City Council Meeting Schedule June 2021

City Council temporarily designated the location for regular, special and study session meetings to a virtual location until termination of the state of emergency or until rescinded. The City broadcasts City Council meetings on the City's website https://www.go2kennewick.com/CouncilMeetingBroadcasts.

June 1, 2021
Tuesday, 6:30 p.m. — REGULAR COUNCIL MEETING

June 8, 2021
Tuesday, 6:30 p.m. — WORKSHOP MEETING (the workshop meeting will be done via Zoom and broadcast on the City's website https://www.go2kennewick.com/CouncilMeetingBroadcasts)

1. Legislative Update
2. KMC Amendments following ESB 5476
3. Planning Development Projects Update

June 15, 2021
Tuesday, 6:30 p.m. — REGULAR COUNCIL MEETING

June 22, 2021
Tuesday, 6:30 p.m. — WORKSHOP MEETING (the workshop meeting will be done via Zoom and broadcast on the City's website https://www.go2kennewick.com/CouncilMeetingBroadcasts)

1. Mid-Columbia Libraries Update
2. American Rescue Plan Act Update
3. Current City-Wide Projects Update

June 29, 2021
Tuesday, 6:30 p.m. — NO MEETING SCHEDULED

To assure disabled persons the opportunity to participate in or benefit from City services, please provide twenty-four (24) hour advance notice for additional arrangements to reasonably accommodate special needs.

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Council Workshop Coversheet

Agenda Item Number	1.	Meeting Date	06/08/2021
Agenda Item Type	Reports/Plans		
Subject	Legislative Update		
Ordinance/Reso #		Contract #	
Project #		Permit #	
Department	City Manager		

Info Only ☐
Policy Review ☒
Policy DevMnt ☐
Other ☐

Summary

Our lobbyists Tom McBride and Ben Buchholz with McBride Public Affairs will be providing Council with an overall summary of the 2021 State legislative session.

Through		*Attachments:*
Dept Head Approval		
City Mgr Approval	Marie Mosley Jun 04, 10:51:41 GMT-0700 2021	

Council Workshop Coversheet

Agenda Item Number	2.	Meeting Date	06/08/2021	Info Only ☐
Agenda Item Type	Presentation			Policy Review ☐
Subject	KMC Amendments Following ESB 5476			
Ordinance/Reso #		Contract #		Policy DevMnt ☒
Project #		Permit #		Other ☐
Department	City Attorney			

Summary

On February 25, 2021, the Washington Supreme Court held in State v. Blake, 481 P.3d 521 (Wash. 2021) that Washington's strict liability drug possession statute is unconstitutional because the lack of a mental state in the statute could result in punishment for innocent conduct. The case was discussed at the April 6th, 2021 Council Meeting and limited amendments were made to existing KMC sections with the understanding that additional amendments would be needed once the legislature took action to address Blake. On May 13, 2021, Governor Inslee signed Engrossed Senate Bill 5476 which adds a knowledge requirement to RCW 69.50.4013 to address the due process concerns of Blake.

ESB 5476 also makes substantial changes to drug possession laws in Washington. Most notably, the law reduces the penalty for simple possession of drugs in RCW 69.50.4013 from a felony to a misdemeanor and requires law enforcement to divert the first two potential offenses for simple drug possession to drug treatment instead of referring cases to the prosecutor. Prosecutors are encouraged to refer charged offenses for diversion as well. ESB 5476 also decriminalizes possession of drug paraphernalia for personal use.

Given the general legal requirement that Cities prosecute adult misdemeanor crimes that occur in their jurisdictions and because KPD has requested that the City Attorney's Office prosecute drug possession offenses, the City Attorney's Office is recommending that RCW 69.50.4013 be adopted into the KMC by reference. Additional amendments will be needed to KMC 9.32.020 to repeal duplicative provisions and to render the sections regarding use and delivery of drug paraphernalia consistent with the changes in state law.

Through	Jessica Foltz Jun 02, 09:50:34 GMT-0700 2021	*Attachments:* Presentation
Dept Head Approval	Lisa Beaton Jun 02, 10:16:18 GMT-0700 2021	
City Mgr Approval	Marie Mosley Jun 04, 09:56:24 GMT-0700 2021	

Proposed Amendments to Kennewick Municipal Code Chapter 9.32 Drugs and Drug Paraphernalia

June 8, 2021 Kennewick City Council Workshop

Jessica Foltz, Assistant City Attorney

Engrossed Senate Bill 5476

- Engrossed Senate Bill 5476, proposed in response to the *Blake* decision discussed at the April 6th Council meeting, was signed by the Governor on May 13th, 2021.
  - Much of the bill was effective immediately with limited sections to take effect later.

- Notable Changes Made by ESB 5476:
  - Reduces the penalty for simple possession of drugs in RCW 69.50.4013 from a felony to a misdemeanor. Also adds a knowledge requirement to the statute to address the due process issue raised in *Blake.*
  - Decriminalizes possession of drug paraphernalia for personal use.
  - Requires law enforcement to divert the first two potential offenses for simple drug possession to drug treatment instead of referring cases to the prosecutor. The bill also places text in the statute that encourages prosecutors to refer charged offenses for diversion.
  - Provides for the establishment of a committee to make recommendations on how to address the long-term impacts of *Blake,* requires additional law enforcement training related to interacting with individuals with substance abuse issues beginning in 2022, and directs investments in substance misuse prevention efforts.

Relevant Legal Provisions

- **RCW 39.34.180:** Each county, city, and town is responsible for the prosecution, adjudication, sentencing, and incarceration of misdemeanor and gross misdemeanor offenses committed by adults in their respective jurisdictions . . .”
  - Generally, this means Cities must either prosecute these offenses or reach an agreement with their respective County under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court.
  - KPD would prefer that the City Attorney’s Office prosecute simple possession cases that occur in Kennewick now that the law enables us to do so.

- **State Preemption RCW 69.50.608:** The state of Washington fully occupies and preempts the entire field of setting penalties for violations of the controlled substances act.
  - Cities are prohibited from enacting ordinances that have penalties that are inconsistent with state law.

Recommended Amendments

- Adopt RCW 69.50.4013 (as now or hereafter amended) into the KMC by reference.
- Repeal sections of 9.32.020 that are duplicative or no longer relevant.
- Amend KMC 9.32.020(3) and (4) regarding possession and delivery of drug paraphernalia to be consistent with the amendments made to state law by ESB 5476.
  - It is unlawful for any person to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, or prepare, ~~test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise induce into the human body~~ a controlled substance as defined by RCW 69.50 other than marijuana. Violation of this subsection is a misdemeanor.
- Adoption by reference is recommended to avoid preemption concerns and due to the changes in criminal penalties expiring on July 1, 2023.

Impact

- Impact to the City Attorney's Office is unknown at this time but is not expected to be substantial, at least initially.
  - Case counts from KPD indicate that cases investigated for possession of a controlled substance totaled 165 cases in 2019, 148 cases in 2020, and 37 cases in 2021 (as of the end of April).
  - These counts did not include Marijuana offenses (most of which we were already prosecuting) and those involving juveniles (which we don't prosecute).
- Further mitigating these numbers is the requirement in ESB 5476 that the first two offense are diverted by law enforcement before they are ever referred to the prosecutor.
  - This means that a person will have to be caught in possession of a controlled substance at least twice before they are ever referred for charges.
- Impact will likely need to be re-evaluated in 2022 when it is likely that some individuals will have had their two diversions and in 2023 if and when changes are made to the law prior to it's expiration.

Questions?

Council Workshop Coversheet

Agenda Item Number	3.	Meeting Date	06/08/2021
Agenda Item Type	Presentation		
Subject	Development Projects Update		
Ordinance/Reso #		Contract #	
Project #		Permit #	
Department	Planning		

Info Only ☒
Policy Review ☐
Policy DevMnt ☐
Other ☐

Summary

City staff will be providing City Council with an update of current/recent development projects within the City. The projects are broken down into three categories: recently completed, under construction and "pipeline projects". Staff will be utilizing a story map presentation format that provides the physical location and brief description of the projects.

Through	
Dept Head Approval	Gregory McCormick Jun 02, 14:47:35 GMT-0700 2021
City Mgr Approval	Marie Mosley Jun 04, 09:57:00 GMT-0700 2021

Attachments:

City Council Meeting Schedule July 2021

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July 6, 2021
Tuesday, 6:30 p.m. — REGULAR COUNCIL MEETING

July 13, 2021
Tuesday, 6:30 p.m. — WORKSHOP MEETING (the workshop meeting will be done via Zoom and broadcast on the City's website https://www.go2kennewick.com/CouncilMeetingBroadcasts)

1. Micromobility Update

July 20, 2021
Tuesday, 6:30 p.m. — REGULAR COUNCIL MEETING

July 27, 2021
Tuesday, 6:30 p.m. — WORKSHOP MEETING (the workshop meeting will be done via Zoom and broadcast on the City's website https://www.go2kennewick.com/CouncilMeetingBroadcasts)

1. Moderate Risk Waste Update
2. Development Related Code Amendments
3. Transportation System Overview

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