

**Minutes of the Blythe City Council**  
**April 11, 2017**

The April 11, 2017 Meeting of the Blythe City Council was called to order at 6:00pm in the Council Chambers by Mayor DeConinck. Also in attendance were Vice Mayor Wade and Council Members Galvan, Egan and Reynolds. Staff in attendance included: City Manager Cosentini, City Clerk Crecelius, City Treasurer and Interim Finance Director Elms, Police Chief Wade, Planner Burrow and Public Works Director Baldizzone.

The Pledge of Allegiance was led by Mayor DeConinck. The Invocation was offered by Councilman Galvan.

Councilman Galvan reported that Joe Grijalva just passed away.

**REPORT FROM CLOSED SESSION:** City Attorney Bettenhausen reported the Council entered into Closed Session at 5:15pm to discuss Labor Negotiations with the Mid-Management, Clerical, Sworn, Non-Sworn and Laborer's Units and Labor Negotiations with the Public Works Director and Police Chief. Direction was given, no final action was taken.

**PROCLAMATION:**

**May is Mental Health Month**

**CONSENT CALENDAR:** *Items on the Consent Calendar are considered routine and will be enacted with one motion of the Council. If any item requires individual consideration, it will be removed from the consent calendar and acted upon separately.*

**2. Posting of the Agenda.**

The summary of agenda items were posted on the bulletin boards on the outside of the public entrance to the Council Chamber and near the inside entrance of the Council Chamber on Friday, April 7, 2017.

**3. Approval of the Warrant Register.**

Recommendation: Approve **4/11/17**, warrants numbered 65896 through 65941, in the amount of \$258,495.84 and **4/11/17**, warrants numbered 65801 through 65885 and 65886 through 65895 in the amount of \$493,564.41.

**4. Approval of the Payroll Register.**

Recommendation: Approve **4/11/17**, warrants numbered 49194 through 49201 and Direct Deposits numbered 39051 through 39112 in the amount of \$70,180.79; **4/11/17**, warrants numbered 49139 through 49140 and Direct Deposit numbered 38938 in the amount of \$27,107.57; **4/11/17**, warrants numbered 49170 through 49193 and Direct Deposits numbered 38995 through 39050 in the amount of \$232,555.40 and **4/11/17**, warrants numbered 49141 through 49169 and Direct Deposits numbered 38939 through 38994 in the amount of \$260,526.47.

**5. Minutes of the March 14, 2017 City Council Meeting.**

Recommendation: Approve the Minutes of the February 14, 2017 Meeting.

**6. City of Blythe Permits Issued in March 2017.**

Recommendation: Receive and file this monthly report.

**7. City of Blythe Fire Department Monthly Activity Report for March 2017.**

Recommendation: Receive and file this monthly report.

**8. City of Blythe Police Department Monthly Activity Report for March 2017.**

Recommendation: Receive and file this monthly report.

**9. Certificate of Acceptance of Mobile Home at Blythe Municipal Golf Course.**

Recommendation: Approve the Certificate of Acceptance of the Certificate of Title accepting the conveyance of a manufactured home located at the Blythe Municipal Golf Course and authorize the City Manager to execute said Title.

**10. Agreement for CFG No. 2004-1 Special Tax Administrative Services.**

Recommendation: Authorize the City Manager to sign an agreement with David Taussig for tax administration services.

**11. Extension of Interim Moratorium on Recreational Marijuana.**

Recommendation: Conduct the Second Reading of Ordinance No. 881-17 by title only, waiving further reading.

*ORDINANCE NO. 881-17. AN ORDINANCE OF THE COUNCIL OF THE CITY OF BLYTHE EXTENDING FOR AN ADDITIONAL 10 MONTHS AND 15 DAYS A MORATORIUM ON NON-MEDICAL MARIJUANA-RELATED BUSINESSES AND PERSONAL OUTDOOR NON-MEDICAL MARIJUANA CULTIVATION PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858.*

No public comment. Mayor DeConinck asked to recuse himself from voting on item 9. Vice Mayor Wade moved approval of Consent Calendar items 1-8 and 10-11. The motion was seconded by Councilman Galvan with a unanimous aye vote. Councilman Reynolds moved approval of Consent Calendar item #9. The motion was seconded by Councilman Galvan with aye votes from: Wade, Galvan, Reynolds and Egan and an abstention from Mayor DeConinck. City Clerk Crecelius read the title of Ordinance No. 881-17 into the record.

**PUBLIC HEARING:**

**Amendment to Zoning Code to Impose Ban on Recreational Marijuana related businesses and personal outdoor recreational cultivation.** City Attorney Bettenhausen stated this item was brought at the request and direction of the Mayor intended to directly replace the moratorium. Proposition 64 legalized recreational Marijuana and operation of marijuana businesses. It left local control on certain aspects. This item addresses from the time the State legalized it in November 2016 until the date the City adopts an Ordinance enacting local regulation, if any. As the City moves through the process of adopting a final ordinance, there is concern someone could move a business into the City under State laws before the City gets local regulation in place. Until the City enacts an Ordinance regulating marijuana, State law governs and State law authorizes marijuana businesses subject only to local regulation. Enacting local regulation takes time and we don't want anyone moving into the City before the Council has time to enact. State law recognizes this problem and provides for the moratorium, which this Council did in January. But the initial moratorium only lasts 45 days. After which the City must hold a public hearing on whether to continue it. The City held the public hearing on March 14<sup>th</sup> and approved the extension for 10 months and 15 days. After that time period runs State law allows you to do an additional extension up to one additional year. The total moratorium cannot exceed two years. To avoid another public hearing to extend the moratorium the Mayor directed this Ordinance enacting a ban to be placed on the agenda. This ban would replace and supercede the moratorium and would ban marijuana businesses in the City of Blythe indefinitely. Once this Ordinance takes effect no further public hearings would be required unless the Council adopted another different Ordinance enacting regulations. Proposition 64 legalized the use, possession and personal cultivation of up to 6 plants and there is nothing the City can do to alter that. This Ordinance does not seek to prohibit any of the foregoing to the extent it is preempted by State law. Prop 64 did allow Cities to prohibit some things such as personal growth outside of the house. Growth inside the house can be regulated but no prohibited. Adoption of this Ordinance would require a second reading and would be in effect 30 days after that. The moratorium would remain in effect until then.

Councilman Egan stated no matter what we do we can't regulate home growth? It was reported that is correct, you can regulate indoor but cannot prohibit.

Councilman Galvan asked what type of regulations. It was stated things such as electrical use, where it's located in the house and fire hazards.

Mayor DeConinck stated he asked for this because with the moratorium we had a period of time with nothing in place protecting us. This keeps it in place until we decide we want to change it. I don't want to miss a deadline and have a gap in there that could cause trouble. If we decide to adopt an Ordinance regulating it, the ban is gone.

No public comment. Vice Mayor Wade moved approval of the first reading by title only of Ordinance No. 882-17. The motion was seconded by Councilman Reynolds with a unanimous aye vote. City Clerk Crecelius read the title of the Ordinance into the record.

***ORDINANCE NO. 882-17. AN ORDINANCE OF THE COUNCIL OF THE CITY OF BLYTHE AMENDING CHAPTER 17.64 OF THE MUNICIPAL CODE RELATING TO MARIJUANA ACTIVITY.***

**CONTINUED BUSINESS:**

**Hiring two Temporary Employees- Extension.** Public Works Director Baldizzone stated at a Special Meeting in November 2016 Council approved hiring two former employees to assist with the installation of new water meters. As of today, 360 out 4,000 meters are left to be installed. These meters must be installed by the City due to problems in the field. The employee average is installation of 7 meters per day. Staff recommends Council extend the hiring of these two former employees for 12 weeks. These former employees are retired so they can only work 960 hours. It will be twelve weeks or when they get to these hours.

Vice Mayor Wade asked if these employees are doing PMI's work. Public Works Director Baldizzone stated these meters could not be installed by PMI due to problems such as sizing and pipe conditions which did not meet standard installation.

Councilman Egan asked if there would be a discount. Public Works Director Baldizzone stated that would be discussed with them. Councilman Egan stated the money PMI returns to the City could be used to help pay for the employees. Public Works Director Baldizzone stated yes.

Councilman Galvan asked if the rehired employees would get union wages. Interim Finance Director Elms stated the employees do not receive benefits, but they are paid union wages, the same as when they were employed by the City.

No Public comment. Councilman Egan moved approval of staff's recommendation. The motion was seconded by Councilman Galvan with a unanimous aye vote.

**NEW BUSINESS:**

**Marijuana Management Program Approval.** City Manager Cosentini stated this item stems from the Council's action in March. The Council approved the authorizing, regulation and taxing of recreational and medical marijuana. This program hires the consultant to implement the program. The next item is the first draft of the Ordinance. There are seven components to the program: creating the structure, oversight and management, application development and support, facility inspection, final selection of applicants and presentation to Council, cost recovery and fiscal analysis including ballot measure. This is how the consultant gets paid. The city is not going to pay the \$99,000. Once this is up and running they will perform annual audits on the businesses and quarterly inspections. These businesses will pay a fee for that and we will pay back the consultant from those fees. The benefit to them is they are asking for a 5 year contract with 2 one year extensions. It is recommended Council approve the Marijuana Management

Program submitted by HDL and authorize the City Manager to enter into an agreement with HDL for these services.

Councilman Egan asked if preference could be given to an applicant who was going to rehab an existing building. It was reported you could create rankings based on what was important to the City. Councilman Egan asked if the Consultant could bring ideas and what other cities are doing. It was reported a standard program will be presented but we can add to that and give more points to someone who is doing some economic development of older structures in town.

Mayor DeConinck asked if the \$99,000 was per year. City Manger Cosentini stated it was a one time fee for the first six steps. The seventh step is the annual audit and quarterly inspection. They will collect those fees annually, and those fees will be paid by the applicants. There will be a long list of requirements for these businesses.

Vice Mayor Wade asked if HDL would do the background checks. City Manager Cosentini stated the Police Department will be involved but we may use outside help at the applicants expense. Police Chief Wade stated we feel the owner should go through a more rigorous background than an employee. That will be handled by the Police Department at the owner's expense.

Councilman Reynolds asked what happens if a tax is not passed by voters. It was reported the City would then be able to do an in-lieu fee to collect for our costs until a tax is passed.

Public Comment. Jettie Townsend asked where the consultant came from. It was reported HDL currently handles sales and property taxes for the City. They have a vast amount of knowledge on this subject as well.

Paul Font of 338 N. 1<sup>st</sup> St. asked who would be handling the money as banks cannot. We can't even accept pay checks from employees involved in marijuana businesses. City Attorney Bettenhausen stated banks are reluctant to deal with marijuana businesses. As these businesses operate a cash business we have included the quarterly audits. As to the business itself I don't know how they do it currently.

Hector Gomez of 512 W. Murphy stated some medical dispensaries called me with money to invest in Blythe. There must be a problem because they had cash they had to get rid of.

Vice Mayor Wade moved approval of staff's recommendation. The motion was seconded by Councilman Reynolds with a unanimous aye vote.

**Ordinance Controlling Commercial Cannabis.** City Manager Cosentini stated we need to create a legal structure so you will adopt an Ordinance regulating medical and recreational marijuana in the City of Blythe. There are 30 items the Ordinance covers recommended by the Consultant. We are coming to you with the standard Ordinance looking for policy direction. We will make changes to the Ordinance as directed and bring it back for the first reading on May 30<sup>th</sup> at 6pm. The fiscal impact is an estimate ranging from \$960,000 to 1.3 million based on 2 dispensaries, 4 cultivation facilities and 4 manufacturing facilities. Council could expand those limits. We can change this at any time at Council's discretion if something is not working. There are a couple that have changed and want to note that for Council. The Police department recommends that we forbid guns being carried by the employees. Outside security will be hired and they will be the only ones allowed to carry a gun. We increased the age limit of employees from 18 to 21. We noted the in-lieu fee put on a business if operating before a tax is passed. In the Ordinance there are things protected by State law. You have to have a 600 ft. radius of a daycare.

This includes facilities with 9 or more people and licensed by County. We have added State licensing. One of the more important policy issues is the placement of the facilities in the community. State law requires they be 600 ft. away from schools, daycares and recreational centers for children. We could be much more conservative as 47% of the people voted against it. In recognition of that, we could prohibit it from being downtown and locate them on the outskirts of town. We can put them out of sight and out of mind where people won't bump into them everyday. Before you are a series of maps. The first map is the State required law. With this map there is a lot of downtown area available for placement. This is the least restrictive. The second map is 600 ft from parks, daycares, schools, and recreation centers. Parks have been added to this map. The third map is 600 feet from everything in the second map with the addition of churches. In this map the entire core of the City is blocked out. The fourth map is 1,000 feet from parks, schools, daycares and recreational centers. This map closes the core of the City, but the east and west ends are open. The last map is 1,000 feet from churches, parks, schools, daycares and recreational centers. Now look at the land use map. There are three zones it will be allowed in and they include: general commercial, community commercial and general industrial. There are two mental analyses you have to do. One is the Radius maps which shows you where they cannot go. Once you decide on a radius map you have to see what parts of the City are available and where the commercial zones are and that is where they will go.

Councilman Egan asked if this was for the retail businesses. City Manager Cosentini stated this was for all functions.

City Manager Cosentini stated the other wild card is Councilman Egan's suggestion of more points if a building is rehabilitated. There may be a building, but it might not be zoned correctly. We may wish to allow when they apply to do a zone change. You can look at those as we go. As you look at the map keep in mind you may have to be ok with a zone change.

Councilman Egan would like to keep East Hobsonway as open as possible while keeping the core closed.

Vice Mayor Wade asked why the old Appleby was still classified as a school.

Public comment. Rob Holt stated Needles has two grows and a packaging plant to package and ship to LA. They need water and will discharge a fare amount of waste water into the collection system. Another thing to consider is the applicants will need to be aware of sewer and water availability in those buildings. Its great to rehab a building, but to grow you need a very confined environment. It will take a lot of electrical and mechanical requirements to rehab these buildings.

Jettie Townsend asked if the manufacturing aspect included solvents because they can be very volatile. It was reported these buildings will need to be signed off by an engineer.

Bert Bell of 348 Earle St. stated the maps sound aggressive, protecting schools, parks and daycares; it's out of sight out of mind. People will be able to stop in Blythe for gas, food and their bud. Are you sure you want to go down this road? You may not want to do this. We are protecting our community from it, but also inviting it in. You may not want to do this.

The Council had a lengthy discussion on the proposed maps. It was proposed a Study Session be scheduled to discuss the maps in more detail. A study session was set for May 2, 2017 at 6pm.

**Street Light Acquisition.** Deputy Administrative Services Director Crecelius stated when Council started the Climatec Energy Efficiency Project one of the main goals was

converting the City's street lights which are owned and operated by SCE with LED technology. At the time the only way to do this was to purchase the lights from SCE. Due to the time involved to work through this process Climatec suggested me move forward with the other aspects of the project and proceed with the street light acquisition, if feasible as a phase II of the project. Staff then worked with SCE to obtain the cost to purchase the street lights. We received the valuation from SCE and out of 919 lights in the City, 712 could be purchased. The cost to obtain these poles is estimated \$548,210. This averages to \$770 per pole. After the poles were purchased the City would then have the expense of converting the lights to LED. Once the poles were purchased all maintenance would then be the responsibility of the City. Staff then received proposals from Climatec and Tanko Lighting to purchase, convert and maintain the street lights. Climatec stated that SCE's acquisition cost of \$770 per pole is two times higher than most of the cities they are working with due to the City's large inventory of wood poles. These poles do not have a developer paid contribution so they are more expensive for the City to acquire which drives up the overall payback. They proposed a project cost of \$701,448 to purchase and retrofit the lights with a simple payback of 13 years assuming an annual savings of \$53,000. Tanko's proposal consisted of a project cost of \$703,000 with a simple payback of 8.77 years assuming an annual savings of \$80,000 per year. After this Edison reached out to staff about a new program being offered which would allow SCE to retain ownership of the poles with conversion to LED technology at no cost to the City. With this option there would be a small annual savings to the City over the first 20 years. After 20 years the savings would significantly increase. Staff took these findings to the Energy Development Ad Hoc Committee and stated Council basically had four options to move forward with this project. The first option is status quo, SCE retains the poles the lights would remain as is. The second option is to enter into an Agreement with Climatec to purchase the lights, try to finance a loan to pay for the project and look for a company to maintain the poles once owned by the City. The third option is to enter into an Agreement with Tanko Lighting to purchase the lights and try to finance a loan to pay for the project. Tanko has a company they believe would come to Blythe to service the lights for an annual fee. The fourth option is to enter into the LS-1 Option E with SCE to retrofit the SCE owned poles with LED technology. As the City recently took out a \$9 million loan for the Climatec project and due to our current fiscal situation it may be challenging to get an additional loan. There is also the uncertainty of finding a company to service the lights if purchased by the City. These factors, along with no out of pocket expense for the City to enter into the SCE program staff and the Energy Development Ad Hoc Committee believe the best option for the City is Option 4, the SCE program. Therefore it is recommended Council authorize staff to enter into the Schedule LS-1 Option E with SCE to convert the City's street lights owned and operated by SCE with LED technology at no cost to the City and authorize the City Manager to execute any and all documents necessary to participate in this program through SCE.

No public comment. Vice Mayor Wade moved approval of staff's recommendation. The motion was seconded by Councilman Reynolds with a unanimous aye vote.

**Police Department Homeless Outreach Team.** Chief Wade stated in 2011 Governor Jerry Brown Signed AB 109 which was also known as the Public Safety Realignment Bill. The purpose was to reduce prison overcrowding by lowering the levels and keeping violent inmates in County Jails. The Budget Act of 2016 allocated \$20 million to cities to increase the positive outcomes on the return of these inmates. Our City's participation in this grant is \$69,198. It is a one time fund to help cities with this problem. There were seven things we could chose from to spend this money on. One of them was a homeless outreach team. In talking with other staff we felt the best choice was to use the \$69,000 for a homeless outreach team. It is recommended Council appropriate the \$69,198 for a Police Department Outreach Team.

Councilman Egan asked what the plan was. Chief Wade reported he has designated two officers to the team. They will work it on a part time basis. The purpose of the money would pay for their salaries. Recent studies have shown it takes 80 contacts with an officer to gain trust and to determine why they became homeless. They would then get them involved with the appropriate City, County or State agency to solve that problem.

Councilman Reynolds stated we are finding there may be more options for funding.

Public Comment. Sandy Hudson asked if the data would be tracked. As you know it's a drain on the hospital to deal with this. Chief Wade stated the purpose of this program is to lessen our calls for service and the burden on the hospital for 5150's. I am hoping this turns into a full time position for the Police Department to battle this. When you look at our homeless numbers, there is no reason Blythe should have more homeless than Moreno Valley. Mrs. Hudson stated the County needs to have more funding for mental health for our area.

Vice Mayor Wade moved approval of staff's recommendation. The motion was seconded by Councilman Reynolds with a unanimous aye vote.

**Cap-and-Trade Program- Goal #14.** Interim Finance Director Elms stated during the goals process Council ranked the Cap and Trade Program as number 14 on the list. Staff identified the program as a result of the passing of AB 32 which created a comprehensive multi year program to reduce green house gas emissions. The AB 32 scoping plan identifies the Cap and Trade Program as one the strategies California has employed to reduce the emissions. The program includes an auction system where emission in excess of the allowance can be purchased from the State. The State's proceeds are deposited into the Green House Reduction Fund. These funds must be used to facilitate the achievement of emission reduction and goals of AB 32. Attached is a guide to the Cap and Trade Program from League of CA Cities with funding opportunities. Most of the agencies that receive funding do so through a competitive grant process. Due to this staff recommends forwarding the list of funding opportunities to the City's Grant Writer to determine the funding sources that best fit our agency and community.

No public comment. Councilman Egan moved approval of staff's recommendation. The motion was seconded by Councilman Reynolds with a unanimous aye vote.

**Placing Marijuana Ban on the Ballot.** City Manager Cosentini stated the Mayor asked me to place on the agenda an item that would allow Council to place medical and recreational marijuana on the ballot for the citizens to decide whether or not to go forward with those programs.

Mayor DeConinck stated some want it and some don't. We are going to have to put the tax part on the ballot. We have an election coming up and I think it would be a good time to let the voters decide.

City Manager Cosentini stated you have hired a consultant for a Transient Occupancy Tax increase. One of the issues is the appropriate, strategic placement of these two issues on the ballot. The Consultant has advised that we do not put them together and be strategic about each one where it will derive the best result. If the Council is going to go down this road, even if we don't put the ban on, we have to put the tax on. You have three opportunities coming up for elections. If you go down this road you will want to pick a date for this to go to the people.

Mayor DeConinck stated placing the ban on the ballot in 2017 will not affect TOT because that will not go on until later. City Manager Cosentini stated TOT could go on this year. Mayor DeConinck stated this is the first he has heard about TOT going this year. City Manager Cosentini stated more information will be available once the consultant completes the survey.

Mayor DeConinck does not want to stop progress, we will still go forward with the maps and things and if the voters say yes we are ready to go. But I want to make sure our voters are happy.

Councilman Galvan asked when the City Manager was aware the TOT might go this year. City Manager Cosentini stated the first survey will access the community. If the community had concerns then the approach would be to take time to educate and place it later. But if there are no concerns then the cost is clear to put it on earlier. But the initial impression was we would need more time.

Councilman Egan stated its going to be in the community. State law has already opened the door to Pandora's box. We can either take the bad with the good or just the bad.

Mayor DeConinck stated let the voters decide. We should be representing the people.

Councilman Galvan stated the voters have already voted against medical marijuana. What is the purpose of having them vote if we are going to overturn everything they do. City Attorney Bettenhausen stated it was on the ballot in 2014. That vote did not authorize it, but it did not have the effect of banning it.

Councilman Reynolds stated if you go back to the State vote the difference was 52% to 47% in favor from voters in the City of Blythe. I think it will be a waste of time and money to take it back to the voters. Its here and its not about the money, it's about regulating it. We need to be able to regulate and now we can't do anything. If the County does it right outside our City limits we can regulate it. If we don't regulate it we are shooting ourselves in the foot and opening it up to God knows what.

Mayor DeConinck said let the voters decide. What do we have to loose?

Councilman Egan asked what if they pass it and its banned. They can still grow six plants, what have you accomplished?

Public comment. Jettie Townsend stated it would be scary to have the public weigh in on this matter. It has already been decided and the City needs the money. I don't have a problem with it.

Sandy Hudson stated it was decided at the last election. The only difference today is wheter we are going to profit in any fashion form it. We are foolish if we think the County isn't going to do it. It is going to happen all around us. For prosperity let's get in if this is the only vehicle coming in.

Hector Gomez stated when revenue comes in; some of these people will get strung out. Will there be money for people who become addicted? I care about where they money goes. I am in favor of it, but we need funds to help people.

Councilman Galvan moved to put this item on the ballot. The motion was seconded by Mayor DeConinck with ayes from Galvan and DeConinck and no votes from Vice Mayor Wade and Council Members Reynolds and Egan. The item did not pass due to a 3-2 vote against the motion.

**ORAL REPORTS:** None

**PUBLIC COMMENT:**

Sandy Hudson invited everyone to CWA's Farmer's Ball on April 29<sup>th</sup> .

**MEMBER COMMENT:**

Mayor DeConinck stated he heard today that the County would be closing Fire Station 43. I have asked for a meeting to get more answers. Every time there is an issue it affects Blythe.

**ADJOURN:**

The City Council meeting was adjourned at 8:42pm.

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Joseph DeConinck, Mayor

**ATTEST:**

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Mallory Crecelius, City Clerk