirements for packaging and labeling, describes advertising limitations, explains the process for licensing suspension, revocation and penalties for violations; and

WHEREAS, the detailed licensing and comprehensive regulatory system for recreational marijuana in I-502 is substantially different from what little remains in chapter 69.51A RCW to regulate medical marijuana after the Governor's veto; and

WHEREAS, on August 29, 2013, the U.S. Department of Justice (DOJ) issued a Memorandum to all United States Attorneys, acknowledging that several states had adopted laws authorizing marijuana production, distribution and possession by establishing a regulatory scheme for these purposes; and

WHEREAS, in this Memo, the DOJ advised that in recent years, the DOJ has “focused its efforts on certain law enforcement priorities that are particularly important to the federal government,” such as: (a) preventing the distribution of marijuana to minors; (b) preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels; (c) preventing the diversion of marijuana from states where it is legal under state law in some form to other states; (d) preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity; (e) preventing violence and the use of firearms in the cultivation and distribution of marijuana; (f) preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use; (g) preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and (h) preventing marijuana possession or use on federal property; and

WHEREAS, in this Memo, the DOJ warned that “[i]f state enforcement efforts are not sufficiently robust to protect against the harms [identified above] the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring individual enforcement actions, including criminal prosecutions, focused on those harms”; and

WHEREAS, in this Memo, the DOJ warned that a regulatory system adequate to this task “must not only contain robust controls and procedures on paper, it must also be effective in practice”; and

WHEREAS, in this Memo, the DOJ advised that “in exercising prosecutorial discretion, prosecutors should not consider the size or commercial nature of a marijuana operation alone as a proxy for assessing whether marijuana trafficking implicates the Department’s enforcement priorities [listed above]” and that federal prosecutors “should continue to review marijuana cases on a case-by-case basis and weigh all available information and evidence, including, but not limited to, whether the operation is demonstrably in compliance with a strong but effective state regulatory system”; and

WHEREAS, a comparison of the LCB’s rules for recreational marijuana and chapter 69.51A RCW for medical marijuana demonstrates that there is virtually no state regulatory system for medical marijuana, and that even if local governments decided to adopt the type of medical marijuana system that would protect against the harms identified in the federal government’s enforcement priorities, most local governments do not have the resources to be able to enforce such regulations; and

WHEREAS, after considering the August 29, 2013 DOJ Memo, the City has determined that even if the City decided to adopt an ordinance on the subject of medical

marijuana in order to provide the type of regulatory system that the DOJ might find adequate to protect against the harms identified in the federal government’s enforcement priorities, the City does not have the resources to enforce such a system; and

WHEREAS, on January 14, 2014, the Washington Attorney General issued an opinion finding that local governments are not preempted by state law from banning recreational marijuana businesses, even if the business has been licensed by the LCB (AGO 2014 No. 2); and

WHEREAS, the Washington State Court of Appeals issued a decision (*Cannabis Action Coalition v. City of Kent*, 322 P.3d 1246 (2014)) in which the Court upheld a ban imposed by the City of Kent on medical marijuana “collective gardens”; and

WHEREAS, the City adopted Ordinances 1804, 1823, 1848 and 1855, adopting moratoria or interim zoning on marijuana uses; and

WHEREAS, the SEPA Responsible Official issued a threshold decision of non-significance for this ordinance; and

WHEREAS, on _____, the Planning Commission held a public hearing on this draft ordinance; and

WHEREAS, the Planning Commission recommended approval of this draft ordinance to the Council; and

WHEREAS, on _____, the Council considered this draft ordinance during its regular meeting; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF PACIFIC ORDAINS AS FOLLOWS:

Section A. The City Council adopts the following ban on medical marijuana/medical cannabis and adopts the following related enforcement procedures:

MEDICAL CANNABIS
Chapter 20.79

Sections:

- 20.79.001 Findings.**
- 20.79.002 Definitions.**
- 20.79.003 Prohibited Activities.**
- 20.79.004 Uses Not Permitted in Any Zone.**
- 20.79.005 Violations.**
- 20.79.006 Enforcement.**

20.79.001. Findings. The Council adopts all of the “whereas” sections of this Ordinance as findings to support this ban on medical marijuana, as well as the following:

A. The purpose of this Ordinance is to enact a ban medical cannabis or medical marijuana, which (1) explicitly prohibits medical marijuana dispensaries, businesses, including but not limited to medical marijuana collective gardens (as defined in RCW 69.51A.085). This prohibition will be enforced until such time as the City Council has made a finding that the Washington State Legislature has adopted a regulatory and enforcement system for medical marijuana uses that satisfies the enforcement priorities established by the federal government. The City shall evaluate any new medical marijuana laws adopted by the State of Washington to determine whether local regulation of medical marijuana collective gardens, dispensaries or businesses is necessary, and if so, determine whether the City has the desire or the resources to adopt and enforce such local regulations. This ban may only be lifted by the City Council in an ordinance specifically adopted for this purpose.

B. It is also the purpose of this Ordinance to stem the negative impacts and secondary effects associated with the marijuana uses (on-going or predicted) in the City, including but not limited to the extraordinary and unsustainable demands that have been or will be placed upon scarce City policing, legal, policy and administrative resources; neighborhood disruption, increased transient visitors and intimidation; the exposure of school-age children and other sensitive residents to medical marijuana, illegal sales to both minors and adults; fraud in issuing, obtaining or using medical marijuana prescriptions and murders, robberies, burglaries, assaults, drug trafficking and other violent crimes. The State of Washington has adopted a regulatory and enforcement system for the cultivation, processing and sale of recreational marijuana, but there is no state-wide regulatory scheme for medical marijuana. The City acknowledges the federal government’s recently medical marijuana enforcement efforts involving individuals/entities who/that attempted to avoid compliance with the more onerous recreational marijuana system by illegally operating medical marijuana collective gardens. Until new laws are adopted to bridge the gap between recreational and medical marijuana uses, and there is strict enforcement of these laws, the negative impacts and secondary effects described above are likely to occur/continue.

C. No part of this Ordinance is intended to or shall be deemed to conflict with the Uniform Controlled Substances Act (chapter 69.50 RCW) nor to otherwise permit any activity that is prohibited under the Act, or any other local, state law, statute, rule or regulation. This Ordinance is not intended to address or invite litigation over the question whether the State of Washington’s medical marijuana laws (or this City’s medical marijuana laws) satisfy the federal government’s enforcement priorities. Nothing in this Ordinance shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or that creates a nuisance, as defined herein.

20.79.002. Definitions. For purposes of this Ordinance, the following definitions apply:

A. "Cannabis" means all parts of the plant *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. For the purposes of this ordinance, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted there from, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. The term "cannabis" includes cannabis products and useable cannabis.

B. "Cannabis products" means products that contain cannabis or cannabis extracts, have a measurable THC concentration greater than three-tenths of one percent, and are intended for human consumption or application, including, but not limited to, edible products, tinctures, and lotions. The term "cannabis products" does not include useable cannabis. The definition of "cannabis products" as a measurement of THC concentration only applies to the provisions of this ordinance and shall not be considered applicable to any criminal laws related to marijuana or cannabis.

C. "Child Care Center" means an entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington State Department of Early Learning, under chapter 170-295 WAC.

D. "Collective Garden" means those gardens authorized under RCW 69.51A.085, which allows Qualifying Patients to create and participate in Collective Gardens for the purpose of producing, processing, transporting and delivering cannabis for medical use, subject to certain limited conditions, including:

(1) No more than ten Qualifying Patients may participate in a single collective garden at any time;

(2) A Collective Garden may contain no more than fifteen plants per Qualifying Patient, up to a total of forty-five plants;

(3) A Collective Garden may contain no more than twenty-four ounces of usable cannabis per patient up to a total of seventy-two ounces of usable cannabis; and

(4) A copy of each Qualifying Patient's valid documentation or proof of registration with the registry established in state law (now or in the future), including a copy of the Qualifying Patient's proof of identity, must be available at all times on the premises of the Collective Garden;

(5) No Usable Cannabis from the Collective Garden may be delivered to anyone other than one of the Qualifying Patients participating in the Collective Garden; and

(6) A business license must be obtained for the Collective Garden through the City.

E. "Cultivation" means the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof.

F. "Deliver or Delivery" means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

G. "Designated care provider" means a person who:
(1) Is eighteen years of age or older;
(2) Has been designated in writing by a patient to serve as a designated provider under chapter 69.51A RCW; and
(3) Is prohibited from consuming marijuana obtained for the personal, medical use of the patient for whom the individual is acting as designated provider; and
(4) Is the designated provider to only one patient at any one time.

H. "Dispensary, Medical Marijuana" means: any location that does not meet the definition of a "Collective Garden" and does not have a license from the Liquor Control Board of the State of Washington for a marijuana producer, processor or retailer pursuant to I-502, where medical cannabis or marijuana is processed, dispensed, selected, measured, compounded, packaged, labeled or sold to a qualified patient, designated provider or any other member of the public. It also includes any vehicle or other mode of transportation, stationary or mobile, which is used to transport, distribute, deliver, sell or give away medical cannabis or marijuana to a qualified patient, designated provider or any other member of the public.

I. "Dispense" means the interpretation of a prescription or order for medical cannabis, and pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare the prescription or order for delivery.

J. "Elementary School" means a school for early education that provides the first four to eight years of basic education and is recognized by the Washington State Superintendent of Public Instruction.

K. "Game Arcade" means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted.

L. "Indoors" means within a fully enclosed and secure structure that complies with the Washington State Building Code, as adopted by the City, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as 2" by 4" or thicker studs overlain with 3/8" or thicker plywood or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

M. "Legal parcel" means a parcel of land for which one legal title exists. Where contiguous legal parcels are under common ownership or control, such legal parcels shall be counted as a single parcel for purposes of this ordinance.

N. "Library" means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.

O. "Manager" means any person to whom a medical marijuana collective garden has delegated discretionary powers to organize, direct and carry on or control its operations. Authority to control one or more of the following functions shall be prima facie evidence that such a person is a manager of the business: (a) to hire, select, or supervise employees or staff, including volunteers; (b) to acquire facilities, furniture, equipment or supplies other than the occasional replenishment of stock; (c) to disburse funds of the business other than for the receipt of regularly replaced items of stock; or (d) to make, or participate in making, policy decisions relative to operations of the business.

P. "Marijuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. For the purposes of this Ordinance, "cannabis" or "marijuana" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

Q. "Marijuana-infused products" means products that contain marijuana or marijuana extracts and are intended for human use. The term "marijuana-infused products" does not include useable marijuana.

R. "Marijuana, Usable" means dried marijuana flowers. The term "usable marijuana" does not include marijuana-infused products.

S. "Medical (or medicinal) use of cannabis or marijuana" means the production, possession, or administration of marijuana, as defined in RCW 69.50.101(r), for the exclusive benefit of a Qualifying Patient in the treatment of his or her terminal or debilitating illness.

T. "Outdoors" means any location that is not "indoors" within a fully enclosed and secure structure as defined herein.

U. "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision of agency or any other legal or commercial entity.

V. "Personally identifiable information" means any information that includes, but is not limited to, data that uniquely identify, distinguish, or trace a person's identity, such as the person's name, or address, either alone or when combined with other sources, that establish the person is a Qualifying Patient or Designated Provider.

W. "Plant" means an organism having at least three distinguishable and distinct leaves, each leaf being at least three centimeters in diameter, and a readily observable root formation consisting of at least two separate and distinct roots, each being at least two centimeters in length. Multiple stalks emanating from the same root ball or root system shall be considered part of the same single plant.

X. "Playground" means a public outdoor recreation area for children, usually equipped with swings, slides and other playground equipment, owned and/or managed by a city, county, state or federal government.

Y. "Process" means to handle or process cannabis in preparation for medical or recreational use.

Z. "Processor, Marijuana" means a person licensed by the State Liquor Control Board to process marijuana into useable marijuana and marijuana-infused products, package and label usable marijuana and marijuana-infused products for sale in retail outlets, and sell usable marijuana and marijuana-infused products as wholesale to marijuana retailers.

AA. "Producer, Marijuana" means a person licensed by the State Liquor Control Board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

BB. "Produce or Production" means to manufacture, plant, grow or harvest cannabis or marijuana.

CC. "Public Park" means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government or metropolitan park district. Public park does not include trails.

DD. "Public place" includes streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; premises where goods and services are offered to the public for retail sale; public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages, and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, buses, ferries, and other public conveyances of all kinds and character, and the depots, stops, and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, or playgrounds; and all

other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

EE. "Public Transit Center" means a facility located outside of the public right of way that is owned and managed by a transit agency or city, county, state or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.

FF. "Qualifying Patient" means a person who:

1. Is a patient of a health care professional;
2. Has been diagnosed by that health care professional as having a terminal or debilitating medical condition;
3. Is a resident of the state of Washington at the time of such diagnosis;
4. Has been advised by that health care professional about the risks and benefits of the medical use of marijuana;
5. Has been advised by that health care professional that he or she may benefit from the medical use of marijuana; and
6. Is otherwise in compliance with the terms and conditions established in chapter 69.51A RCW.

GG. "Recreation center or facility" means a supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a charitable nonprofit organization, city, county, state or federal government.

HH. "Residential treatment facility" means a facility providing for treatment of drug and alcohol dependency;

II. "Retailer, Marijuana" means a person licensed by the State Liquor Control Board to sell usable marijuana and marijuana-infused products in a retail outlet.

JJ. "Retail outlet" means a location licensed by the State Liquor Control Board for the retail sale of useable marijuana and marijuana-infused products.

KK. "Secondary School" means a high and/or middle school: A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington State Superintendent of Public Instruction.

LL. "Terminal or debilitating medical condition" means:

1. Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders; or
2. Intractable pain, limited for the purpose of this ordinance to mean pain unrelieved by standard medical treatments and medications; or

3. Glaucoma, either acute or chronic, limited for the purpose of this ordinance to mean increased intraocular pressure unrelieved by standard treatments and medications; or
4. Crohn's disease with debilitating symptoms unrelieved by standard treatments or medications; or
5. Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications; or
6. Diseases, including anorexia, which result in nausea, vomiting, cachexia, appetite loss, cramping, seizures, muscle spasms, or spasticity, when these symptoms are unrelieved by standard treatments or medications; or
7. Any other medical condition duly approved by the Washington State Medical Quality Assurance Commission in consultation with the Board of Osteopathic Medicine and Surgery as directed in chapter 69.51A RCW.

MM. "THC concentration" means percent of tetrahydrocannabinol content per weight or volume of useable cannabis or cannabis product.

NN. "Useable cannabis or usable marijuana" means dried flowers of the *Cannabis* plant. The term "usable cannabis or usable marijuana" does not include marijuana-infused products or cannabis products.

OO. "Valid documentation" means:

1. A statement signed and dated by a Qualifying Patient's Health care professional written on tamper-resistant paper, which states that, in the health care professional's professional opinion, the patient may benefit from the medical use of cannabis/marijuana;
2. Proof of identity such as a Washington state driver's license or identicard, as defined in RCW 46.20.035; and
3. In the case of a Designated Provider, the signed and dated document valid for one year from the date of signature executed by the Qualifying Patient who has designated the Provider.

20.79.003 Prohibited Activities.

A. It is unlawful to own, establish, operate, use or permit the establishment or operation of a medical marijuana dispensary, medical marijuana collective garden or medical marijuana business for the production, processing or retail sale of marijuana for medical purposes, without a license from the Liquor Control Board of the State of Washington and the City.

B. It is unlawful to participate as an employee, contractor, agent or volunteer, or in any other manner or capacity in any marijuana dispensary, medical marijuana collective garden or medical marijuana business for the production, processing or retail sale of marijuana for medical purposes, without a license from the Liquor Control Board of the State of Washington.

C. It is unlawful to lease, rent or otherwise allow any medical marijuana dispensary, medical marijuana collective garden or medical marijuana business for the production, processing or retail sale of marijuana for medical purposes, whether such use or business takes place outdoors, indoors, in any building, structure, premises, location or land in the City.

20.79.004. Use Not Permitted In Any Zone. The use of any building, structure, location, premises or land for a medical marijuana dispensary, collective garden or medical marijuana business (production, processing or retail outlet) is not currently allowed in the City, and such uses are not permitted in any zone. So long as this Ordinance remains in effect, the City shall not, determine either through a code interpretation or otherwise, that the use of any building, structure, location, premises or land may be permitted or operated as a medical marijuana dispensary, collective garden or medical marijuana business (production, processing or retail outlet) in any zone.

20.79.005. No Vested or Nonconforming Rights. This Ordinance prohibits medical marijuana dispensaries, medical marijuana collective gardens, medical marijuana businesses (production, processing or retail outlet). Neither this Ordinance nor any other City Ordinance, City action, failure to act, statement, representation, certificate, approval, or permit issued by the City or its departments, or their respective representatives, agents, employees, attorneys or assigns, shall create, confer, or convey any vested or nonconforming right or benefit.

20.79.006. Violations. Any violations of this Ordinance may be enforced as set forth in Ordinance No. _____ (Enforcement of Zoning Code Violations), or as applicable, the Uniform Controlled Substances Act, chapter 69.50 RCW. In addition, violations of this Ordinance may be deemed to be a public nuisance and may be abated by the City under the procedures set forth in state law for the abatement of public nuisances.

Section 2. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 3. Effective Date. This ordinance shall be effective five days after publication of an approved summary, which shall consist of the title.

PASSED by the City Council of Pacific this ____ day of _____, 2014.

LEANNE GUIER, MAYOR

ATTEST/AUTHENTICATED:

Amy Stevenson-Ness, City Clerk.

APPROVED AS TO FORM:
Office of the City Attorney

City Attorney Carol A. Morris

PUBLISHED:
EFFECTIVE DATE:



Agenda Bill No. 14-136

TO: Mayor Guier and City Council Members
FROM: Carol Morris, City Attorney
MEETING DATE: July 28, 2014
SUBJECT: Extension of Interim Zoning Ordinance – Recreational and Medical Marijuana
ATTACHMENTS: Ordinance No. 2014-1866

Previous Council Review Date: N/A

Summary: Here is a chronology of the pertinent events relating to this interim zoning ordinance and medical/recreational marijuana in Pacific:

<u>Date</u>	<u>Ordinance</u>
8-8-11	The City passed Ordinance 1804, establishing a 6 month moratorium on the issuance of permits or licenses for medical marijuana collective gardens.
2-13-12	The City passed Ordinance 1823, establishing a 12 month moratorium on the issuance of permits or licenses for medical marijuana collective gardens.
2-25-13	The City passed Ordinance 1843, establishing a 6 month moratorium on the issuance of permits or licenses for medical marijuana collective gardens.
2-3-14	The City passed Ordinance 2014-1855, adopting an interim zoning ordinance prohibiting medical and recreational marijuana uses, to be in effect for 6 months (or approximately August 3, 2014).
June, 2014	The City distributed three draft ordinances on the subject of marijuana for the public to consider. One of these ordinances allowed recreational marijuana uses as a conditionally permitted use in the Light Industrial Zone. Another ordinance adopted business licensing requirements for recreational marijuana uses. The third ordinance banned all medical marijuana uses.
7-16-14	The City Council held a public hearing (Town Hall Meeting) on the subject of recreational and medical marijuana. The Council did not take any action after this hearing.

AGENDA ITEM NO. 6B

7-28-14 **First item:** The City Council will deliberate on the issue of recreational and medical marijuana. The City Council will then direct the Planning Commission to hold a public hearing and make a recommendation to the City Council on one or more of the draft ordinances. Or, the City Council may direct the City Attorney to draft a new ordinance (or make changes in the existing ones) with certain provisions, and direct that such ordinance be forwarded to the Planning Commission for a public hearing and recommendation.

Second item: The City Council will consider whether to extend the existing interim zoning ordinance for another six months.

Future Events:

_____ -14 The SEPA Responsible Official issues his/her threshold decision on the draft ordinance(s) selected by the City Council. Copies of the ordinance(s) are sent to the Washington State Department of Commerce.

_____ -14 Notice is provided of the Planning Commission’s public hearing on the draft ordinances.

_____ -14 The Planning Commission holds a public hearing on the draft ordinances and formulates their recommendation to the City Council.

On or before 9-22-14: Notice is provided and the City Council holds a 60-day public hearing on the continued maintenance of the interim zoning ordinance adopted on July 28, 2014, for the six month period (which began on 7-28-14).

At the next City Council Regular Meeting after the public hearing on the maintenance of the interim zoning ordinance: The City Council adopts findings and conclusions to support the continued maintenance of the interim zoning ordinance.

_____ -14 The Planning Commission’s recommendation is reduced to writing and forwarded to the City Council.

_____ -14 The City Council considers the Planning Commission’s recommendation on the draft ordinance(s) during a regular City Council meeting. Another public hearing may be needed, depending on whether or not the City Council makes any changes to the Planning Commission’s recommendation or the draft ordinance(s). (*See, RCW 36.70A.035(2).*) The City Council votes to adopt the ordinance(s) at a regular Council meeting.

_____ -14 The City sends a copy of the adopted ordinance(s) to the Washington State Department of Commerce (RCW 36.70A.106).

Recommendation/Action: The above is the City’s “work plan” associated with recreational and medical marijuana. Given the above schedule, the City Attorney recommends that the Council approve the attached interim zoning ordinance to maintain the status quo, while the above activities are implemented. In addition, the City Attorney recommends that the City

AGENDA ITEM NO. 6B

Council vote on the draft ordinance which will be the subject of a public hearing on recreational and medical marijuana by the Planning Commission.

Motion for Consideration:

First Motion: "I move to adopt Ordinance 2014-1866"

AN ORDINANCE OF THE CITY OF PACIFIC, WASHINGTON, RELATING TO THE RECREATIONAL AND MEDICAL USE OF MARIJUANA, EXTENDING THE INTERIM ZONING ORDINANCE ADOPTED ON 2-3-14 UNDER ORDINANCE NO. 2014-1855, PROHIBITING THE SITING, ESTABLISHMENT AND OPERATION OF ANY STRUCTURES, PROPERTY OR USES RELATING TO RECREATIONAL OR MEDICAL MARIJUANA PRODUCTION, PROCESSING, CULTIVATION, STORAGE, SALE, DELIVERY, EXCHANGE OR BARTERING, TO BE IN EFFECT UNTIL THE CITY ADOPTS "PERMANENT" ZONING REGULATIONS ON THE SAME SUBJECT, WHICH INCLUDES A PROHIBITION ON THE SUBMISSION OF BUSINESS LICENSE APPLICATIONS FOR SUCH USES, THIS INTERIM ORDINANCE TO BE EFFECTIVE IMMEDIATELY, SETTING SIX MONTHS AS THE EFFECTIVE PERIOD OF THIS EXTENSION OF THE INTERIM ZONING ORDINANCE, AND ESTABLISHING THE DATE OF A PUBLIC HEARING ON THE CONTINUED MAINTENANCE OF THE INTERIM ZONING ORDINANCE as ____ (fill in the blank with a date not more than 60 days from July 28, 2014).

Second motion: I move to direct the Planning Commission to hold a public hearing on the draft ordinance(s) (identify ordinance: (1) banning medical marijuana; and/or (2) allowing recreational marijuana in the light industrial zone; and/or (3) establishing business licensing regulations on recreational marijuana; or (4) _____).

Budget Impact:

None. This interim ordinance maintains the status quo. There is no financial impact from the public hearing on the draft ordinances identified in the second motion.

Alternatives: The City Council could allow the existing interim zoning ordinance to expire. This is not recommended unless the City Council is not interested in regulating medical or marijuana uses at all.

AGENDA ITEM NO. 6B

**CITY OF PACIFIC, WASHINGTON
ORDINANCE NO. 2014-1866**

AN ORDINANCE OF THE CITY OF PACIFIC, WASHINGTON, RELATING TO THE RECREATIONAL AND MEDICAL USE OF MARIJUANA, EXTENDING THE INTERIM ZONING ORDINANCE ADOPTED ON 2-3-14 UNDER ORDINANCE NO. 2014-1855, PROHIBITING THE SITING, ESTABLISHMENT AND OPERATION OF ANY STRUCTURES, PROPERTY OR USES RELATING TO RECREATIONAL OR MEDICAL MARIJUANA PRODUCTION, PROCESSING, CULTIVATION, STORAGE, SALE, DELIVERY, EXCHANGE OR BARTERING, TO BE IN EFFECT UNTIL THE CITY ADOPTS "PERMANENT" ZONING REGULATIONS ON THE SAME SUBJECT, WHICH INCLUDES A PROHIBITION ON THE SUBMISSION OF BUSINESS LICENSE APPLICATIONS FOR SUCH USES, THIS INTERIM ORDINANCE TO BE EFFECTIVE IMMEDIATELY, SETTING SIX MONTHS AS THE EFFECTIVE PERIOD OF THIS EXTENSION OF THE INTERIM ZONING ORDINANCE, AND ESTABLISHING THE DATE OF A PUBLIC HEARING ON THE CONTINUED MAINTENANCE OF THE INTERIM ZONING ORDINANCE.

MEDICAL MARIJUANA

WHEREAS, since 1970, federal law has prohibited the manufacture and possession of marijuana as a Schedule I drug, based on the federal government's categorization of marijuana as having a "high potential for abuse, lack of any accepted medical use, and absence of any accepted safety for use in medically supervised treatment." *Gonzales v. Raich*, 545 U.S. 1, 14 (2005), Controlled Substance Act (CSA), 84 Stat. 1242, 21 U.S.C. 801 et seq; and

WHEREAS, the voters of the State of Washington approved Initiative 692 (codified as RCW 69.51A in November 1998); and

WHEREAS, the intent of Initiative 692 was that qualifying "patients with terminal or debilitating illnesses who, in the judgment of their physicians, would benefit from the medical use of marijuana, shall not be found guilty of a crime under state law," (RCW 69.51A.005), but that nothing in the law "shall be construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of marijuana for non-medical purposes" (RCW 69.51A.020); and

WHEREAS, the Washington State Legislature passed ESSSB 5073 in 2011, which directed employees of the Washington State Departments of Health and Agriculture to authorize and license commercial businesses that produce, process or dispense cannabis; and

WHEREAS, this bill required that the Department of Health develop a secure registration system for licensed producers, processors and dispensers, but these provisions, together with the provisions relating to dispensaries and the definitions, were vetoed by the Governor; and

WHEREAS, ESSSB 5073 provided that a qualifying patient or his/her designated care provider are presumed to be in compliance, and not subject to criminal or civil sanctions/penalties/consequences, under certain defined circumstances (participation in the registry, possession of a limited number of plants or usable cannabis, cultivation of a limited number of plants in the qualifying patient or designated care provider's residence or in a collective garden); and

WHEREAS, Washington's Governor vetoed all of the provisions relevant to medical marijuana dispensaries in ESSSB 5073 but left the provisions relating to cultivation of marijuana for medical use by qualified patients individually within their residences and in collective gardens; and

WHEREAS, ESSSB 5073 was codified in chapter 69.51A RCW; and

WHEREAS, RCW 69.51A.130 allows local jurisdictions to adopt zoning requirements, business license requirements, health and safety requirements, and to impose business taxes on the production, processing or dispensing of medical cannabis or cannabis products, which the Washington Court of Appeals has interpreted to authorize complete bans on medical marijuana uses, such as collective gardens (*Cannabis Action Coalition v. City of Kent*, 322 P.3d 1246, 1253 (2014)); and

RECREATIONAL MARIJUANA

WHEREAS, In November of 2012, the Washington voters passed I-502, which directed the Washington State Liquor Control Board (LCB) to regulate recreational marijuana by licensing and taxing recreational marijuana producers, processors and retailers; and

WHEREAS, on the LCB adopted regulations (chapter 314-55 WAC) which: prohibit the establishment of recreational marijuana businesses within 1,000 feet of certain identified sensitive uses, require criminal history background checks for licensees, establish qualifications for licensees, limits the amount of space available for recreational marijuana production, describes the manner in which marijuana growing may take place,¹ limits the average inventory on the licensed premises at any time, limits the number of retailers within counties and cities within the counties based on

¹ Under WAC 314-55-075, recreational marijuana production must take place within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors. Outdoor production may take place in non-rigid greenhouses, other structures, or an expanse of open or cleared ground fully enclosed by a physical barrier. To obscure public view of the premises, outdoor production must be enclosed by a sight obscure wall or fence at least eight feet high. Outdoor producers must meet security requirements described in WAC 314-55-083.

estimated consumption and population data, establishes insurance requirements for licensees, describes the security requirements, requires employees to wear badges, requiring alarm and surveillance systems on the licensed premises, requires that licensees track marijuana from seed to sale, establishes the manner in which free samples of marijuana may be provided, prohibits the sale of soil amendments, fertilizers and other crop production aids, identifies transportation requirements, sign requirements, recordkeeping requirements, identifies a mechanism for enforcement of violations, including the failure to pay taxes, specifies marijuana infused product serving sizes, maximum number of servings and limitations on transactions, identifies marijuana waste disposal restrictions, describes the process for quality assurance testing, extraction and the requirements for packaging and labeling, describes advertising limitations, explains the process for licensing suspension, revocation and penalties for violations; and

WHEREAS, according to the administrative rules, the LCB will determine whether the recreational marijuana business licensee is within 1,000 feet of the sensitive uses identified in WAC 314-55-050(10) and shall not issue the license if it is within this area; and

WHEREAS, the LCB has begun issuance of licenses for recreational marijuana uses; and

WHEREAS, on January 14, 2014, the Washington State Attorney General issued an opinion finding that local governments are not preempted by state law from banning the location of a recreational marijuana business, even if the business has been licensed by the LCB (AGO 2014 No. 2)); and

WHEREAS, in the same Attorney General Opinion, the Attorney General also gave the opinion that cities could establish restrictions on recreational marijuana businesses licensed by the LCB, even if such restrictions made it "impractical for a licensed marijuana business to locate within their jurisdiction" (AGO 2014 No. 2); and

WHEREAS, the City adopted Ordinances 1804, 1823, 1843, 1848 and 1855, adopting moratoria or interim zoning on marijuana uses (including recreational marijuana uses); and

WHEREAS, the detailed licensing and comprehensive regulatory system for recreational marijuana in I-502 is substantially different from what little remains in chapter 69.51A RCW to regulate medical marijuana after the Governor's veto; and

WHEREAS, on August 29, 2013, the U.S. Department of Justice (DOJ) issued a Memorandum to all United States Attorneys, acknowledging that several states had adopted laws authorizing marijuana production, distribution and possession by establishing a regulatory scheme for these purposes; and

WHEREAS, in this Memo, the DOJ advised that in recent years, the DOJ has “focused its efforts on certain law enforcement priorities that are particularly important to the federal government,” such as: (a) preventing the distribution of marijuana to minors; (b) preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels; (c) preventing the diversion of marijuana from states where it is legal under state law in some form to other states; (d) preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity; (e) preventing violence and the use of firearms in the cultivation and distribution of marijuana; (f) preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use; (g) preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and (h) preventing marijuana possession or use on federal property; and

WHEREAS, in this Memo, the DOJ warned that “[i]f state enforcement efforts are not sufficiently robust to protect against the harms [identified above] the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring individual enforcement actions, including criminal prosecutions, focused on those harms”; and

WHEREAS, in this Memo, the DOJ warned that a regulatory system adequate to this task “must not only contain robust controls and procedures on paper, it must also be effective in practice”; and

WHEREAS, in this Memo, the DOJ advised that “in exercising prosecutorial discretion, prosecutors should not consider the size or commercial nature of a marijuana operation alone as a proxy for assessing whether marijuana trafficking implicates the Department’s enforcement priorities [listed above]” and that federal prosecutors “should continue to review marijuana cases on a case-by-case basis and weigh all available information and evidence, including, but not limited to, whether the operation is demonstrably in compliance with a strong but effective state regulatory system”; and

WHEREAS, a comparison of the LCB’s rules for recreational marijuana and chapter 69.51A RCW for medical marijuana demonstrates that there is virtually no state regulatory system for medical marijuana, and that even if local governments decided to adopt the type of medical marijuana system that would protect against the harms identified in the federal government’s enforcement priorities, most local governments do not have the resources to be able to enforce such regulations; and

WHEREAS, after considering the August 29, 2013 DOJ Memo, the City has determined that even if the City decided to adopt an ordinance on the subject of medical marijuana in order to provide the type of regulatory system that the DOJ might find adequate to protect against the harms identified in the federal government’s enforcement priorities, the City does not have the resources to enforce such a system; and

WHEREAS, the City adopted Ordinances 1804, 1823, 1848 and 1855, adopting moratoria or interim zoning on marijuana uses; and

WHEREAS, on July 28, 2014, the Council considered this ordinance during its regular meeting; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF PACIFIC DOES ORDAIN AS FOLLOWS:

Section 1. Definitions. The following definitions apply to the terms used in this Ordinance:

A. "Cannabis" or "Marijuana" means all parts of the plant *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. For the purposes of this ordinance, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted there from, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. The term "cannabis" includes cannabis products and useable cannabis.

B. "Cannabis products" means products that contain cannabis or cannabis extracts, have a measurable THC concentration greater than three-tenths of one percent, and are intended for human consumption or application, including, but not limited to, edible products, tinctures, and lotions. The term "cannabis products" does not include useable cannabis. The definition of "cannabis products" as a measurement of THC concentration only applies to the provisions of this ordinance and shall not be considered applicable to any criminal laws related to marijuana or cannabis.

C. "Child Care Center" means an entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington State Department of Early Learning, under chapter 170-295 WAC.

D. "Collective Garden" means those gardens authorized under RCW 69.51A.085, which allows Qualifying Patients to create and participate in Collective Gardens for the purpose of producing, processing, transporting and delivering cannabis for medical use, subject to certain limited conditions, including:²

(1) No more than ten Qualifying Patients may participate in a single collective garden at any time;

(2) A Collective Garden may contain no more than fifteen plants per Qualifying Patient, up to a total of forty-five plants;

² Additional definition appears in RCW 69.51A.085(2).

(3) A Collective Garden may contain no more than twenty-four ounces of usable cannabis per patient up to a total of seventy-two ounces of usable cannabis; and

(4) A copy of each Qualifying Patient's valid documentation or proof of registration with the registry established in state law (now or in the future), including a copy of the Qualifying Patient's proof of identity, must be available at all times on the premises of the Collective Garden;

(5) No Usable Cannabis from the Collective Garden may be delivered to anyone other than one of the Qualifying Patients participating in the Collective Garden; and

(6) A business license must be obtained for the Collective Garden through the City.

E. "Cultivation" means the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof.

F. "Deliver or Delivery" means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

G. "Designated care provider" means a person who:
(1) Is eighteen years of age or older;
(2) Has been designated in writing by a patient to serve as a designated provider under chapter 69.51A RCW; and
(3) Is prohibited from consuming marijuana obtained for the personal, medical use of the patient for whom the individual is acting as designated provider; and
(4) Is the designated provider to only one patient at any one time.

H. "Dispensary, Medical Marijuana" means: any location that does not meet the definition of a "Collective Garden" and does not have a license from the Liquor Control Board of the State of Washington for a marijuana producer, processor or retailer pursuant to I-502, where medical cannabis or marijuana is processed, dispensed, selected, measured, compounded, packaged, labeled or sold to a qualified patient, designated provider or any other member of the public. It also includes any vehicle or other mode of transportation, stationary or mobile, which is used to transport, distribute, deliver, sell or give away medical cannabis or marijuana to a qualified patient, designated provider or any other member of the public.

I. "Dispense" means the interpretation of a prescription or order for medical cannabis, and pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare the prescription or order for delivery.

J. "Elementary School" means a school for early education that provides the first four to eight years of basic education and is recognized by the Washington State Superintendent of Public Instruction.

K. "Game Arcade" means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted.

L. "Indoors" means within a fully enclosed and secure structure that complies with the Washington State Building Code, as adopted by the City, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as 2" by 4" or thicker studs overlain with 3/8" or thicker plywood or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

M. "Legal parcel" means a parcel of land for which one legal title exists. Where contiguous legal parcels are under common ownership or control, such legal parcels shall be counted as a single parcel for purposes of this ordinance.

N. "Library" means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.

O. "Manager" means any person to whom a medical marijuana collective garden has delegated discretionary powers to organize, direct and carry on or control its operations. Authority to control one or more of the following functions shall be prima facie evidence that such a person is a manager of the business: (a) to hire, select, or supervise employees or staff, including volunteers; (b) to acquire facilities, furniture, equipment or supplies other than the occasional replenishment of stock; (c) to disburse funds of the business other than for the receipt of regularly replaced items of stock; or (d) to make, or participate in making, policy decisions relative to operations of the business.

P. "Marijuana processor" means a person licensed by the State Liquor Control Board to process marijuana into useable marijuana and marijuana-infused products, package and label usable marijuana and marijuana-infused products for sale in retail outlets, and sell usable marijuana and marijuana-infused products as wholesale to marijuana retailers.

Q. "Marijuana producer" means a person licensed by the State Liquor Control Board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

R. "Marijuana-infused products" means products that contain marijuana or marijuana extracts and are intended for human use. The term "marijuana-infused products" does not include useable marijuana.

S. "Marijuana retailer" means a person licensed by the State Liquor Control Board to sell usable marijuana and marijuana-infused products in a retail outlet.

T. "Marijuana, Usable" means dried marijuana flowers. The term "usable marijuana" does not include marijuana-infused products.

U. "Medical (or medicinal) use of cannabis or marijuana" means the production, possession, or administration of marijuana, as defined in RCW 69.50.101(r), for the exclusive benefit of a Qualifying Patient in the treatment of his or her terminal or debilitating illness.

V. "Outdoors" means any location that is not "indoors" within a fully enclosed and secure structure as defined herein.

X. "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision of agency or any other legal or commercial entity.

Y. "Personally identifiable information" means any information that includes, but is not limited to, data that uniquely identify, distinguish, or trace a person's identity, such as the person's name, or address, either alone or when combined with other sources, that establish the person is a Qualifying Patient or Designated Provider.

Z. "Plant" means an organism having at least three distinguishable and distinct leaves, each leaf being at least three centimeters in diameter, and a readily observable root formation consisting of at least two separate and distinct roots, each being at least two centimeters in length. Multiple stalks emanating from the same root ball or root system shall be considered part of the same single plant.

AA. "Playground" means a public outdoor recreation area for children, usually equipped with swings, slides and other playground equipment, owned and/or managed by a city, county, state or federal government.

BB. "Process" means to handle or process cannabis in preparation for medical or recreational use.

CC. "Produce or Production" means to manufacture, plant, grow or harvest cannabis or marijuana.

DD. "Public Park" means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government or metropolitan park district. Public park does not include trails.

EE. "Public place" includes streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school

purposes; public dance halls and grounds adjacent thereto; premises where goods and services are offered to the public for retail sale; public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages, and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, buses, ferries, and other public conveyances of all kinds and character, and the depots, stops, and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

FF. "Public Transit Center" means a facility located outside of the public right of way that is owned and managed by a transit agency or city, county, state or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.

GG. "Qualifying Patient" means a person who:

1. Is a patient of a health care professional;
2. Has been diagnosed by that health care professional as having a terminal or debilitating medical condition;
3. Is a resident of the state of Washington at the time of such diagnosis;
4. Has been advised by that health care professional about the risks and benefits of the medical use of marijuana;
5. Has been advised by that health care professional that he or she may benefit from the medical use of marijuana; and
6. Is otherwise in compliance with the terms and conditions established in chapter 69.51A RCW.

HH. "Recreation center or facility" means a supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a charitable nonprofit organization, city, county, state or federal government.

II. "Residential treatment facility" means a facility providing for treatment of drug and alcohol dependency;

JJ. "Retail outlet" means a location licensed by the State Liquor Control Board for the retail sale of useable marijuana and marijuana-infused products.

KK. "Secondary School" means a high and/or middle school: A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington State Superintendent of Public Instruction.

- LL. "Terminal or debilitating medical condition" means:
1. Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders; or
 2. Intractable pain, limited for the purpose of this ordinance to mean pain unrelieved by standard medical treatments and medications; or
 3. Glaucoma, either acute or chronic, limited for the purpose of this ordinance to mean increased intraocular pressure unrelieved by standard treatments and medications; or
 4. Crohn's disease with debilitating symptoms unrelieved by standard treatments or medications; or
 5. Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications; or
 6. Diseases, including anorexia, which result in nausea, vomiting, cachexia, appetite loss, cramping, seizures, muscle spasms, or spasticity, when these symptoms are unrelieved by standard treatments or medications; or
 7. Any other medical condition duly approved by the Washington State Medical Quality Assurance Commission in consultation with the Board of Osteopathic Medicine and Surgery as directed in chapter 69.51A RCW.

MM. "THC concentration" means percent of tetrahydrocannabinol content per weight or volume of useable cannabis or cannabis product.

NN. "Useable cannabis or usable marijuana" means dried flowers of the *Cannabis* plant. The term "usable cannabis or usable marijuana" does not include marijuana-infused products or cannabis products.

- OO. "Valid documentation" means:
1. A statement signed and dated by a Qualifying Patient's Health care professional written on tamper-resistant paper, which states that, in the health care professional's professional opinion, the patient may benefit from the medical use of cannabis/marijuana;
 2. Proof of identity such as a Washington state driver's license or identicaid, as defined in RCW 46.20.035; and
 3. In the case of a Designated Provider, the signed and dated document valid for one year from the date of signature executed by the Qualifying Patient who has designated the Provider.

Section 2: Findings. The Council adopts all of the "whereas" sections of this Ordinance as findings to support this interim zoning ordinance, as well as the following:

A. The purpose of this interim zoning ordinance is to maintain the status quo while the City drafts, considers and adopts a new ordinance on the subject of medical cannabis/marijuana and recreational marijuana.

B. The City will consider adoption and enforcement of such an ordinance during the next six months, while this interim zoning ordinance is in effect. During the period of time that this interim zoning ordinance is in effect, the City will also consider the manner in which the negative impacts and secondary effects associated with the marijuana uses (on-going or predicted) in the City can be ameliorated, including but not limited to, the demands that will be placed upon scarce City policing, legal, policy and administrative resources; neighborhood disruption, increased transient visitors and intimidation; the exposure of school-age children and other sensitive residents to marijuana, illegal sales to both minors and adults; fraud in issuing, obtaining or using medical marijuana prescriptions, murders, robberies, burglaries, assaults, drug trafficking and other violent crimes.

C. The State of Washington has adopted a strict regulatory and enforcement system for the cultivation, processing and sale of recreational marijuana. The Liquor Control Board has recently begun issuing the licenses, but it is still too early to determine whether (or the manner in which) the State will enforce these rules. The Council also acknowledges that the State has not performed any environmental analyses that will assist cities, towns and counties in the adoption of local regulations addressing marijuana uses, or the environmental impacts associated with individual licenses and that municipalities must therefore either develop their own analyses or observe these impacts after-the-fact (or, *after* these marijuana uses locate and begin operation in cities, towns and counties throughout Washington.) Then, the municipalities will be required to “fix” the problems stemming from these uses with their already scarce resources.

D. No part of this interim ordinance is intended to or shall be deemed to conflict with federal law, including but not limited to, the Controlled Substances Act, 21 U.S.C. Section 800 *et seq.*, the Uniform Controlled Substances Act (chapter 69.50 RCW) nor to otherwise permit any activity that is prohibited under either Act, or any other local, state or federal law, statute, rule or regulation. This interim ordinance is not intended to address or invite litigation over the question whether the State of Washington’s medical or recreational marijuana laws (or this City’s laws) satisfy the federal government’s enforcement priorities. Nothing in this interim ordinance shall be construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of medical cannabis or recreational marijuana in any manner not authorized by chapter 69.51A RCW or chapter 69.50 RCW. Nothing in this interim ordinance shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or that creates a nuisance, as defined herein. It is the intention of the City Council that this interim ordinance be interpreted to be compatible with federal and state enactments and in furtherance of the public purposes that those enactments encompass.

Section 3. Interim Ordinance Adopted. This interim ordinance is immediately adopted for a period of six months in order to provide the City adequate time to:

A. Hold a public hearing on the secondary land use impacts associated with the location and siting of structures and uses in which medical and recreational marijuana production, marijuana processing or marijuana retailing may take place. This includes, but is not limited to, all activities associated with medical marijuana, including individual cultivation, collective gardens, transfer, bartering, exchange and delivery of marijuana between qualified patients and designated providers. Have the City Council direct the Planning Commission to consider a draft ordinance. This work will begin upon adoption of this ordinance and is expected to take 1-2 months.

B. Have the Planning Commission hold a public hearing(s) on the draft ordinances, obtain public input on such ordinances, and allow the Planning Commission to make recommendations to the City Council. This will take up to 3 months.

C. Have the City Council review the draft ordinance and the Planning Commission's recommendation and, if desired, to adopt new regulations or prohibitions on marijuana uses. This work will begin immediately after the activities described in A and B are complete.

Section 4. Effect of Interim Zoning Ordinance. This interim zoning ordinance extends the previous interim zoning ordinance for another six months, and imposes a prohibition on the acceptance of all development permit and business license applications for any structure, use or operation involving marijuana production, marijuana processing or marijuana retailing, as the same are defined in this Ordinance. All such development permit and business license applications shall be rejected and returned to the applicant.

Section 5. Duration of Interim Zoning Ordinance. This interim zoning ordinance shall commence on the effective date set forth in Section 10 herein. As long as the City holds a public hearing on the interim zoning ordinance and adopts findings and conclusions in support of the interim zoning ordinance (as contemplated by Section 6 herein), the interim zoning ordinance shall not terminate until six (6) months after the date of adoption, or at the time all of the events described in Section 3 have been accomplished, whichever is sooner. The Council shall make the decision to terminate the moratorium by ordinance, and termination shall not otherwise be presumed to have occurred.

Section 6. Public Hearing on Moratorium. Pursuant to RCW 36.70A.390 and RCW 35A.63.220, the City Council shall hold a public hearing on this interim zoning ordinance within sixty (60) days of its adoption, or before September 28, 2014. The Council hereby schedules this hearing for **DATE**. During the next Council meeting immediately following, the City Council shall adopt findings of fact on the subject of this interim zoning ordinance and either justify its continued imposition or repeal this ordinance.

Section 7. Declaration of Emergency.³ The City Council hereby declares that an emergency exists necessitating that this interim zoning ordinance take effect immediately

³ If the City does not have sufficient votes to pass this ordinance on an emergency basis, this section should be deleted. Without a majority plus one of the full membership of the.

upon passage by a majority vote plus one of the whole membership of the Council, and that the same is not subject to a referendum.⁴ If this interim zoning ordinance is not adopted immediately, applications for marijuana uses and business licenses could be submitted to the City and arguably become vested, leading to development that could be incompatible with the regulations eventually adopted by the City (after the process described herein). Therefore, the interim zoning ordinance must be adopted immediately as an emergency measure to protect the public health, safety and welfare, and to prevent the submission of applications to the City in an attempt to vest rights for an indefinite period of time.

Section 8. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 9. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 10. Effective Date(without the vote of a majority plus one of the entire council). This Ordinance shall take effect and be in full force and effect five days after publication, as provided by law.

(Alternative Effective Date provision if the Council desires immediate adoption and there is a vote of a majority plus one of the entire council: This Ordinance shall take effect and be in full force immediately upon passage, having received the vote of a majority plus one of the entire Council.)

PASSED by the City Council of Pacific this ___th day of ____, 2014.

Leanne Guier, Mayor

AUTHENTICATED:

Amy Stevenson-Ness, City Clerk.

APPROVED AS TO FORM:
Office of the City Attorney

⁴ RCW 35A.12.130 for code cities.

Carol Morris, City Attorney

PUBLISHED:
EFFECTIVE DATE:



AGENDA BILL NO. 14-133

TO: Mayor Guier and City Council Members
FROM: Public Works
MEETING DATE: July 28, 2014
SUBJECT: Contract with Macaulay & Associated for a Special Benefitted study

ATTACHMENTS: Agreement
Resolution 2014 - 192

Previous Council Review Date:

Summary: The Valentine Avenue project is now at 100 per cent design. In order for the City to fund the construction of the project, an LID will need to be formed. The City staff proposes to use the firm of Macaulay & Associates LTD to complete a Special Benefitted study that will be used for the final LID formation.

Recommendation/Action: Staff recommends Council approve Resolution No. 2014-192.

Motion for Consideration: Move to approve Resolution No. 2014 - 192, A RESOLUTION OF CITY OF PACIFIC, WASHINGTON, AUTHORIZING A CONTRACT WITH MACAULAY & ASSOCIATES FOR AN UPDATED BENEFITTED LID STUDY FOR THE VALENTINE AVENUE IMPROVEMENT PROJECT

Budget Impact: The total cost of the LID Study is \$65,000 and will be paid from the Valentine Avenue project fund.

Alternatives: Deny the matter and seek other proposals, or abandon the project.

**CITY OF PACIFIC
WASHINGTON**

RESOLUTION NO. 2014-192

**A RESOLUTION OF THE CITY OF PACIFIC, WASHINGTON, AUTHORIZING
A CONTRACT WITH MACAULAY & ASSOCIATES LTD FOR A SPECIAL
BENEFITTED STUDY FOR THE VALENTINE AVENUE/136TH
IMPROVEMENT PROJECT**

WHEREAS the City of Pacific has completed the design of the Valentine Avenue/136th Street Improvement project, and construction is ready to begin; and

WHEREAS no individual grant agency will participate without local commitment to this project. This local commitment has been proposed by staff to be in the form of City utility funds and the formation of a Local Improvement District; and

WHEREAS the City proposes to use the firm of Macaulay & Associates LTD to complete a Final Special Benefitted study that will be used to prepare the final LID assessment rolls. The Macaulay & Associates proposal is \$65,000, which cost will be paid for as part of the project funding.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON,
DOES RESOLVE AS FOLLOWS:**

Section 1. The Pacific City Council hereby authorizes Macaulay & Associates LTD to prepare a Final Special Benefitted Study for the Valentine Avenue/136th Street Improvement project.

Section 2. This Resolution shall take effect and be in full force upon passage and signatures hereon.

CITY OF PACIFIC

LEANNE GUIER, MAYOR

ATTEST/AUTHENTICATED:

AMY STEVENSON-NESS, CITY CLERK

APPROVED AS TO FORM:

CAROL MORRIS, CITY ATTORNEY

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO:

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF PACIFIC AND
MACAULAY & ASSOCIATES, LTD.**

THIS AGREEMENT is made by and between the City of Pacific, a Washington municipal corporation (hereinafter the "City"), and Macaulay & Associates, Ltd., (hereinafter the "Consultant,") an S Corporation organized under the laws of the State of Washington located and doing business at 2927 Colby Avenue, Ste. 100, Everett, WA 98201.

RECITALS

WHEREAS, the City hired the Consultant in 2009 for the purpose of preparing a formation special benefit study for the Valentine Avenue/136th Street Avenue Corridor Improvement LID Project; and

WHEREAS, the City desires to update this 2009 study and the Consultant has agreed to perform the necessary update and to prepare a feasibility study and final special benefit/proportionate assessment study for the above-described LID Project; and

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work.

The Consultant shall perform all work described in Exhibit A, which is attached hereto and incorporated herein by this reference.

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed sixty-five thousand Dollars (\$65,000.00), for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in Exhibit A, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount.

The parties acknowledge that, Consultant's additional work for hearing preparation is not included in the above proposed contract amount. Time and expenses for hearing preparation and individual report preparation (if necessary) will be billed at Consultant's current hourly rates at the time the additional work is performed. As described above, if the City authorizes the Consultant to perform any additional work, it must be done in a negotiated and executed supplemental agreement.

B. The Consultant shall submit monthly invoices to the City after such services have been performed, and a final bill upon completion of all the services described in this Agreement. The City shall pay the full amount of an invoice within sixty (60) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The City and the Consultant agree that work will begin on the tasks described in Exhibit A immediately upon execution of this Agreement. The parties agree that the work described in Exhibit A shall be completed by the date shown in the scope of work; provided however, that additional time shall be granted by the City for excusable days or extra work.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement, for public convenience, the Consultant's default, the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors, at any time prior to

completion of the work described in Exhibit A. If delivered to Consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights Upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its Subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not by reason of race, religion, color, sex, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorneys' fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The City's inspection or acceptance of any of the Consultant's work when completed shall not be grounds to avoid any of these covenants of indemnification.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, agents and Volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER. THE CONSULTANT'S WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS

SECTION DOES NOT INCLUDE, OR EXTEND TO. ANY CLAIMS BY THE CONSULTANT'S EMPLOYEES DIRECTLY AGAINST THE CONSULTANT.

The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

A. The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Consultant's own work including the work of the Consultant's agents, representatives, employees, sub-consultants or sub-contractors.

B. Before beginning work on the project described in this Agreement, the Consultant shall provide evidence, in the form of a Certificate of Insurance, of the following insurance coverage and limits (at a minimum):

1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit, and

2. Commercial General Liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Coverage shall include, but is not limited to, contractual liability, products and completed operations, property damage, and employers liability, and

3. Professional Liability insurance with no less than \$1,000,000. All policies and coverage's shall be on a claims made basis.

C. The Consultant is responsible for the payment of any deductible or self insured retention that is required by any of the Consultant's insurance. If the City is required to contribute to the deductible under any of the Consultant's insurance policies, the Contractor shall reimburse the City the full amount of the deductible within 10 working days of the City's deductible payment.

D. The City of Pacific shall be named as an additional insured on the Consultant's commercial general liability policy. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for coverage necessary in Section B. The City reserves the right to receive a certified and complete copy of all of the Consultant's insurance policies.

E. Under this agreement, the Consultant's insurance shall be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage with respect to defense and indemnity of the City only and no other party. Additionally, the Consultant's commercial general

liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

F. The Consultant shall request from his insurer a modification of the ACORD certificate to include language that prior written notification will be given to the City of Pacific at least 30-days in advance of any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

Even though the Consultant is an independent contractor with the authority to control and direct the performance, and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XII. Consultant to Maintain Records to Support Independent Contractor Status

On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to Independent contractors including, but not limited to the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant's business, pursuant to the Revised Code of Washington (RCW) Section 51.08.195, as required to show that the services

performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties which is subject to RCW Title 51, Industrial Insurance.

XIII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

XIV. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options and the same shall be and remain in full force and effect.

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City of Pacific shall determine the term or provision's true intent or meaning. The City of Pacific shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor or Administrator's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in King County Superior Court, King County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

Robert J. Macaulay, President
Macaulay & Associates, Ltd.
2927 Colby Avenue, Suite 100
Everett, WA 98201

CITY:

Attn: City Engineer, Jim Morgan
City of Pacific
100 – 3rd Ave. S.E.
Pacific, WA 98047

With a copy to the "City Clerk" at the same address.

XVII. Assignment

Any assignment of this Agreement by the Consultant without the written consent of the City shall be void. If the City shall give its consent to any assignment, this paragraph shall continue in full force and effect and no further assignment shall be made without the City's consent.

XVIII. Modification and Severability

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

XIX. Entire Agreement

The written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and any Exhibits attached hereto, which may or may not have been executed prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Agreement on this ____ day of _____, 2014.

CONSULTANT

CITY OF PACIFIC

By: _____
Robert J. Macaulay, President

By: _____
Leanne Guier, Mayor

Consultant:
Robert J. Macaulay, MAI
President
Macaulay & Associates, Ltd.
2927 Colby Avenue, Ste. 100
Everett, WA 98201

APPROVED AS TO FORM:

City Attorney's Office

ATTEST:

City Clerk

EXHIBIT A
Scope and Budget



June 17, 2014

Mr. Jim Morgan, P.E.
City Engineer
City of Pacific
100 3rd Avenue SE
Pacific, WA 98047

RE: Proposal for feasibility study and final special benefit/proportionate assessment study for the Valentine Avenue/136th Street Avenue Corridor Improvement LID Project, City of Pacific, WA.

Dear Mr. Morgan:

Based on our discussions, I have prepared a scope, time and fee estimate for completion of the above-referenced feasibility study and final special benefit study.

Our original formation special benefit study was completed in September 2009. The first phase of this proposal will involve a feasibility analysis of the LID boundary area, which encompasses approximately 146 tax parcels, to reflect any special benefit changes that may have occurred in the market since 2009. This analysis will consist of segregating the properties into property classes based on highest and best use. Analysis is then made of parcels within each respective class that are representative of other similar properties within that class. Market value is estimated with and without or before and after the road project.

The difference, typically expressed in a range, is the special benefit estimate. This amount is then extrapolated over other similar properties within each respective class of property. This type of feasibility analysis differs from a special benefit study where each individual property is analyzed both without and with the proposed LID road improvement project, which is the second phase of this proposal.

Once analysis of each property class is made, the derived special benefit range is totaled arriving at a total range in special benefit resulting from the project. This can then be compared to our 2009 study for any differences. Depending on when we receive authorization to proceed, our completion time for this phase is approximately 6 to 8 weeks.

The above work will provide some cost savings for the final special benefit study, which would be prepared in the March/April 2015 time-frame in anticipation of project completion next summer (2015).

Morgan0614

June 17, 2014
Mr. Jim Morgan, P.E.
Page 2

The final special benefit study will be a more detailed analysis estimating the special benefit to each individual property both before and after (without/with) the LID road project completed. The scope of this study will consider physical and economic characteristics of each affected parcel. The base study will consist of the assemblage of pertinent market data and investigation of the environmental, economic, governmental and social forces influencing the subject area. Consideration will be given to current zoning, land use trends, building improvements, wetland areas (if any), highest and best use and other factors influencing market value for each property type or ownership, without and with the amenity of the LID project. As mentioned, some of this work will be accomplished in the first feasibility phase.

The increase in probable market value adhering to each parcel due to the LID project is the measure of special benefit. The total assessment to be levied will be obtained from the municipal LID coordinator. The sum of the special benefit estimated for each parcel is the total special benefit attributable to assessable property within the proposed LID; this total divided into the total LID assessment will provide the assessment ratio or the LID assessment per dollar of special benefit. The special benefit to each parcel times the cost/benefit ratio will result in the individual assessment recommended to that parcel.

The recommended assessments will meet the following two criteria:

- a) Each recommended assessment will be equal to or less than the special benefit accruing to that particular parcel.
- b) Each recommended assessment will be fair and in proportion to the special benefit derived by that parcel and all other parcels due to the LID project.

There are many variables in a sizable project such as this which spans an extended time period. It has been our experience when working on projects of this magnitude that there are often scheduling changes as well as revisions to the scope of our assignment and other unforeseen complications which can result in changes in time requirements. Although this proposal is currently our best estimate of the scope of the assignment, some flexibility in contract arrangements into which we enter would be most beneficial to both parties. We have made every effort to estimate the hours needed to successfully complete the assignment.

Due to the size of the project and number of parcels, individual appraisal reports on each are not prepared. Limited assignment and mass appraisal techniques are utilized in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP). A spreadsheet summarizing our value conclusions without and with the LID assumed completed is undertaken. A special benefit/proportionate assessment report is prepared which summarizes the scope and analysis of our assignment and incorporates the spreadsheet within the report. Based on the scope of work as described, our time and fee estimate for each phase is summarized in the following table.

Morgan0614

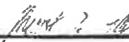
June 17, 2014
 Mr. Jim Morgan, P.E.
 Page 3

Phase 1 – Feasibility Analysis of LID Boundary				
Appraiser	Task	Est. Hours	Hourly Rate	Total
Robert J. Macaulay, MAI	Analysis, consultation/meetings, property inspections and report completion.	40	\$225	\$9,000
Ashley K. Zacharia, Associate	Market research, spreadsheet compilation, property inspections, data review and analysis assistance.	80	\$100	\$8,000
Total Proposed Fee – Phase 1				\$17,000
Phase 2 – Final Special Benefit/Proportionate Assessment Study				
Robert J. Macaulay, MAI	Project management, individual property analysis, meetings/consultation, report preparation.	160	\$225	\$36,000
Ashley K. Zacharia, Associate	Land market research, property analysis assistance and report preparation assistance.	120	\$100	\$12,000
Total Proposed Fee – Phase 2				\$48,000
Total Proposed Fee – Phase 1 and Phase 2				\$65,000

Estimated completion time for Phase 2 assuming a March/April 2015 time frame would be two to three months depending on our schedule at that time. Additional work for hearing preparation is not included in the above estimate and individual report preparation would be billed separately at the hourly rates summarized above.

This project looks interesting and challenging and we appreciate the opportunity to make this proposal. Please call if you have further questions.

Respectfully submitted,
 MACAULAY & ASSOCIATES, LTD.



 Robert J. Macaulay, MAI
 WA State Certified - General Appraiser No. 1100517

Morgan0614

June 17, 2014

Mr. Jim Morgan, P.E.
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City of Pacific
100 3rd Avenue SE
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June 17, 2014
 Mr. Jim Morgan, P.E.
 Page 3

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Total Proposed Fee – Phase 2				\$48,000
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Respectfully submitted,
 MACAULAY & ASSOCIATES, LTD.



 Robert J. Macaulay, MAI
 WA State Certified - General Appraiser No. 1100517



Agenda Bill No. 14-134

TO: Mayor Guier and City Council Members

FROM: Richard A. Gould, City Administrator

MEETING DATE: July 28, 2014

SUBJECT: Motion to approve the 2014 second quarter financial reports

ATTACHMENTS: 2014 Second Quarter Financial Reports, which include two cash flow reports (one with beginning balances and one without) and the Second Quarter Summary Financial Report. Also included is a narrative for the second quarter reports.

Previous Council Review Date:

Summary: The Finance Committee met with staff on Tuesday, July 15th, to discuss the 2014 second quarter financial reports. They reviewed the report and directed staff to bring it to workshop for discussion. The Mayor was also included in this review process.

Recommendation/Action: Staff recommends that the City Council approve the 2014 second quarter financial reports.

Motion for Consideration: I move to approve 2014 Second Quarter Financial Reports as reviewed by the Finance Committee.

Budget Impact: N/A

Alternatives: N/A

2014 Second Quarter Financial Reports

Enclosed are the fund reports as of June 30th (year to date) 2014. I have run a summary report, cash report and the full financial report for the committee to review.

The Finance Committee's has directed staff to present the summary reports (including cash flow) for Council's approval. The line item reports are in greater detail and reviewed by the Mayor and Finance Director. Then they are distributed to the department heads to review with the Finance Director and Mayor once again over each area of control.

The second quarter numbers are in line with budgeted expectations for the most part. The only significant exceptions are the major street projects for Stewart and Valentine which have just started work. This has an impact on the overall report of making everything look under budget. However this will balance out as the year comes to a close in December. The cash position for the year appears down by \$572,515. However this is due to a pair of grant reimbursements which did not come in before June 30th. On July 3rd the City received a grant reimbursement from TIB for \$758,179.60 (Stewart Road project fund 310) and we still have yet to receive the approximately \$60,000 that the City is owed for the purchase of the Hatch Property (parks-005). This would show that the City actually has an increase in the first half of the year exceeding \$245K! Please let me know of any questions that you have regarding these reports, or any areas that you would like researched.

Please feel free to contact me to discuss any matters with this report.

Richard A. Gould
City Administrator

Fund Section Breakdowns:

General Fund	001,003,004,005,006, 021,022, 098, 099
Special Revenue	101 and 107
Debt Service	206, 207, and 208
Capital Improvement	300, 301, 308, 310, and 333
Water	401, 406, and 411
Sewer	402 and 408
Garbage	403
Storm Water	409 and 410
Equipment - Utilities	499
Agency Funds	601, 630, and 640

DRAFT

2014 FUND TOTALS

City Of Pacific
MCAG #: 0423

January To June

Time: 15:34:01 Date: 07/01/2014
Page: 1

REVENUES	January	February	March	April	May	June	July	August	September	October	November	December	Total	Budgeted Amt	%
001 General Fund	210,330.07	284,139.56	178,813.92	324,710.16	549,637.65	218,652.86	0.00	0.00	0.00	0.00	0.00	0.00	1,766,284.22	3,377,864.00	52%
003 Community Services Senior	10,137.15	9,825.78	9,800.34	10,292.62	10,796.26	9,410.64	0.00	0.00	0.00	0.00	0.00	0.00	60,262.79	125,625.00	48%
004 Youth Services/Center	10,641.20	9,082.80	8,013.58	8,984.83	8,645.89	7,975.86	0.00	0.00	0.00	0.00	0.00	0.00	53,344.16	96,800.00	55%
005 Parks	5,254.62	4,197.26	4,693.87	4,744.30	6,014.00	4,615.90	0.00	0.00	0.00	0.00	0.00	0.00	29,519.95	61,275.00	48%
006 Neighborhood Parks	0.35	0.31	0.36	0.32	0.30	0.27	0.00	0.00	0.00	0.00	0.00	0.00	1.91	25.00	8%
021 Public Safety Forfeiture	0.35	140.37	89.48	11.40	110.18	0.28	0.00	0.00	0.00	0.00	0.00	0.00	352.06	5.00	***%
022 Criminal Justice	27,834.13	23,510.39	62,578.20	27,497.59	21,390.11	38,449.73	0.00	0.00	0.00	0.00	0.00	0.00	201,260.15	317,950.00	63%
098 General Fund Equipment Reserve	12,502.71	12,503.01	12,504.41	12,504.56	12,502.70	12,502.92	0.00	0.00	0.00	0.00	0.00	0.00	75,020.31	150,025.00	50%
099 General Fund Cumulative Reserv	8.59	7.38	8.79	7.72	7.26	6.54	0.00	0.00	0.00	0.00	0.00	0.00	46.28	125.00	37%
101 Street	19,496.27	25,069.28	21,035.73	19,513.24	21,286.27	22,377.32	0.00	0.00	0.00	0.00	0.00	0.00	128,778.11	486,355.00	26%
107 Tourism	5.20	4.46	5.32	4.67	220.85	930.07	0.00	0.00	0.00	0.00	0.00	0.00	1,170.57	7,022.00	17%
206 LID 3 Redemption	5,693.56	2,680.08	37,705.82	33,479.95	47,547.02	6,079.47	0.00	0.00	0.00	0.00	0.00	0.00	133,185.90	337,625.00	39%
207 LID 3 Reserve	0.06	0.06	0.07	0.06	0.05	0.05	0.00	0.00	0.00	0.00	0.00	0.00	0.35	1.20	29%
208 2000 Fire GO Bond	8.05	6.92	8.24	7.24	6.81	6.13	0.00	0.00	0.00	0.00	0.00	0.00	43.39	0.40	***%
300 Municipal Capital Improvements	21.36	18.35	631.68	9,514.52	5,452.22	4,609.78	0.00	0.00	0.00	0.00	0.00	0.00	20,247.91	145,250.00	14%
301 Stewart/8th St Corridor	9,344.82	5,009.00	5,539.30	5,809.47	5,009.34	5,008.40	0.00	0.00	0.00	0.00	0.00	0.00	35,720.33	210,075.00	17%
308 Valentine Road Project	18,346.69	18,345.78	18,349.35	18,347.65	18,347.40	18,346.61	0.00	0.00	0.00	0.00	0.00	0.00	110,083.48	8,420,500.00	1%
310 Stewart/Thornton Ave Rd Projec	11.78	9.99	11.89	7.17	6.44	0.00	0.00	0.00	0.00	0.00	0.00	0.00	47.27	5,110,018.00	0%
333 Fire Capital Improvement	989.90	3.41	497.06	496.60	3,286.41	3.23	0.00	0.00	0.00	0.00	0.00	0.00	5,276.61	10.00	***%
401 Water	76,107.45	65,482.03	97,110.02	76,055.91	85,781.24	83,522.73	0.00	0.00	0.00	0.00	0.00	0.00	484,059.38	1,042,452.41	46%
402 Sewer	132,715.36	110,053.04	166,318.56	128,605.78	185,853.06	150,621.13	0.00	0.00	0.00	0.00	0.00	0.00	874,166.93	1,933,788.25	45%
403 Garbage	6,334.96	1,351.46	17.88	15.69	14.77	13.30	0.00	0.00	0.00	0.00	0.00	0.00	7,748.06	6,000.00	129%
406 Water Capital Improvement	10,054.24	45.85	5,131.86	5,115.26	28,694.44	41.77	0.00	0.00	0.00	0.00	0.00	0.00	49,083.42	69,328.83	71%
408 Sewer Cumulative Fund	4,034.01	29.31	2,034.73	30.48	28.55	25.57	0.00	0.00	0.00	0.00	0.00	0.00	6,182.65	10,030.00	62%
409 Storm	42,356.76	42,015.39	50,916.11	58,742.77	62,184.66	57,187.82	0.00	0.00	0.00	0.00	0.00	0.00	313,403.51	849,533.40	37%
410 Stormwater Facility Fund	905.86	5.08	456.05	455.34	2,705.05	4.68	0.00	0.00	0.00	0.00	0.00	0.00	4,532.06	5,005.00	91%
411 Pierce County Water Area	11.50	9.79	11.54	10.04	9.36	8.35	0.00	0.00	0.00	0.00	0.00	0.00	60.58	25,050.00	0%
499 Utilities Equipment Reserve	9.20	7.90	8.41	7.38	7.02	5.67	0.00	0.00	0.00	0.00	0.00	0.00	45.58	0.52	***%
630 Developer Deposit	1,400.00	0.00	2,250.00	2,520.00	2,400.00	4,120.00	0.00	0.00	0.00	0.00	0.00	0.00	12,690.00	12,000.00	106%
640 Algoma Court	12,792.73	9,621.72	17,250.68	12,769.69	10,274.48	9,985.72	0.00	0.00	0.00	0.00	0.00	0.00	72,695.02	180,000.00	40%
	617,348.93	623,175.76	701,793.25	760,262.41	1,088,219.79	654,512.80	0.00	0.00	0.00	0.00	0.00	0.00	4,445,312.94	22,979,739.01	19%

EXPENDITURES	January	February	March	April	May	June	July	August	September	October	November	December	Total	Budgeted Amt	%
001 General Fund	325,327.31	247,373.05	256,213.60	246,072.31	241,066.02	235,985.24	0.00	0.00	0.00	0.00	0.00	0.00	1,552,037.53	3,297,578.37	47%
003 Community Services Senior	21,043.05	12,083.75	12,517.13	14,408.79	12,101.89	11,125.81	0.00	0.00	0.00	0.00	0.00	0.00	83,280.42	146,384.13	57%
004 Youth Services/Center	12,286.16	8,407.98	11,497.11	6,857.45	7,424.13	10,423.08	0.00	0.00	0.00	0.00	0.00	0.00	56,895.91	98,870.55	58%
005 Parks	7,484.30	6,292.13	7,815.97	5,585.42	127,127.97	15,629.74	0.00	0.00	0.00	0.00	0.00	0.00	169,935.53	171,545.83	99%
006 Neighborhood Parks	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2,600.00	0%
021 Public Safety Forfeiture	0.00	0.00	0.00	0.00	271.41	0.00	0.00	0.00	0.00	0.00	0.00	0.00	271.41	0.00	0%
022 Criminal Justice	87,825.92	30,184.68	103,031.62	17,843.32	51,050.51	71,649.29	0.00	0.00	0.00	0.00	0.00	0.00	361,585.34	537,619.91	67%
098 General Fund Equipment Reserve	0.00	0.00	440.19	41,907.31	2,450.86	0.00	0.00	0.00	0.00	0.00	0.00	0.00	44,798.36	100,000.00	45%
101 Street	29,700.76	19,422.02	18,586.13	26,902.35	45,932.20	19,648.52	0.00	0.00	0.00	0.00	0.00	0.00	160,191.98	666,801.92	24%
107 Tourism	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,000.00	0%
206 LID 3 Redemption	1,480.16	7,800.41	-9,280.57	3,040.06	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	3,040.06	9,000.00	34%
301 Stewart/8th St Corridor	5,079.15	1,547.09	13,801.86	5,297.58	5,298.08	11,317.12	0.00	0.00	0.00	0.00	0.00	0.00	28,840.88	175,000.00	16%
308 Valentine Road Project	834.00	0.00	13,803.25	7,505.75	5,552.80	29,847.43	0.00	0.00	0.00	0.00	0.00	0.00	57,543.23	8,300,000.00	1%
310 Stewart/Thornton Ave Rd Projec	2,467.50	0.00	57,205.50	5,691.04	754,342.34	-247,892.10	0.00	0.00	0.00	0.00	0.00	0.00	571,814.28	5,339,000.00	11%

2014 FUND TOTALS

City Of Pacific
MCAG #: 0423

Time: 15:34:01 Date: 07/01/2014
Page: 2

January To June

EXPENDITURES	January	February	March	April	May	June	July	August	September	October	November	December	Total	Budgeted Amt	%
401 Water	70,110.29	55,011.68	44,756.51	56,663.19	65,070.15	50,879.70	0.00	0.00	0.00	0.00	0.00	0.00	342,491.52	1,030,663.20	33%
402 Sewer	43,374.12	140,824.79	143,512.49	146,944.54	169,472.93	145,688.35	0.00	0.00	0.00	0.00	0.00	0.00	789,817.22	1,727,530.95	46%
403 Garbage	72.48	-8.62	48.22	0.00	0.00	5.05	0.00	0.00	0.00	0.00	0.00	0.00	117.13	7,500.00	2%
406 Water/Capital Improvement	23,961.68	19,166.67	19,166.67	19,166.67	19,166.67	19,166.67	0.00	0.00	0.00	0.00	0.00	0.00	119,795.03	805,000.00	15%
408 Sewer Cumulative Fund	2,500.00	2,500.00	2,500.00	2,500.00	2,500.00	2,500.00	0.00	0.00	0.00	0.00	0.00	0.00	15,000.00	105,000.00	14%
409 Storm	35,040.67	66,063.28	36,543.71	44,254.05	45,598.15	26,381.05	0.00	0.00	0.00	0.00	0.00	0.00	253,880.91	546,612.01	46%
410 Stormwater Facility Fund	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	5,000.00	0%
411 Pierce County Water Area	1,666.67	1,662.92	1,666.67	1,666.67	1,666.67	1,666.67	0.00	0.00	0.00	0.00	0.00	0.00	9,996.27	195,000.00	5%
499 Utilities Equipment Reserve	0.00	14,999.19	0.00	0.00	12,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	26,999.19	0.00	0%
630 Developer Deposit	895.00	0.00	0.00	250.00	750.00	250.00	0.00	0.00	0.00	0.00	0.00	0.00	2,145.00	500.00	429%
640 Aligona Court	12,792.73	9,621.72	17,250.68	9,443.56	15,556.69	9,985.72	0.00	0.00	0.00	0.00	0.00	0.00	74,651.10	180,000.00	41%
800 Payroll EE Benefit Clearing	-530.61	0.00	354.83	0.00	-7,094.46	-882.71	0.00	0.00	0.00	0.00	0.00	0.00	-8,152.95	0.00	0%
	683,411.34	642,952.74	739,931.57	660,000.06	1,577,305.01	413,374.63	0.00	0.00	0.00	0.00	0.00	0.00	4,716,975.35	23,448,206.87	20%

FUND GAIN/LOSS:

-66,062.41 -19,776.98 -38,138.32 100,262.35 -489,085.22 241,138.17 0.00 0.00 0.00 0.00 0.00 0.00 0.00 -271,662.41

FUND NET POSITION:

-66,062.41 -85,839.39 -123,977.71 -23,715.36 -512,800.58 -271,662.41 -271,662.41 -271,662.41 -271,662.41 -271,662.41 -271,662.41 -271,662.41 -271,662.41

2014 FUND TOTALS

City Of Pacific
 MCAG #: 0423

January To June

Time: 15:49:44 Date: 07/01/2014
 Page: 1

REVENUES	January	February	March	April	May	June	July	August	September	October	November	December	Total	Budgeted Amt	%
001 General Fund	1,161,736.54	284,139.56	178,813.92	324,710.16	549,637.65	218,652.86	0.00	0.00	0.00	0.00	0.00	0.00	2,717,690.69	4,502,668.25	60%
003 Community Services Senior	38,826.36	9,825.78	9,800.34	10,292.62	10,796.26	9,410.64	0.00	0.00	0.00	0.00	0.00	0.00	88,952.00	146,366.99	61%
004 Youth Services/Center	29,484.53	9,082.88	8,013.58	8,984.83	8,645.89	7,975.86	0.00	0.00	0.00	0.00	0.00	0.00	72,187.49	115,268.18	63%
005 Parks	150,654.21	4,197.26	4,693.87	4,744.30	6,014.00	4,615.90	0.00	0.00	0.00	0.00	0.00	0.00	174,919.54	196,247.77	89%
006 Neighborhood Parks	5,633.46	0.31	0.36	0.32	0.30	0.27	0.00	0.00	0.00	0.00	0.00	0.00	5,635.02	5,652.44	100%
007 Tourism	4.34	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	4.34	0.00	0%
021 Public Safety Forfeiture	5,649.04	140.37	89.48	11.40	110.18	0.28	0.00	0.00	0.00	0.00	0.00	0.00	6,000.75	5,648.97	106%
022 Criminal Justice	294,425.36	23,510.39	62,578.20	27,497.59	21,390.11	38,449.73	0.00	0.00	0.00	0.00	0.00	0.00	467,851.38	584,119.36	80%
098 General Fund Equipment Reserve	55,022.47	12,503.01	12,504.41	12,504.56	12,502.70	12,502.92	0.00	0.00	0.00	0.00	0.00	0.00	117,540.07	192,517.03	61%
099 General Fund Cumulative Reserv	134,697.61	7.38	8.79	7.72	7.26	6.54	0.00	0.00	0.00	0.00	0.00	0.00	134,735.30	134,678.24	100%
101 Street	150,625.86	25,069.28	21,035.73	19,513.24	21,286.27	22,377.32	0.00	0.00	0.00	0.00	0.00	0.00	259,907.70	618,947.03	42%
107 Tourism	81,523.19	4.46	5.32	4.67	220.85	930.07	0.00	0.00	0.00	0.00	0.00	0.00	82,688.56	88,769.46	93%
206 LID 3 Redemption	328,440.95	2,680.08	37,705.82	33,479.95	47,547.02	6,079.47	0.00	0.00	0.00	0.00	0.00	0.00	455,933.29	700,930.53	65%
207 LID 3 Reserve	959.86	0.06	0.07	0.06	0.05	0.05	0.00	0.00	0.00	0.00	0.00	0.00	960.15	960.24	100%
208 2000 Fire GO Bond	126,277.21	6.92	8.24	7.24	6.81	6.13	0.00	0.00	0.00	0.00	0.00	0.00	126,312.55	126,146.54	100%
300 Municipal Capital Improvements	334,776.11	18.35	631.68	9,514.52	5,452.22	4,609.78	0.00	0.00	0.00	0.00	0.00	0.00	355,002.66	482,603.27	74%
301 Stewart/8th St Corridor	169,179.44	5,009.00	5,539.30	5,809.47	5,009.34	5,008.40	0.00	0.00	0.00	0.00	0.00	0.00	195,554.95	349,863.26	56%
308 Valentine Road Project	227,727.57	18,345.78	18,349.35	18,347.65	18,347.40	18,346.61	0.00	0.00	0.00	0.00	0.00	0.00	319,464.36	8,630,430.94	4%
310 Stewart/Thornton Ave Rd Projec	184,700.02	9.99	11.89	7.17	6.44	0.00	0.00	0.00	0.00	0.00	0.00	0.00	184,735.51	5,278,673.21	3%
333 Fire Capital Improvement	647,022.00	65,482.03	97,110.02	76,055.91	85,781.24	83,522.73	0.00	0.00	0.00	0.00	0.00	0.00	1,054,973.93	1,635,415.16	65%
401 Water	176,394.36	110,053.04	166,318.56	128,605.78	183,853.06	150,621.13	0.00	0.00	0.00	0.00	0.00	0.00	917,845.93	2,019,671.31	45%
402 Sewer	272,215.51	1,351.46	17.88	15.69	14.77	13.30	0.00	0.00	0.00	0.00	0.00	0.00	270,916.97	270,916.97	101%
403 Garbage	860,404.77	45.85	5,131.86	5,115.26	28,694.44	25.57	0.00	0.00	0.00	0.00	0.00	0.00	899,433.95	938,792.98	96%
406 Water Capital Improvement	537,318.97	29.31	2,034.73	30.48	28.55	25.57	0.00	0.00	0.00	0.00	0.00	0.00	539,467.61	617,701.74	87%
408 Sewer Cumulative Fund	530,030.19	42,015.39	50,916.11	58,742.77	62,184.66	57,187.82	0.00	0.00	0.00	0.00	0.00	0.00	801,076.94	1,295,541.39	62%
409 Storm	92,733.58	5.08	456.05	455.34	2,705.05	4.68	0.00	0.00	0.00	0.00	0.00	0.00	96,359.78	96,359.78	100%
410 Stormwater Facility Fund	180,237.70	9.79	11.54	10.04	9.36	8.35	0.00	0.00	0.00	0.00	0.00	0.00	180,286.78	205,092.86	88%
411 Pierce County Water Area	143,862.20	7.90	8.41	7.38	7.02	5.67	0.00	0.00	0.00	0.00	0.00	0.00	143,898.58	143,708.50	100%
499 Utilities Equipment Reserve	5,159.91	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	5,159.91	5,159.91	100%
601 Customer Deposits	39,454.96	0.00	2,250.00	2,520.00	2,400.00	4,120.00	0.00	0.00	0.00	0.00	0.00	0.00	50,744.96	50,554.96	100%
630 Developer Deposit	24,784.99	9,621.72	17,250.68	12,769.69	10,274.48	9,985.72	0.00	0.00	0.00	0.00	0.00	0.00	84,687.28	191,992.26	44%
640 Aligona Court	-25,429.08	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	-25,429.08	0.00	0%
800 Payroll EE Benefit Clearing	7,026,789.42	623,175.76	701,793.25	760,262.41	1,088,219.79	654,512.80	0.00	0.00	0.00	0.00	0.00	0.00	10,854,753.43	29,693,878.76	37%

EXPENDITURES	January	February	March	April	May	June	July	August	September	October	November	December	Total	Budgeted Amt	%
001 General Fund	325,327.31	247,373.05	256,213.60	246,072.31	241,066.02	235,985.24	0.00	0.00	0.00	0.00	0.00	0.00	1,552,037.55	3,297,578.37	47%
003 Community Services Senior	21,043.05	12,083.75	12,517.13	14,408.79	12,101.89	11,125.81	0.00	0.00	0.00	0.00	0.00	0.00	83,280.42	146,384.13	57%
004 Youth Services/Center	12,286.16	8,407.98	11,497.11	6,857.45	7,424.13	10,423.08	0.00	0.00	0.00	0.00	0.00	0.00	56,895.91	98,870.55	58%
005 Parks	7,484.30	6,292.13	7,815.97	5,585.42	127,127.97	15,629.74	0.00	0.00	0.00	0.00	0.00	0.00	169,935.53	171,545.83	99%
006 Neighborhood Parks	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2,600.00	0%
021 Public Safety Forfeiture	0.00	0.00	0.00	0.00	0.00	271.41	0.00	0.00	0.00	0.00	0.00	0.00	271.41	0.00	0%
022 Criminal Justice	87,825.92	30,184.68	103,031.62	17,843.32	51,050.51	71,649.29	0.00	0.00	0.00	0.00	0.00	0.00	361,585.34	537,619.91	67%
098 General Fund Equipment Reserve	0.00	0.00	440.19	41,907.31	2,450.86	0.00	0.00	0.00	0.00	0.00	0.00	0.00	44,798.36	100,000.00	45%
101 Street	29,700.76	19,422.02	18,586.13	26,902.35	45,932.20	19,648.52	0.00	0.00	0.00	0.00	0.00	0.00	160,191.98	666,801.92	24%
107 Tourism	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,000.00	0%
206 LID 3 Redemption	1,480.16	7,800.41	-9,280.57	3,040.06	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	3,040.06	9,000.00	34%

2014 BUDGET POSITION TOTALS

City Of Pacific
MCAG #: 0423

Months: 01 To: 06

Time: 15:53:23 Date: 07/01/2014

Page: 1

Fund	Revenue Budgeted	Received		Expense Budgeted	Spent	
001 General Fund	4,502,668.25	2,717,690.69	60.4%	3,297,578.37	1,527,781.31	46.3%
003 Community Services Senior	146,366.99	88,952.00	60.8%	146,384.13	83,280.42	56.9%
004 Youth Services/Center	115,268.18	72,187.49	62.6%	98,870.55	56,895.91	57.5%
005 Parks	196,247.77	174,919.54	89.1%	171,545.83	169,935.53	99.1%
006 Neighborhood Parks	5,652.44	5,635.02	99.7%	2,600.00	0.00	0.0%
021 Public Safety Forfeiture	5,648.97	6,000.75	106.2%	0.00	271.41	0.0%
022 Criminal Justice	584,119.36	467,851.38	80.1%	537,619.91	361,585.34	67.3%
098 General Fund Equipment Reserve	192,517.03	117,540.07	61.1%	100,000.00	44,798.36	44.8%
099 General Fund Cumulative Reserve	134,678.24	134,735.30	100.0%	0.00	0.00	0.0%
101 Street	618,947.03	259,907.70	42.0%	666,801.92	160,191.98	24.0%
107 Tourism	88,769.46	82,688.56	93.1%	1,000.00	0.00	0.0%
206 LID 3 Redemption	700,930.53	455,933.29	65.0%	9,000.00	3,040.06	33.8%
207 LID 3 Reserve	960.24	960.15	100.0%	0.00	0.00	0.0%
208 2000 Fire GO Bond	126,146.54	126,312.55	100.1%	0.00	0.00	0.0%
300 Municipal Capital Improvements	482,603.27	355,002.66	73.6%	0.00	0.00	0.0%
301 Stewart/8th St Corridor	349,863.26	195,554.95	55.9%	175,000.00	28,840.88	16.5%
308 Valentine Road Project	8,630,430.94	319,464.36	3.7%	8,300,000.00	57,543.23	0.7%
309 Community Facility Improv 1	0.00	0.00	0.0%	0.00	0.00	0.0%
310 Stewart/Thornton Ave Rd Project	5,278,673.21	184,735.51	3.5%	5,339,000.00	571,814.28	10.7%
333 Fire Capital Improvement	62,101.48	66,541.94	107.2%	0.00	0.00	0.0%
401 Water	1,635,415.16	1,054,973.93	64.5%	1,030,663.20	342,491.52	33.2%
402 Sewer	2,019,671.31	917,845.93	45.4%	1,727,530.95	789,817.22	45.7%
403 Garbage	270,916.97	273,628.61	101.0%	7,500.00	117.13	1.6%
406 Water Capital Improvement	938,792.98	899,433.95	95.8%	805,000.00	119,795.03	14.9%
408 Sewer Cumulative Fund	617,701.74	539,467.61	87.3%	105,000.00	15,000.00	14.3%
409 Storm	1,295,541.39	801,076.94	61.8%	546,612.01	253,880.91	46.4%
410 Stormwater Facility Fund	96,737.53	96,359.78	99.6%	5,000.00	0.00	0.0%
411 Pierce County Water Area	205,092.86	180,286.78	87.9%	195,000.00	9,996.27	5.1%
499 Utilities Equipment Reserve	143,708.50	143,898.58	100.1%	0.00	26,999.19	0.0%
601 Customer Deposits	5,159.91	5,159.91	100.0%	0.00	0.00	0.0%
630 Developer Deposit	50,554.96	50,744.96	100.4%	500.00	2,145.00	429.0%
640 Algona Court	191,992.26	84,687.28	44.1%	180,000.00	74,651.10	41.5%
	<u>29,693,878.76</u>	<u>10,880,178.17</u>	<u>36.6%</u>	<u>23,448,206.87</u>	<u>4,700,872.08</u>	<u>20.0%</u>



Agenda Bill No. 14-137

TO: Mayor Guier and City Council Members

FROM: Council Member Walker

MEETING DATE: July 28, 2014

SUBJECT: IAFF Local 1352 Picnic Beer Garden

ATTACHMENTS:

Previous Council Review Date: N/A

Summary: IAFF Local 1352 will be holding their picnic in City Park on August 17. They would like to have a beer garden at their picnic for members and guests only as they have done in years past. They are seeking permission to have a beer garden.

Recommendation/Action:

Motion for Consideration: "I move to allow IAFF Local 1352 to have a beer garden at their union picnic in City Park on August 17, 2014."

Budget Impact:

Alternatives:

AGENDA ITEM NO. 6E

43460
CITY OF PACIFIC

Agenda Bills

Agenda Item No.	<u>Consent Agenda 10A</u>	Meeting Date:	<u>July 28, 2014</u>
	<u>Claim Voucher & Payroll</u>		<u>Richard Gould</u>
<u>Subject:</u>	<u>Approval</u>	Prepared by:	<u>Finance Director</u>

Summary:

Approval of Payroll for the period of July 1, 2014 through July 15, 2014; Claims Vouchers for July 15, 2014 through July 28, 2014.

Payroll Auto Deposit	\$ 65,365.26
Payroll Ch#'s 4795– 4797	\$ 2,104.60
Check # 43757 voided	
Claim Checks: #43758 – 43805	\$ 73,811.77
EFT's	41,564.82
Total Expenditures	<u>\$ 182,846.45</u>

Recommendation: Approval of payment for Payroll and Claims

Motion: move to approve the Consent Agenda including approval of Payroll and Claims Vouchers.

Attachments:

Check Registers and Payroll Expense itemization.

CHECK REGISTER

City Of Pacific
MCAG #: 0423

07/15/2014 To: 07/28/2014

Time: 15:28:38 Date: 07/22/2014
Page: 1

Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
4238	07/18/2014	Payroll	1	EFT		277.52	July 1 - 15 Payroll
4239	07/18/2014	Payroll	1	EFT		1,842.39	July 1 - 15 Payroll
4240	07/18/2014	Payroll	1	EFT		2,970.02	July 1 - 15 Payroll
4241	07/18/2014	Payroll	1	EFT		1,639.86	July 1 - 15 Payroll
4242	07/18/2014	Payroll	1	EFT		4,043.68	July 1 - 15 Payroll
4243	07/18/2014	Payroll	1	EFT		1,199.42	July 1 - 15 Payroll
4244	07/18/2014	Payroll	1	EFT		536.98	July 1 - 15 Payroll
4246	07/18/2014	Payroll	1	EFT		1,164.55	July 1 - 15 Payroll
4247	07/18/2014	Payroll	1	EFT		2,472.62	July 1 - 15 Payroll
4248	07/18/2014	Payroll	1	EFT		92.10	July 1 - 15 Payroll
4249	07/18/2014	Payroll	1	EFT		3,234.13	July 1 - 15 Payroll
4250	07/18/2014	Payroll	1	EFT		317.96	July 1 - 15 Payroll
4251	07/18/2014	Payroll	1	EFT		801.72	July 1 - 15 Payroll
4252	07/18/2014	Payroll	1	EFT		649.67	July 1 - 15 Payroll
4253	07/18/2014	Payroll	1	EFT		3,266.77	July 1 - 15 Payroll
4254	07/18/2014	Payroll	1	EFT		91.50	July 1 - 15 Payroll
4255	07/18/2014	Payroll	1	EFT		409.20	July 1 - 15 Payroll
4256	07/18/2014	Payroll	1	EFT		92.10	July 1 - 15 Payroll
4257	07/18/2014	Payroll	1	EFT		2,483.83	July 1 - 15 Payroll
4258	07/18/2014	Payroll	1	EFT		81.50	July 1 - 15 Payroll
4259	07/18/2014	Payroll	1	EFT		1,949.40	July 1 - 15 Payroll
4261	07/18/2014	Payroll	1	EFT		3,798.75	July 1 - 15 Payroll
4262	07/18/2014	Payroll	1	EFT		1,849.86	July 1 - 15 Payroll
4263	07/18/2014	Payroll	1	EFT		1,628.41	July 1 - 15 Payroll
4264	07/18/2014	Payroll	1	EFT		2,568.60	July 1 - 15 Payroll
4265	07/18/2014	Payroll	1	EFT		1,446.31	July 1 - 15 Payroll
4266	07/18/2014	Payroll	1	EFT		92.10	July 1 - 15 Payroll
4267	07/18/2014	Payroll	1	EFT		418.61	July 1 - 15 Payroll
4268	07/18/2014	Payroll	1	EFT		1,566.78	July 1 - 15 Payroll
4269	07/18/2014	Payroll	1	EFT		1,670.34	July 1 - 15 Payroll
4270	07/18/2014	Payroll	1	EFT		1,863.99	July 1 - 15 Payroll
4271	07/18/2014	Payroll	1	EFT		1,408.65	July 1 - 15 Payroll
4272	07/18/2014	Payroll	1	EFT		1,828.22	July 1 - 15 Payroll
4273	07/18/2014	Payroll	1	EFT		1,498.13	July 1 - 15 Payroll
4275	07/18/2014	Payroll	1	EFT		2,687.37	July 1 - 15 Payroll
4276	07/18/2014	Payroll	1	EFT		1,697.97	July 1 - 15 Payroll
4277	07/18/2014	Payroll	1	EFT		1,182.17	July 1 - 15 Payroll
4278	07/18/2014	Payroll	1	EFT		1,587.94	July 1 - 15 Payroll
4279	07/18/2014	Payroll	1	EFT		2,988.82	July 1 - 15 Payroll
4280	07/18/2014	Payroll	1	EFT		1,306.64	July 1 - 15 Payroll
4281	07/18/2014	Payroll	1	EFT		1,355.81	July 1 - 15 Payroll
4282	07/18/2014	Payroll	1	EFT		1,302.87	July 1 - 15 Payroll
4284	07/16/2014	Payroll	1	EFT	INTERNAL REVENUE SERVICE	25,314.57	941 Deposit For 07/18/2014 - 07/18/2014
4291	07/21/2014	Payroll	1	EFT	WA ST DEPT LABOR & INDUSTRIES	8,603.12	2ND Quarter 04/01/2014 - 06/30/2014
4299	07/25/2014	Payroll	1	EFT	EMPLOYMENT SECURITY DEPARTMENT	7,022.13	2ND Quarter 04/01/2014 - 06/30/2014
4410	07/18/2014	Payroll	1	EFT	WA ST DEPT RETIREMENT SYSTEM	625.00	07/18/2014 To 07/18/2014 - DCP - DRS
4245	07/18/2014	Payroll	1	4795		1,288.72	July 1 - 15 Payroll
4260	07/18/2014	Payroll	1	4796		723.78	July 1 - 15 Payroll
4274	07/18/2014	Payroll	1	4797		92.10	July 1 - 15 Payroll

CHECK REGISTER

City Of Pacific
MCAG #: 0423

07/15/2014 To: 07/28/2014

Time: 15:28:38 Date: 07/22/2014

Page: 2

Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
4285	07/18/2014	Payroll	1	43757	WA ST DEPT RETIREMENT SYSTEM		07/18/2014 To 07/18/2014 - DCP - DRS - Voided
4286	07/18/2014	Payroll	1	43758	WA STATE SUPPORT REGISTRY	125.00	07/18/2014 To 07/18/2014 - Child Support
4363	07/22/2014	Claims	1	43759	ALPINE PRODUCTS INC	710.93	PW: ORANGE CONES (40
4364	07/22/2014	Claims	1	43760	AMERICAN HOSE & FITTINGS INC	96.71	
4365	07/22/2014	Claims	1	43761	CITY OF AUBURN	3,876.21	JUNE 2014 IT SERVICES
4366	07/22/2014	Claims	1	43762	AUS WEST LOCKBOX	89.09	CITY HALL DOOR MATS
4367	07/22/2014	Claims	1	43763	LILLY MAY BAYLEY	128.00	INTERPRETER SERVICES
4368	07/22/2014	Claims	1	43764	GAIL BENNETT	300.00	JUNE 2014 CIVIL SERVICE SECRETARY
4369	07/22/2014	Claims	1	43765	BLUMENTHAL UNIFORMS	141.73	POLICE: UNIFORMS & CLOTHING
4370	07/22/2014	Claims	1	43766	CENTURYLINK	89.62	POLICE LOBBY PHONE: 253-887-9643
4371	07/22/2014	Claims	1	43767	DATABAR INCORPORATED	1,628.03	JUNE 2014 UTILITY BILLING
4372	07/22/2014	Claims	1	43768	EDEN ADVANCED PEST TECHNOLOGIE	383.25	PEST SERVICES - MOSQUITOES
4373	07/22/2014	Claims	1	43769	ELISA J. WOOD, ATTORNEY AT LAW	150.00	PUBLIC DEFENSE
4374	07/22/2014	Claims	1	43770	FCI CUSTOM POLICE VEHICLES	6,196.17	POLICE: EQUIPMENT FOR 2014 TAHOE
4375	07/22/2014	Claims	1	43771	FINISH LINE CLEANING	3,270.00	CITY HALL: JULY 2014 ORIAL SERVICES; POLICE: JANITORIAL SERVICES
4376	07/22/2014	Claims	1	43772	FORMSOURCE INC	177.63	FINANCE: UTILITY RECEIPT BOOK
4377	07/22/2014	Claims	1	43773	GOSNEY MOTOR PARTS INC	213.23	PW: REPLACEMENT WIPERS, FILTERS, BRAKE PADS & OIL
4378	07/22/2014	Claims	1	43774	HONEY BUCKET	74.00	HONEY BUCKET RENTAL
4379	07/22/2014	Claims	1	43775	IMAGE MASTERS INC	30.88	NAMEPLATE CAPS
4380	07/22/2014	Claims	1	43776	KC DOT ROAD SRVC DIV	1,034.27	
4381	07/22/2014	Claims	1	43777	KING COUNTY DIRECTORS' ASSOC	553.35	BULLETIN BOARD; PW: OFFICE SUPPLIES
4382	07/22/2014	Claims	1	43778	KING COUNTY FINANCE	72.00	KING COUNTY LIEN RELEASE (HENSLEY)
4383	07/22/2014	Claims	1	43779	KPG	20,767.13	STEWART RD/THORNTON AVE IMPROVEMENT PROJECT - CM SERVICES (THRU 06/25/14)
4384	07/22/2014	Claims	1	43780	LEGEND DATA SYSTEMS, INC.	11.50	PHOTO ID CARD: Z. RAMEY
4385	07/22/2014	Claims	1	43781	LES SCHWAB TIRE CENTER	62.63	PW: LOOSE FLAT ON MOWER
4386	07/22/2014	Claims	1	43782	MCLENDON HARDWARE	20.97	PW: SNAP BOLT & ALUMINUM SCREEN
4387	07/22/2014	Claims	1	43783	OLYMPIC ENVIRONMENTAL RESOURCE	3,233.00	DOE GRANT - 2014 PACIFIC RECYCLING PROGRAM IMPLEMENTATION
4388	07/22/2014	Claims	1	43784	CITY OF PACIFIC PETTY CASH	77.68	SENIOR CENTER PETTY CASH

CHECK REGISTER

City Of Pacific
MCAG #: 0423

07/15/2014 To: 07/28/2014

Time: 15:28:38 Date: 07/22/2014
Page: 3

Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
4389	07/22/2014	Claims	1	43785	DAWN PALUMBO	19.40	Jury
4390	07/22/2014	Claims	1	43786	PARAMETRIX, INC.	1,113.26	
4391	07/22/2014	Claims	1	43787	PETROCARD SYSTEMS INC	2,934.57	FUEL
4392	07/22/2014	Claims	1	43788	SHRED-IT USA INC.	174.10	SHREDDING SERVICES; SHREDDING SERVICES; POLICE: SHREDDING SERVICES
4393	07/22/2014	Claims	1	43789	SOUND PUBLISHING INC	1,354.27	LEGAL NOTICES
4394	07/22/2014	Claims	1	43790	SPRINT	1,455.35	POLICE: CELL PHONE SERVICES
4395	07/22/2014	Claims	1	43791	STAPLES BUSINESS ADVANTAGE	59.35	
4396	07/22/2014	Claims	1	43792	SUMNER LAWN 'N SAW	212.19	PW: WEEDEATERS
4397	07/22/2014	Claims	1	43793	DARCIE L. THACH	140.69	REIMB. FOR FUND RAISER ITEMS
4398	07/22/2014	Claims	1	43794	THE LOCK SHOP	136.63	REPAIR BACK DOOR LOCK
4399	07/22/2014	Claims	1	43795	TORK LIFT CENTRAL INC	204.46	PW: 2004 CHEVY 2500 HD
4400	07/22/2014	Claims	1	43796	USAMOBILITY	25.20	PW: PAGER
4401	07/22/2014	Claims	1	43797	UTILITIES UNDERGROUND LOCATE	33.54	EVACUATION NOTIFICATIONS FOR THE MONTH: 26
4402	07/22/2014	Claims	1	43798	VALLEY COMMUNICATIONS	17,566.71	JUNE 2014 911 CALLS (453) 2014 Q2 WSP ACCESS BILLING
4403	07/22/2014	Claims	1	43799	WA ST DEPT OF ECOLOGY	4,343.00	REGIONAL STORMWATER MONITORING (GRANT #G1400291)
4404	07/22/2014	Claims	1	43800	SHERI WAKEMAN	250.00	GYM RENTAL DEPOSIT REFUND
4405	07/22/2014	Claims	1	43801	WASHINGTON STATE DEPT OF ENTERPRISE SERV	100.00	LOCAL OMWBE FEE 07/01/13 - 06/30/15
4406	07/22/2014	Claims	1	43802	WASHINGTON STATE PATROL	6.00	ACCESS USER FEE BALANCE FOR MARCH 2014 BACKGROUND CHECKS
4407	07/22/2014	Claims	1	43803	WELLS FARGO FINANCIAL LEASING	56.48	COPY MACHINE LEASE
4408	07/22/2014	Claims	1	43804	WHITE KNIGHT SAFE	84.44	SHOP KEYS; PW: KEYS
4409	07/22/2014	Claims	1	43805	SAMANTHA M. ZINSLI	29.12	POLICE: MILEAGE FOR DELIVERING EVIDENCE TO LAB
						88,703.22	
001 General Fund						88,703.22	
003 Community Services Senior						5,386.46	
004 Youth Services/Center						2,526.89	
005 Parks						4,547.79	
022 Criminal Justice						24,582.75	
101 Street						6,291.29	
301 Stewart/8th St Corridor						20,767.13	
401 Water						13,135.54	
402 Sewer						8,561.87	
403 Garbage						3,233.00	
409 Storm						11,785.63	
630 Developer Deposit						250.00	
800 Payroll EE Benefit Clearing						-6,925.12	
						182,846.45	
						Claims:	73,686.77
						Payroll:	109,159.68

CHECK REGISTER

City Of Pacific
MCAG #: 0423

07/15/2014 To: 07/28/2014

Time: 15:28:38 Date: 07/22/2014

Page: 4

Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
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Voucher Approval

We, the undersigned Council members of the City of Pacific, do hereby certify that the Vouchers specified were reviewed and were approved for payment at the Regular Council Meeting

on: JULY 28, 2014.

Council Member: _____

Council Member: _____

Council Member: _____

Reviewed for Accuracy
Finance Director: _____





City Council Minutes

Workshop
Monday, June 16, 2014
6:30 p.m.

CALL TO ORDER/PLEDGE OF ALLEGIANCE

Council President Putnam called the regularly-scheduled meeting to order at 6:30 p.m. and led the Pledge of Allegiance.

ROLL CALL

Present: Council Members Jones, Kave, Knudtson, Putnam, Steiger, Walker and Mayor Guier

STAFF PRESENT

Finance Director Richard Gould; Acting Public Works Director Ken Barnett, Lt. Edwin Massey, and City Clerk Amy Stevenson-Ness.

ADDITIONS TO/APPROVAL OF AGENDA

Mayor Guier added a report from the City Clerk regarding training that she attended. It was added as Item F.

Mayor Guier also added a discussion regarding setting a date for the town hall meeting. It was added as Item G.

The amended agenda was approved unanimously by Council.

EXECUTIVE SESSION

At 6:33 p.m., Council President Putnam convened to executive session for litigation per RCW 42.30.110(1)(i) for 10 minutes.

The workshop was reconvened at 6:43 p.m.

AGENDA ITEMS

A. AB 14-120: Approving the permit for an outdoor musical entertainment event for Northwest Brewing Company.

City Clerk Amy Stevenson-Ness advised Council that the event will be held on June 28 at Northwest Brewing Company. This will be the third year the event is held.

Council requested that the company inform neighboring residents of the event.

Direction by consensus of Council: Move forward to the meeting on June 23, 2014.

B. AB 14-121: Resolution No. 2014-184: Authorizing investment of governmental entity monies in the Local Government Investment Pool (LGIP)..

Finance Director Richard Gould stated this resolution is required to continue utilizing the investment pool.

Direction by consensus of Council: Move forward to the meeting on June 23, 2014.

C. AB 14-122: Resolution No. 2014-185: Acceptance of a donation to the Police Department in the amount of \$1,500.

Lt. Massey advised Council that a \$1,500 donation had been received for community events hosted by the Police Department.

Direction by consensus of Council: Move forward to the meeting on June 23, 2014.

D. AB 14-123: Resolution No. 2014-186: Approving the waiver of park usage fees for Terry Home Car Show.

Mayor Guier advised Terry Home is a non-profit organization. The car show is a fundraiser for the home and advised it would be appropriate to waive the fees for the car show.

Suggestions were made to change the resolution to state, "Draws a large crowd and is free to the general public."

Direction by consensus of Council: Move forward to the meeting on June 23, 2014.

E. AB 14-124: City Hall Updates

Mayor Guier stated she is promoting employee and community pride in the City of Pacific. Part of her plan is to make updates to City Hall. Air quality tests for mold and asbestos have been conducted and air purifiers are now running in the offices.

Director Barnett stated abatement and replacement of the subfloor are advised. During the air quality testing, the results for airborne mold were high.

After discussion, Council consensus indicated that they need to see dollar amounts before they can give direction.

F. Update from the City Clerk regarding training and certification

City Clerk Amy Stevenson-Ness provided a brief report regarding training that she attended from June 1 to June 6. She also provided information to Council regarding the status of the requirements to achieve certification.

G. Discuss setting Town Hall Meeting/Public Hearing Date for public input regarding marijuana

Mayor Guier advised she will be meeting with Carol Morris to discuss upcoming ordinances for the regulation of marijuana and forwarding them to the Planning Commission on June 24. She stated she is concerned about the lack of public feedback and wants to make sure everyone who wants to weigh in will be able to do so.

City Attorney Carol Morris advised the mayor to make the meeting a public hearing. Ms. Morris will attend to answer questions.

After discussion, the public hearing will be held on July 16, 2014, at 7:00 p.m. in the gymnasium.

ADJOURN

Council President Putnam adjourned the workshop at 7:40 p.m.

Amy Stevenson-Ness, City Clerk

