

City of Selah
Council Minutes
August 25, 2015

Regular Meeting
Selah Council Chambers
115 West Naches Avenue
Selah, WA 98942

A. Call to Order Mayor Gawlik called the meeting to order at 6:30pm.

B. Roll-Call

Members Present: Paul Overby; John Tierney; Dave Smeback; Roy Sample; Laura Ritchie

Members Excused: Jane Williams; Allen Schmid

Staff Present: Don Wayman, City Administrator; Bob Noe, City Attorney; Gary Hanna, Fire Chief; Rick Hayes, Police Chief; Eric Steen, Deputy Police Chief; Joe Henne, Public Works Director; Dale Novobielski, Clerk/Treasurer; Charles Brown, Recreation Manager; Tom Durant, Community Planner; Andrew Potter, Assistant to the City Administrator; Monica Lake, Executive Assistant

C. Pledge of Allegiance

Council Member Smeback led the Pledge of Allegiance. Deputy Police Chief Steen gave the prayer.

Q. Executive Session - **relocated**

1. 30 Minute Session – Potential Litigation RCW 42.30.110 (1) (i)

Mark Fickes, Halverson Northwest, stated for the record his objection to the Executive Session, saying that it is not appropriate, and that the Washington Appearance of Fairness law it doesn't allow for Executive Sessions for potential litigation. He said that Council cannot discuss anything about the two hearings in the Executive Session, and asked that Council not go into Executive Session. He noted that City Attorney Noe disagrees with him on the matter

Mayor Gawlik noted his objection.

Council went into Executive Session at 6:34pm. At 7:00pm, Council went back on the record. Mayor Gawlik stated that no action was taken during the Executive Session.

D. Agenda Changes **None**

E. Public Appearances/Introductions/ Presentations **None**

F. Getting To Know Our Businesses **None**

G. Communications

1. Oral

Mayor Gawlik opened the meeting.

Roy Sample, 1304 Heritage Hills Place, approached the podium and addressed the Council. He said that he is the representative for Zucker Sample LLC, and that he is requesting a reconsideration of Council's decision last meeting regarding item number ten of the Somerset II Resolution. He provided examples of other subdivisions that were approved without requiring a wider road, sidewalk, curb, and gutter, noting that Whispering Pines was done with the only requirement that of a twenty foot road.

City Attorney Noe responded that the matter cannot be heard that night, but it can be put on a future agenda.

Mr. Sample reiterated his request for reconsideration.

Council Member Overby moved, and Council Member Tierney seconded, to reconsider the matter and set a date for the reconsideration of Somerset II. By voice vote, approval was unanimous.

Greg Rock approached the podium and addressed the Council. He stated that he is an energy engineer, and wished to talk about initiative I-732 and their efforts to impact climate change in a positive way. He explained the difference between the initiative and the State's proposal as it pertains to both climate change and being fiscally conservative. He requested an opportunity to speak with Council Members at another date to explain why communities in Eastern Washington should support the initiative.

Wayne Petterson, representative for the Selah Kiwanis, approached the podium and addressed the Council. He said that their group has been involved with the Bikes for Kids project, giving away fifty bikes last year, but not one made it to a Selah resident, to this year they are changing that. He commented that they hope to give fifty bikes to Selah residents and fifty to others. He stated that the applications will be available the first half on November, and that there are no stipulations to apply. He urged those in the business community to support the Selah Kiwanis in this endeavor.

Seeing no one else rise to speak, Mayor Gawlik closed the meeting.

2. Written

a. Selah Downtown Association Monthly Report

H. Proclamations/Announcements **None**

I. Consent Agenda

Council Member Overby moved, and Council Member Smeback seconded, to add M – 3 and N – 2 to the Consent Agenda. By voice vote, approval was unanimous.

Executive Assistant Lake read the Consent Agenda. All items listed with an asterisk (*) were considered as part of the Consent Agenda.

- * 1. Approval of Minutes: July 28, 2015 Council Meeting
- * 2. Approval of Claims & Payroll:
 - Payroll Checks Nos. 78863 – 78908 for a total of \$181,483.34
 - ~~Claim Checks Nos. 66285 – 66360 for a total of \$213,674.94~~
- * 3. Resolution M – 3: Resolution Authorizing the Mayor to sign Amendment #1 to the Professional Service Agreement with the Yakima Valley Conference of Governments (YVCOG) For Professional Services to update the City Growth Management Act (GMA) Comprehensive Plan
- * 4. Ordinance N – 2: Ordinance Amending the 2015 Budget for the Replacement of Carpet at City Hall

Council Member Overby moved, and Council Member Smeback seconded, to approve the Consent Agenda as read. By voice vote, approval of the Consent Agenda was unanimous.

J. Public Hearings

- 1. ~~Public Hearing to Consider the Resolution Adopting the Selah Transit Development Plan, including the Annual Report for 2014 and Six-Year Plan 2015-2020~~

Assistant to the City Administrator Potter addressed J – 1. He stated that there were minimal changes since the last meeting, but the grant amount may increase from seven thousand to eleven thousand.

Mayor Gawlik opened the Public Hearing. Seeing no one rise to speak, he closed the Public Hearing.

K. New Business **None**

L. Old Business **None**

M. Resolutions

- 1. Resolution Upholding City Administrator decision approving Class 2 Use for six unit ~~multiple family dwelling (926.45.15-02)~~

Mayor Gawlik asked the Council if they had received any ex parte communications about the matter.

All Council Members indicated they had not.

Mayor Gawlik noted for the record that there have been no ex parte communications.

Council Member Sample moved, and Council Member Ritchie seconded, to hear Resolution M – 4 before Resolution M – 1.

Council Member Sample stated that his reason is that both are related and the larger issue involves M – 4 versus M -1.

City Attorney Noe said that it is Council's pleasure as to the order they hear the items, adding that M – 1 was placed first as it is an open record hearing.

Roll was called: Council Member Overby – no; Council Member Tierney – no; Council Member Smeback – no; Council Member Sample – yes; Council Member Ritchie – yes. Motion failed with two yes votes and three no votes.

Mayor Gawlik stated that they will move forward with M – 1.

Community Planner Durant addressed M – 1. He said that the Resolution before Council is to uphold the City Administrator's approval of a six unit multiple family dwelling by Torkelson Construction Inc. He stated that they had received a binder of materials for the Class II Use Appeal, with additional exhibits added after they were prepared. He reviewed those items, which included a staff report with two attachments and several maps regarding the zoning of the subject property both in the County and after it was annexed into the City. He summarized the staff report, noting that, under Selah's Municipal Code, the reviewing official reviews the application and documentation, then prepares written findings and conclusions regarding the matter. He went on to say that the matter would normally go before the Planning Commission, but since the applicant is a member of the Commission the City Administrator felt it more appropriate that he make the decision; this project could stand on its own if the Planned Development and rezone were denied by Council. He discussed the issue regarding building height and architectural style, noting the height conforms with standards and the City has no standards that address architectural styles; the SEPA application for the larger project, which hadn't been finalized prior to the Class II approval; and the zoning concerns, using the maps provided to Council Members to illustrate his point. He indicated that rental units in Selah are at almost one hundred percent rented, which indicates a need for additional rentals, and that staff recommends upholding the approval subject to the conditions recommended.

City Administrator Wayman thanked Community Planner Durant for the thorough job he did, his outstanding assistance and the work he put in on the project. He stated that, as the one who signed off on the Class II, he asked hard questions regarding Title 10, regarding things such as setbacks and density for an R-2 zone. He strongly recommended that Council sustain the decision.

Council Member Ritchie remarked that Mr. Fickes had attached an exhibit to one of his briefs that mentioned the South Selah development and the closet connections, which don't appear to qualify as a connection for a multi-family development.

City Administrator Wayman responded that it was a causeway connection, and the remedy to what the Judge requested was to create a closet connection.

Council Member Sample remarked that he served on the Planning Commission in the 1990s, when the Growth Management Act (GMA) came about, and that they were charged with creating the various densities for Selah. He noted that the GMA was approved in 1997 after many public hearings, and that the City has simply carried on the County's R-2 zoning for the subject property.

Community Planner Durant agreed with Council Member Sample's comment about the zoning.

Mayor Gawlik asked if the appellant or proponent should speak first.

City Attorney Noe replied that the appellant would go first.

Mayor Gawlik requested that those in the audience who wished to come forward and speak please give consideration to others regarding time constraints and duplicated comments.

City Attorney Noe recommended that they swear in anyone providing testimony en masse.

Clerk/Treasurer Novobielski administered the oath to those who wished to speak.

Mark Fickes, Halverson Northwest, approached the podium and addressed the Council. He stated that he is the attorney for the Teskes, who are most effected by the application before them today. He talked about the need to protect Selah's residential communities, compatibility conflicts between multi-family and single family residential, and the developer's desire to have the maximum amount of units allowed per density, then walked Council through the exhibits he entered into the record.

Mayor Gawlik called for a recess.

Council took a ten minute recess.

Mark Fickes read a couple provisions from the City's Zoning Code regarding Class II uses, stating that this project obliterates almost every goal in the housing plan, and that there wasn't a single condition placed on it to mitigate impact to the neighborhood. He questioned the need to have the application processed ahead of the entire Planned Development, and wondered why the application hadn't been sent to either the Planning Commission or the Hearing Examiner rather than the City Administrator. His opinion was that this was one of the most unfair processes he'd been involved in, and that the City Administrator should have recused himself because of a conflict of interest due to him renting a residence from Mr. Torkelson, entering an email as an exhibit to support his claim. He commented that he had been required to go through a Public Records request process to obtain information, and that the Planning Department and City Administrator Wayman have treated the community unfairly. He questioned the permits given for foundations and footings during the time for appeals to be filed and not waiting until the SEPA had been completed on the entire development. He said that neither himself or his clients received notification of the rezone hearing, and read aloud a portion of the Hearing Examiner's recommendation of denial for the rezone. He felt that it was improper to provide a staff

report on the appeal, then reviewed the findings and what he felt was in error or fundamentally wrong with them. He ended by saying that the Class II Use permit should be denied.

City Administrator Wayman remarked that he was exploring purchasing a home in Selah, then decided to rent, and that he has no other relationship with Mr. Torkelson other than as renter and landlord, respectively. He added that he plans to build in the future, but hasn't chosen a builder for the project.

City Attorney Noe observed that Council should hear from the proponent before the general public speaks.

John Teske 182 Lancaster Road, approached the podium and addressed the Council. He expressed his appreciation for the opportunity to speak to them, giving a bit of history regarding his residence and the improvements he's made to it over the years. He stated that he is not anti-development, having three acres himself that he plans to develop in the future, but he felt the proposed development was incompatible with the surrounding neighborhood and that the City appears to be acting as an advocate for the developer rather than taking the public good into account. He expressed his surprise at finding out the property was zoned R-2, and felt is absurd to put the development in a neighborhood of half acre or larger lots. He brought up the issue of the City Administrator reviewing a Class II application submitted by the person he rents from, and wondered if the City wished to be known for conducting its business this way. He wondered why the developer chose to start with the back lots when he had several to choose from, noting that he knew full well where his vocal opponent lived. He talked about the difficulty of ordering a developer to tear down units if Council decides against him, what he felt was a one-sided approach to take away the decision-making authority of the Council, and the lack of common sense used when reviewing the proposal. He referenced the decision made regarding Somerset II regarding an alley to be used as a private road, and stated that the developer knew all along that he would be going back to submit for a Planned Development for the property. He urged the Council to be the voice of common sense, and balance the scales of fairness and reasonableness by overturning the Class II Use approval, turning the tide on irresponsible development in Selah.

Helen Teske, 182 Lancaster Rd, approached the podium and addressed the Council. She talked about the history of both her family in Selah and the property their house resides on, which was purchased by her parents and given to her and her husband. She talked about the amenities of their house and the deterioration of the quality of life by approving a development such as this. She felt sure that most people, including Council Members, would prefer not to have a project like this close to where they lived, adding that there is a sense of bulk and denseness from the units already constructed. She prayed that Council would have the strength and courage to make the right decision by repealing the Class II Use on the northernmost lot of the Whispering View Development.

Ken Harper, Menke Jackson Beyer, LLP, approached the podium and addressed the Council. He stated that the law will not support a decision based on community displeasure; this case is about the legal standards of Selah's codes, but Mr. Fickes pulls City staff and the developer into his argument, blames staff for their handling of records requests, and argues that the Planning staff and City administrator treated the community unfairly. He noted that there was no appeal of the SEPA, and that the SEPA analysis for the Class II Use Review was folded into the Planned Development SEPA decision. He went on to say that there is nothing in the code that prevents the issuing of building permits, and that Mr. Torkelson received a letter from City Attorney Noe outlining the risk involved in building before a

decision was made on the appeal. He remarked that Mr. Fickes makes number of direct comments and insinuations regarding City Administrator Wayman's integrity, but the City's attorney explained that there is no appearance of fairness violation. He referred to a large photograph entered as an exhibit by the appellant's attorney, noting that there were no conditions to mitigate the impact of these structures on the surrounding neighborhood, and that Mr. Torkelson has a property right to build twelve units per acre per the Comprehensive Plan. He referred Council to the brief he filed as additional reference, asking that they remember they would be required to explain the decision they make in a court of law if the majority choose to overturn the Class II Use Review.

Carl Torkelson, 101 Heritage Hills, approached the podium and addressed the Council. He explained that the reasoning behind building from the back forward is to minimize construction equipment driving through areas where people are living, and that he requested a Class II because he was running out of work for his crews. He stated that he was approached by one of the people collecting signatures on the petition, who obviously didn't know who he was, and that the person was giving people misinformation about his project. He said that the connections to attach these buildings were approved by Judge Hackett in court, and that they're called closet connections because they had to serve a utility. He added that, prior to him buying the property from Mr. Bowers, the man had talked with the Teskes about purchasing the property, informing them that it was zoned R-2, and they opted not to purchase it. He referred to the Hearing Examiner's findings and conclusions regarding setbacks, adding that he went up the neighborhood two Council Members reside in, measured from house to house across the street and found that those houses were the same distance apart as his buildings are from the Teskes' house. He submitted a pictures regarding the Teskes' house, which showed few windows on the south side, while having ample in the front. He finished by saying that City Administrator Wayman has a rental agreement with him, and pays the same amount as his other renters, with nothing to gain or lose by approving a Class II.

Council Member Ritchie asked that he describe what room the closet connection is in.

Mr. Torkelson responded that it's on the first level, usually right off living room, and is functional on one side.

Council Member Ritchie wondered if it was floor to ceiling.

Mr. Torkelson replied that it's like walking into a pantry; it holds whatever you want to hold.

Council Member Ritchie inquired if the back wall is the back wall of a closet on neighboring room.

Mr. Torkelson responded in the negative, saying that the closet connection serves one and abuts the other.

Council Member Ritchie commented that her issue with the order from Judge Hackett was whether he went back to court and got another order saying the closet connection was acceptable.

Mr. Torkelson stated that he brought the proposed closet connection to the Judge and it was accepted, then shortly thereafter the South Selah folks quit pursuing appeals; it was approved by the Judge directly.

Council Member Ritchie asked if, given his familiarity with the redraft, he would reapply under the new Chapter 10.24 if his Class II was denied.

Mr. Torkelson replied that he would not, as he would appeal in Superior Court. He added that he has no interest in doing a Planned Development under the new 10.24.

Council took a ten minute recess.

Mayor Gawlik opened the meeting for public statements, starting with those who spoke for the appellant.

Stella Whitehead approached the podium and addressed the Council. She said that the home she lives in was built by her parents in 1968, and that she lived next door to the Teskes. She commented that the project is in her line of vision as well, and stated that she agreed with the things said by the Teskes and Mr. Fickes. She felt the whole project was incompatible with the neighborhood, and that it reminded her of a bad marriage due to incompatibility. She added that there is an overwhelming wall of dense development compared with the surrounding area, and that it doesn't make sense. She urged the Council to repeal the Class II approval and have the developer find a better solution that is more compatible with the surrounding area.

Wayne Worby, 200 Weems Way, approached the podium and addressed the Council. He remarked that this whole thing is an emotional issue with a lot of ramifications as a result. He corrected Community Planner Durant, saying that the information he got from the County showed that it was proposed to change from R-1 to R-2 in 1999, and was adopted without notice in 2000, then brought into the City as medium density. He opined that the appearance of a possible conflict of interest is almost as important as whether one happened, and that he has discussed with Mayor Gawlik why he feels City Administrator Wayman shouldn't hear Class II matters, but should send them to the Hearing Examiner. He also pointed out that the closet connection isn't on the first floor; level one is the second floor of the units. He provided a bit of background as to why he started looking into Planned Developments to begin with, and that Mr. Torkelson had discussed with him how to go about doing one. He stated that City attorney Noe arrived at a conclusion regarding the Bowers property that indicated an error, and the application was then withdrawn.

City Attorney Noe responded that he did not use that word.

Mr. Worby asked him to confirm that he didn't use the word 'withdraw'.

City Attorney Noe replied that he didn't use it as the basis for his conclusion.

Mr. Worby said that, in the short plat application, Mr. Torkelson wanted to have duplexes on each lot along with a twenty foot road designed to serve those eight duplexes. He reminded Council of their decision regarding the Somerset II private road, and that Mr. Torkelson had said earlier that evening that he wouldn't build a Planned Development under the new version of 10.24. HE felt that one can't minimize compatibility, and urged the Council to do the right thing in not allowing this development to continue.

Shirley Johnson Hoy approached the podium and addressed the Council. She said that she agreed with the Teskes and their lawyer, as what's being developed isn't good for City or school traffic. She remarked that Selah is known as a veteran community, and asked why the developer couldn't build homes with yards and sidewalks for kids.

David Gordon, 90 Columbus Way, approached the podium and addressed the Council. He observed that it's been quite educational listening to how things operate. He said that his family moved to the area approximately five years ago, and that he wasn't too excited to hear about a forty-eight home development below his house. He remarked that he discussed a retaining wall with Mr. Torkelson, feeling that it would help with safety issues for the folks living in the area. He noted that he's looking into moving further out from town to avoid having another large development so close to where his family lives.

Mayor Gawlik closed the public meeting.

Community Planner Durant clarified that the letter sent to Mr. Torkelson stated that he could proceed at his own risk. He addressed the matter of timing, saying that the letter sent to Mr. Torkelson was notifying him of the appeal, and that the timing is consistent with the filing of the appeal. He noted that the City doesn't have anything in the Code that requires a stay regarding permits with an appeal is filed, unlike Yakima County.

Mayor Gawlik asked Council if they have questions or need clarification on anything.

Council Member Ritchie requested that City Administrator Wayman be sworn in.

Mayor Gawlik swore him in.

Council Member Ritchie asked when he started with the City.

City Administrator Wayman replied that it was May 1, 2015.

Council Member Ritchie inquired when Mr. Torkelson applied for a Class II review.

Community Planner Durant responded that it was May 19th.

Council Member Ritchie asked City Administrator Wayman if he lives in Whispering View.

City Administrator Wayman replied that he lives in the third townhome, at 200 Breezy Way.

Council Member Ritchie wondered when he signed the lease.

City Administrator Wayman responded that he signed it three days prior to starting work.

Council Member Ritchie asked that he confirm no personal relationship with Mr. Torkelson aside from work, and no socializing.

City Administrator Wayman replied that he has shared a beer with him.

Council Member Ritchie inquired if it was more than one.

City Administrator Wayman responded in the affirmative.

Council Member Ritchie wondered if he was aware of the Planned Development application when he approved the Class II review.

City Administrator Wayman replied that he was aware of the Planned Development but not aware of a Class II at the same time.

Council Member Ritchie restated that, when he received the Class II application, he knew it was part of a larger development.

City Administrator Wayman responded in the affirmative.

Council Member Ritchie Laura asked if that was the first Class II he had reviewed.

City Administrator Wayman replied in the affirmative.

Council Member Ritchie inquired as to what record he used in making his decision.

City Administrator Wayman responded that he had an entire package put together for the Class II application; it was presented for review and he approved it.

Council Member Ritchie wondered if it was the same one given to the Hearing Examiner.

City Administrator Wayman replied in the negative, saying that the Class II was a modification to the existing unit.

Council Member Ritchie asked if he had letters from the community provided for his review.

City Administrator Wayman Don responded in the affirmative.

Council Member Ritchie commented that the review didn't include sewers or a traffic study.

City Administrator Wayman stated that there was an ongoing SEPA review at that time.

Council Member Overby asked for clarification regarding the connection, wondering if sharing a common wall would be approved.

Community Planner Durant replied in the affirmative, noting that the closet also serves as a physical connection.

Council Member Sample remarked that several facts regarding Somerset II are inaccurate. He read from the Hearing Examiner's report regarding the issue of density, saying that the Examiner stated that wasn't really a factor. He commented that there is not substantial evidence that rentals will have an adverse effect, and that he doesn't believe the Council can legislate as to whether they can be rentals. He noted that there are a number of single family residences within Selah that are rental properties as well. He talked about attending the Planning Commission meetings regarding the rewrite of 10.24, and that those attending didn't want a better version, they wanted it gone.

Council Member Tierney had no comment.

Council Member Smeback said that he was thorough in reviewing the materials provided, starting with City Administrator Wayman's Class II review. He remarked that he was serving on the Council when some County residents approached the City about an annexation, and that there was a lot of discussion about the R-2 zoned property and whether to leave it zoned that way. He noted that people were informed as part of the process of annexation. He stated that he also discovered that City administrator had enlisted the help of Community Planner Durant, Public Works Director Henne, and other staff, as well as reviewing it with City Attorney Noe. He observed that the bone of contention is the issue of compatibility, and shared with his fellow Council Members some photos he'd taken of the area. He indicated Mr. Teske's house, saying that it is a three story house with a daylight basement.

Mr. Teske responded that he is looking at the one side with a daylight garage, and that the only side to have a second story in the north side, which makes it inaccurate to call it a three story house.

Council Member Smeback replied that he sees a garage with two stories on top, as it's a daylight basement, not a hidden one.

Mr. Teske stated that he doesn't have a three story home as he understands the definition of one.

Council Member Smeback pointed out that the nearby barn has a peak of roughly thirty to thirty-two feet tall.

Mr. Teske responded that the barn sits far away from where he lives, and he has no idea how tall it is.

Council Member Smeback addressed the issue of neighborhood compatibility, saying that within a thousand feet of the Teskes' home are some very nice homes along with some mobile homes and older homes, and a mobile home court within a hundred feet. He remarked that Council has to pay attention to codes and ordinances when making their decision.

Council Member Smeback moved, and Council Member Overby seconded, to Approve the Class II Review and Deny the Appeal.

Council Member Ritchie commented that it's a hard decision, and that she wished City Administrator Wayman had sent the matter to the Hearing Examiner. She felt that it would be appropriate to remand the matter back to the Hearing Examiner.

Council Member Ritchie moved to remand the decision to approve the Class II Review to the Hearing Examiner for his determination as to approval.

Mayor Gawlik noted that there is a counter-motion on the table.

City Administrator Wayman stated that it would get remanded to the Planning Commission, not the Hearing Examiner.

Council Member Ritchie altered her motion to remand the decision to the Planning Commission, not the Hearing Examiner.

Roll was called on the approval of the Class II review and denial of the appeal: Council Member Overby – yes; Council Member Tierney – yes; Council Member Smeback – yes; Council Member Sample – no; Council Member Ritchie – no. Motion passed with three yes votes and two no votes.

Council Member Ritchie's counter motion died.

2. Resolution adopting the Selah Transit Development Plan, including the annual report for 2014 and six-year Plan 2015-2020

Assistant to the City Administrator Potter addressed M – 2. He briefly touched on the reason for the adoption of the annual report and six year plan, reminding Council of the required Public Hearing held earlier that night.

Council Member Overby moved, and Council Member Smeback seconded, to approve the Resolution adopting the Selah Transit Development Plan, including the annual report for 2014 and six-year Plan 2015-2020. Roll was called: Council Member Overby –yes; Council Member Tierney – yes; Council Member Smeback – yes; Council Member Sample – yes; Council Member Ritchie – yes. By voice vote, approval was unanimous.

- * 3. Resolution Authorizing the Mayor to sign Amendment #1 to the Professional Service Agreement with the Yakima Valley Conference of Governments (YVCOG) For Professional Services to update the City Growth Management Act (GMA) Comprehensive Plan
4. Resolution Approving the Preliminary Plat of “Whispering Views Estates” (912.45.14-02) and Adopting Findings and Conditions of Preliminary Plat Approval.

Community Planner Durant addressed M – 4. He said that the Resolution approving the preliminary plat and the Ordinance approving the rezone to Planned Development go hand in hand. He remarked that the Hearing Examiner had recommended denial only on the basis of incompatibility of the top tier of lots with surrounding land uses, but that staff recommends that Council overturn the Hearing Examiner's recommendation and approve the preliminary plat and Planned Development. He noted that the same argument made for the Class II review apply, and that the City doesn't have standards to deal with view obstruction or architectural styles. He recommended approval with the conditions listed on the Resolution.

Council Member Overby noted that the Class If shows only six units.

Community Planner Durant replied that it showed eight, with two large open space tracts for recreation space, and that the density is met over the entire development. He noted that the applicant would prefer to do the Planned Development and possibly abandon the Class II.

Council Member Overby wondered if they were closet connections or freestanding.

Mr. Torkelson responded that they are freestanding.

Council Member Smeback observed that the plat design has an area with eight additional parking spots, and that the road in the southeast corner has an 's' design.

Community Planner Durant replied in the affirmative.

Council Member Smeback asked for confirmation that it has two entrances.

Community Planner Durant responded in the affirmative.

Council Member Tierney asked Fire Chief Hanna if the 's' curve is sufficient to handle all emergency equipment or other responding agencies through mutual aid.

Fire Chief Hanna replied that it's adequate for their largest vehicles, which are typical of other departments, although he isn't sure about the ladder truck from Yakima.

Council Member Tierney inquired if he was satisfied with it.

Fire Chief Hanna responded that, as a secondary access, his opinion when reviewing was that the distance exceeding the grade was short, and it's wide enough provided there's no parking on either side. He noted that the radius of the turn has been checked.

Council took a ten minute recess.

Mr. Harper approached the podium and addressed the Council. He drew their attention to a series of photographs that capture one key part of the Planned Development as reflected in other Torkelson Construction projects throughout Selah.

Mr. Fickes objected to the introduction of new evidence.

City Attorney Noe replied that, if he says it's already on record, he can continue.

Mr. Harper continued, pointing out that nothing that shows a diminishing of the areas where these projects are, and that their view is approval with the conditions reflected in the staff report.

Council Member Overby suggested imposing a time limit of five minutes for testimony.

Mayor Gawlik stated that they will be limited to five minutes.

Mr. Fickes approached the podium and addressed the Council. He objected to the hearing, saying that neither himself or the Teskes received notice of the rezone. He said that the Hearing Examiner's decision should be upheld, and that Mr. Torkelson has to show his reasons for the rezone. He referred Council to his briefs, noting that a rezone is different from a Class II review, and that he thinks the record overwhelmingly shows this should be denied. He felt that the decisions made tonight were inappropriate and unfair.

Mr. Teske approached the podium and addressed the Council. He spoke briefly about the Hearing Examiner's recommendation of denial, saying that Planned Developments aren't required parts of municipal code and that this subdivision is incompatible with the existing neighborhood. He remarked that the decision made tonight will be felt way into the future, and urged them to please take the matter seriously.

Mr. Worby approached the podium and addressed the Council. He said that there is an issue as to whether it's a legal application. He stated that he examined the file and also talked with Community Planner Durant, holding up a copy of an application as he talked.

City Attorney Noe observed that he was showing new evidence, not part of the record.

Mr. Worby replied that it's exactly his point.

Mr. Harper stated his objection to the new evidence.

Mr. Worby responded that it isn't a new application; it was withdrawn a couple months later verbally, and that a subsequent application wasn't put in place. He asked Community Planner Durant to confirm that he asked him about the matter.

City Administrator Wayman stated that cross examining is not appropriate.

City Attorney Noe reminded Mr. Worby that this is a closed record hearing, and he cannot continue to discuss the matter.

Council Member Overby added that he was at the five minute limit as well.

Ms. Johnson Hoy approached the podium and addressed the Council. She wondered if they had gotten three fire hydrants in the Planned Development.

City Administrator Wayman responded in the affirmative.

Council Member Ritchie asked if anyone had a copy of the Ordinance that gives decision making criteria for rezoning.

Council Member Smeback said that the Hearing Examiner contradicted himself when it came to the matter of compatibility and seemed to give up on making a decision about it. He noted that there are a substantial amount of people in the community who fit the development being proposed, and that he feels the proposal is compatible with a good share of those in the community who are buying or renting these things as fast as they are built.

Council Member Tierney agreed with Council Member Smeback regarding the Hearing Examiner's recommendation.

Council Member Sample had no comment.

Council Member Overby remarked that everything that could be said has been, and that references to the proposed 10.24 rewrite are irrelevant as it hasn't even been adopted by Council. He commented that it may be the last time they see anything like this in Selah again, adding that the Council has to follow the rules as they exist.

Council Member Ritchie observed that upholding the Class II Review takes the matter out of the Hearing Examiner's hands. She stated that the code is defective, which is why it is currently being worked on, and touched on the concerns regarding sidewalks and safety that she expressed at the last meeting when discussing Somerset II. She wished there were stricter standards in place regarding density.

Council Member Smeback moved, and Council Member Overby seconded, to approve the Resolution Approving the Preliminary Plat of "Whispering Views Estates" (912.45.14-02) and Adopting Findings and Conditions of Preliminary Plat Approval. Roll was called: Council Member Overby –yes; Council Member Tierney – no; Council Member Smeback – yes; Council Member Sample – yes; Council Member Ritchie – yes. Motion passed with four yes votes and one no vote.

N. Ordinances

1. Ordinance Amending Ordinance No. 1634 Zoning Map Amendment No. 914.45.14-01 Rezone to Planned Development

Community Planner Durant addressed N – 1. He stated that this is the second part of the decision to be made regarding the Planned Development.

Council Member Smeback moved, and Council Member Tierney seconded, to approve the Ordinance Amending Ordinance No. 1634 Zoning Map Amendment No. 914.45.14-01 Rezone to Planned Development. Roll was called: Council Member Overby –yes; Council Member Tierney – no; Council Member Smeback – yes; Council Member Sample – yes; Council Member Ritchie – yes. Motion passed with four yes votes and one no vote.

- * 2. Ordinance Amending the 2015 Budget for the Replacement of Carpet at City Hall

O. Reports/Announcements

1. Mayor

Mayor Gawlik had no report.

2. Council Members

Council Member Ritchie had no report.

Council Member Overby had no report.

Council Member Sample had no report.

Council Member Tierney had no report.

Council Member Smeback had no report.

3. Department

Fire Chief Hanna said that he applied for a FEMA grant last December, to replace their SCBA units, and that he was notified last Friday that they have been awarded a three hundred and twenty-eight thousand dollar grant for equipment replacement.

Public Works Director Henne had no report.

Community Planner Durant had no report.

Police Chief Hayes had no report.

Recreation Manager Brown had no report.

City Administrator Wayman had no report.

City Attorney Noe had no report.

4. Boards

a. Planning Commission Minutes – August 4, 2015 Meeting

P. Executive Session

i. 30 Minute Session – Potential Litigation RCW 42.30.110 (1) (i) **RELOCATED**

Q. Adjournment

Council Member Overby moved, and Council Member Ritchie seconded, that the meeting be adjourned. Motion passed with four yes votes and one no vote.

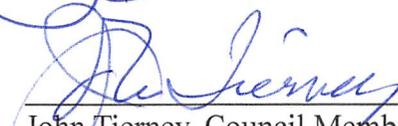
The meeting adjourned at 12:14 am.



Paul Overby, Council Member



John Gawlik, Mayor

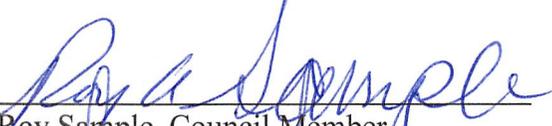


John Tierney, Council Member



Dave Smeback, Council Member

EXCUSED
Allen Schmid, Council Member



Roy Sample, Council Member

EXCUSED
Jane Williams, Council Member



Laura Ritchie, Council Member

ATTEST:



Dale E. Novobielski, Clerk/Treasurer