



McCleary City Council

AGENDA

November 20, 2013

**7:00 City Council Meeting
(Recessed from November 13, 2013)**

Flag Salute

Roll Call

Public Hearings: Final Budget

Public Comment:

Minutes None

Mayor's Report/Comments:

Staff Reports: Dan Glenn, City Attorney (Tab A)

Old Business:

New Business: Marijuana Moratorium Extension (Tab B)
Janitorial Contract
2014 Budget Discussion

Ordinances:

Resolutions:

Vouchers

Mayor/Council Comments

Public Comment

Executive Session

Adjournment

Americans with Disabilities Act (ADA)
Accommodation is Provided Upon Request

Please Turn Off Cell Phones – Thank You

The City of McCleary is an equal opportunity provider and employer.
La ciudad de McCleary es un proveedor de igualdad de oportunidades y el empleador.

MEMORANDUM

TO: MAYOR AND CITY COUNCIL, City of McCleary
FROM: DANIEL O. GLENN, City Attorney
DATE: November 15, 2013
RE: LEGAL ACTIVITIES as of NOVEMBER 20, 2014
(Recessed meeting)

THIS DOCUMENT is prepared by the City Attorney for utilization by the City of McCleary and its elected officials and is subject to the attorney-client privileges to the extent not inconsistent with laws relating to public disclosure.

1. **SCOPE OF AUTHORITY:** Based upon the action at the 13 November meeting recessing to tonight, the Council can take such action on agenda items as it may desire. The basis of that position is the language of RCW 42.30.090 of the Open Public Meetings Act, the relevant portion of which I am setting out below.

The governing body of a public agency may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment... Whenever any meeting is adjourned a copy of the order or notice of adjournment shall be conspicuously posted immediately after the time of the adjournment on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held. **When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes.** When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, bylaw, or other rule.

Thus, you may consider any matter which might be raised unless it is of such a nature as to require public notice and take any action, including final action.

2. CANNABIS SITE & USE REGULATION: THE OTHER ALTERNATIVE: In light of the information provided to you in prior reports and the uncertainty tied to certain aspects of the area, including possible action of the Legislature and the pendency of the request for the AGO, I would like to suggest consideration of the following approach in lieu of going forward immediately with the public hearing process before the hearing examiner.

The LCB's rules provide that, while the licenses may start being issued at any time, prior to their issuance the City must be notified and be given the opportunity to respond. However, there are so many elements in this process which could affect the approach you might enact which are still "up in the air." Examples include those referenced in the prior paragraph, the matter of potential legislation to clarify the matters raised in the LCB's request to the AG, the likelihood that legislation will be enacted in relation to the medical cannabis operations, and the actual pendency of the AGO which could result from the LCB's request, even in the absence of legislation. Thus, one alternative might be to extend the moratorium an additional six months. To do that, the procedure would require the holding of a public hearing prior to enactment.

If this approach is of interest to you, I would recommend you schedule a public hearing for the first meeting in December. Ms. Collins would thus have more than adequate time to publish notice of the matter. After receiving any public comment, you could take such action as you deemed appropriate.

In closing, as you have noticed Mr. Coker is present tonight. The benefit of having a more pleasant legal counsel present than me is that, when the calendar was adopted early this year, I went ahead and scheduled a trip which has me out of town tonight.

As always, this is not meant to be all inclusive. If you have any questions or comments, please direct them to me.

DG/le

STAFF REPORT

To: Mayor Dent
From: Nick Bird, P.E., Director of Public Works
Date: November 19, 2013
Re: Marijuana Zoning Ordinance

After last meeting Mr. Glenn and I discussed how we were going to address the I-502 regulations in the coming months. At this time, we would like to recommend that Council consider another 6-month moratorium for the following reasons:

1. It is our understanding that the Liquor Control Board has requested a legal opinion regarding preemption from the Attorney General. The AG opinion may impact how you choose to provide for facilities in the zoning ordinance.
2. It is our understanding that the Legislature will be evaluating the interaction between medical marijuana and recreational marijuana. As this evaluation can result in any number of revisions to the existing rule structure, it is entirely possible that any work done to initiate a zoning ordinance would need to be revised after the Legislature has finalized their review.

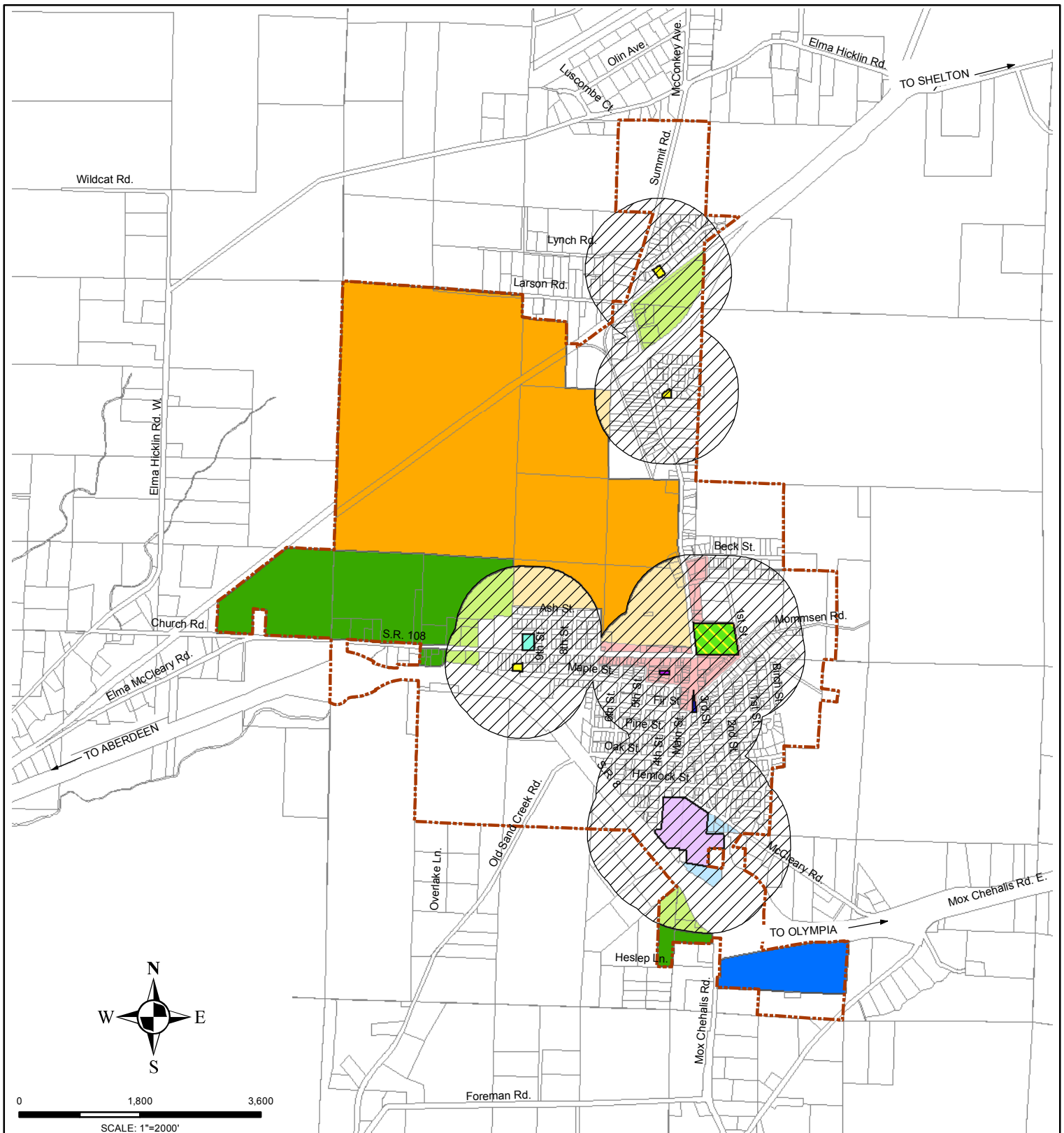
One item to note is that we have prepared a draft figure displaying the 1000' buffer around certain areas identified in the state regulations, which is included following this staff report.

Staff Recommendation:

In the interest of efficiency, any work that is done now may be undone by either of the above referenced items. As such, staff recommends a 6-month extension be considered to allow the proverbial dust to settle.

Action Requested:

Please request Mr. Glenn prepares an extension to the existing moratorium and set a public hearing date for consideration of the extension on December 11, 2013.




Legend

- | | |
|-----------------------------|--|
| CITY LIMITS | Marijuana Facilities Zoning |
| Day Care Facility | Eligible Downtown District |
| Transit Station | Eligible General Commercial District |
| Library | Eligible Highway Commercial |
| McCleary School | Eligible Industrial District |
| Beerbower Park | Ineligible Downtown District |
| Community Center Playground | Ineligible General Commercial District |
| 1000-Foot Separation | Ineligible Highway Commercial |
| | Ineligible Industrial District |

Note:
Residential and Open Space zoning designations have been omitted for clarity.

CITY OF McCLEARY
 FIGURE 1
 MARIJUANA SALES, PROCESSING, AND
 PRODUCTION ALLOWANCE AND
 PROHIBITION LIMITS



Gray & Osborne, Inc.
 CONSULTING ENGINEERS