City of Selah
Council Minutes

January 13, 2009

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

A. Call to Order — Mayor Pro Tem Larson called the meeting to order at 3:59pm.

B. Roll Call

Members Present: Kevin Jorgensen, Keith Larson, Denise Nichols, Paul Overby, Herb Schmidt, John Tierney

Members Excused: Summer Derrey

Staff Present: Frank Sweet, City Supervisor; Bob Noe, City Attorney; Jerry Davis, Fire Chief; Stacy Dwarshuis, Police Chief; Joe Henne, Public Works Director; Dennis Davison, Community Planner; Jeff Hagler, Parks & Recreation Director; Dale Novobielski, Clerk/Treasurer

C. Pledge of Allegiance

Mayor Pro Tem Larson led the Pledge of Allegiance. Councilman Schmidt led the group in prayer.

D. Agenda Changes

The Mayor Pro Tem announced the addition of Item H – 1, Proclamation Dr. Martin Luther King, Jr. Week January 18 through 24, 2009, to the Agenda and removal of Item J – 2, Public Hearing To Consider the West Yakima Avenue Right-of-Way Petitioned by Rick and Ann Washut, and Item L – 1, Request To Vacate a Portion of West Yakima Avenue Right-of-Way, from the Agenda.

E. Public Appearances

F. Getting To Know Our Businesses

G. Communications

1. Oral

**Note - Prior to the meeting, SSNA member Dave Hoffert asked that envelopes be given to each Council Member and to City Supervisor Frank Sweet. Those envelopes contained the following:

- a copy of the Order on South Selah Neighborhood Association's Land Use Petition Act Appeal (with Judge Hackett),

- a two-page document citing Selah Municipal Code and referencing statements made before the Hearing Examiner,
- a letter from Carmen Lowrie,
- a letter from Dave Hoffert, and
- a letter from Katy Fontaine.

Katy Fontaine, 510 Southern, addressed the Council, noting SSNA provided information to Council Members. She read her statement:

> "On Dec 31, 2008 and Jan 9, 2009, in Yakima Superior Court, the Honorable Judge Robert Hackett reviewed transcripts, testimony and heard arguments regarding the South Selah Neighborhood Association's SEPA appeal for the development proposed by Torkelson Co. at 605 Southern Ave. Although he could not find legal recourse for some of our concerns, regarding traffic, and public safety, he did affirm his decision that the Townhouse structures are single family dwellings, and not multi-family structures. These structures and the project itself have been ruled inconsistent with zone designation in our Superior Court system for the second time. The structures as they exist today, have now been declared illegal by the court. The court's decision must be respected. All construction activity should cease immediately at 605 and 503 Southern Avenue. The permits issued are now invalid, and should be revoked along with the permits for occupancy for the east end units. The developer now must submit a new plan that will comply with the zone. And a new review process must be conducted and public notice provided before any further construction activity is engaged. It is not acceptable to make a few minor changes and say it is fixed, nor should this issue be resolved behind closed doors without the proper process observed.
>
> It is the collective opinion of our organization that errors in decision making have been made by the developer and by the City. Municipal Code application and compliance was (sic) not followed. Applicable rules have been circumvented and detrimental environmental impacts have not been adequately recognized. The seriousness of high density housing added to the impact of an already congested traffic issue along North 1st Street (sic) is being ignored, simply because the traffic rating can go no lower than it already is. Does this somehow negate there is no problem? At this point in time, there are no long range plans or funding plans in place to meet the growing traffic needs along South 1st St.
>
> Permits were issued in-spite of pending appeals. We feel this is a mockery of the very system put into place to protect the rights and interests of citizens and potential developers to ensure an orderly and fair process for growth and development. Please ask yourselves what is the point of an appeal process if it means nothing in terms of the contractor being given the green light to proceed with construction? Substantial importation of fill and grading was conducted long before a grading permit was issued. Why is the City not requiring the developer to comply with its own rules and regulations? The grading permit appeared in April of 2008 only after pressure from the SSNA."

At this point the Mayor Pro Tem asked Ms. Fontaine if she had much more to read.

She responded that she had two more paragraphs.

> "The developer has been informed and made public acknowledgement that he proceeds at his own risk. I remind you that this is his burden to bear, and not the City's.
>
> From the mysterious zone change in 2005 from R1 to R3, when the Planning Commission and Council adopted the Comp Plan, the "big picture" here is that something is terribly wrong. This project and the project adjacent at 503 do not fit nor (sic) meet City Code ordinances.
>
> The burden of responsibility now lies with the Council and the City leaders to rectify this mess. You took an oath to represent your community and uphold the law and statutes of the Comprehensive Plan, and the City Municipal Codes among other responsibilities. The City must consider both developer rights and the rights of the citizens and uphold that law. A fair and equal, orderly process should be observed for all parties involved.

> The South Selah Neighborhood Association remains committed to our principles and efforts. We are not going away. We welcome the opportunity to work with the City and developer to find a reasonable and equitable solution.
>
> She said the council could read the rest of her comments, but that she would like to conclude with a quote from Robert F. Kennedy: 'Every time we turn our heads the other way and see the law flouted and we tolerate what we know to be wrong, and we close our eyes and ears to the corrupt because we are too busy or too frightened, when we fail to speak up and speak out, we strike a blow against freedom and decency and justice.'"

She thanked the Council for their time and consideration, saying the SSNA looks forward to seeing how the Council is going to follow the court's direction."

Dave Hoffert, 606 Southern, addressed the Council representing SSNA. He read in part from a letter included in the materials given to Council Members prior to today's meeting. He began by asking the Council if they are familiar with Selah Municipal Codes 21.13.060 and 21.13.070.

> "Under oath during the hearing examiner phase of our appeal, developer Carl Torkelson testified that the arm extension between the buildings had a function for the wiring to run from one building to the other, also, City attorney Bob Noe, and Torkelson's attorney Ken Harper, testified in Superior court to that effect.
>
> None of that is truthful, this is a deception and a fraud, and in itself constitutes revoking the permits for both 605 & 503.
>
> I personally called the Washington state electrical inspectors office, and confirmed with the inspector that absolutely no wiring or conduits ran between the structures and none was present in the extension that Torkelson, his attorney, and the City attorney called a 'wire chase.'
>
> Now with a Superior court ruling that the structures are illegal, what will convince this council to put a stop work order, revoke the permits, and force this project to go through the proper channels?"

Mr. Hoffert concluded, noting the Council could read the remainer of his remarks.

Mayor Pro Tem Larson thanked Mr. Hoffert and asked if others would like to speak. When no one rose to speak, the Mayor Pro Tem moved on to Written Communication.

Councilwoman Nichols asked if the Council would discuss the SSNA concern or how would it be best to handle it.

City Supervisor Frank Sweet said if the Council is going to discuss this, it would be proper to let staff prepare information, put it on the next Council Meeting agenda and then discuss it. He said it seems a little awkward to expect the Council to discuss something they only received ten minutes before the Council Meeting. He noted Council was provided with a copy of Judge Hackett's decision, and now he and staff are waiting for the contractor to get back to them. He noted that the Judge did rule that the City followed every procedure correctly including environmental issues, and that seems to have been overlooked in the discussions of the ruling.

Councilman Tierney stated he believes this issue should be discussed at the present time because action is needed now because construction continues at 503 even though a Superior Court Judge has told us the structures are illegal. He said he didn't see how the Council can allow building to continue. He stated if the buildings are illegal then the occupancy permits are probably illegal as well, and some of those structures are now occupied. He asked if the City is in the position to stop construction at this time until such time as the

contractor comes back to us. He noted that should the Council table this for another two weeks, the construction continues, they continue making progress they continue to build when, in fact, what they are building is illegal.

City Attorney Bob Noe said he will discuss the possibility of issuing stop work orders with the Planning Department. He noted the Judge did not say the work has to stop, he did say the structures don't comply with the zoning. He said he was expecting Mr. Torkelson to have something to the City immediately upon the issuance of the Judge's order.

Councilman Overby noted the order became official on Friday, January 9, 2009. He said he shares Mr. Hoffert's concern that there is no electrical conduit between buildings. He said he understands that the reason the buildings were not joined initially was to avoid the "high density." He said it looks like the Judge would like the units to have greater density.

The City Attorney said he's not sure the judge wanted it more dense, rather that he indicated the structure should be joined more substantially.

Councilman Overby said he is curious about how the contractor will do that since the footing are already in place.

Mr. Noe said it is kind of a mystery to us. He said what Judge Hackett did give us was that three things must be met: a structural component, some utility to whatever is built there, and something to increase the livability. He said they're waiting for the developer to come back with something that would supply those three things.

Councilman Tierney said, "Torkelson can drag his feet, and drag his feet, and drag his feet and continue to construct and construct and construct." He stated this Council should aggressively lay the ground rules for what needs to be done. He said it shouldn't hang on the contractor, rather it should be up to the Council. He noted that if the Council made Mr. Torkelson stop, he'd get on the ball with what needs to be done.

Mr. Noe said we need to look at the timeline. He said Mr. Torkelson represented that he would bring something in immediately.

Councilman Schmidt said he can appreciate what the City Attorney is saying, but if we don't move at this point as a Council then it's fine for the Planning Commission or Dennis or Joe, but then we're two weeks out because the Council needs to act on this.

The City Attorney said that actually the staff needs to act on it.

Councilman Schmidt asked if staff can issue a stop work (order).

Mr. Noe stated the staff has the power to issue a stop work order.

Councilman Tierney asked if the Council can direct the staff to issue a stop work order.

Mr. Noe said he doesn't think that as a Council they can direct staff to do that, but staff is obviously listening to the Council's concerns.

Councilman Overby said even in the event that Torkelson appeals this, at least stopping any work on it now will mitigate it and if he does lose the appeal it will mitigate some of his own losses. He said he is concerned about structures being occupied, because once they are built and occupied, it is harder to go back in time.

Councilman Schmidt asked who gave order for occupation.

The City Supervisor said there was no reason not to issue it.

Public Works Director Joe Henne said there is a certificate of occupancy.

The City Supervisor said the Council can direct, but it is wise to allow legal counsel to advise the Council on what is legally allowable to do considering the court decision, to guide the City through this. He noted it is not wise to act on emotions as the City moves forward to avoid liability from Torkelson as well as the SSNA and to comply with the judge's orders. He noted those orders were issued sometime late Friday afternoon, and this is Tuesday. He noted that is not a lot of time for either the developer or the City to sit down and analyze what the ramifications are or what the remedies are. He said a little bit of time to analyze what the legal position that we should be taking would be in order.

Councilman Tierney said there was a preliminary verbal decision about two and a half or three weeks ago which should have given Torkelson ample time to prepare for that final decision.

The City Supervisor said he could not speak for Torkelson or Carmody or anybody, all he knows is that the written decision was made three days ago.

The City Attorney said between the oral ruling and today's ruling, there were two or three steps to get the judge to clarify the order and reduce it to writing. He noted Torkelson has been working to get the judge to reduce it to writing. He said he didn't know what they've been doing in terms of proposing a "fix" to make it comply with the court's order now that we have a court's order.

Councilman Tierney went on record as supporting a stop work order on this just to get Torkelson to the table.

Councilwoman Nichols said she understands that the City has not had adequate time to consider this, but there has been a lot of information between the parties on this issue, a lot of which has been misinformation. She expressed her hope that the City Supervisor would check out what Mr. Hoffert has said about the electrical.

The City Supervisor responded that he will read and analyze everything that has been presented to determine fact, fiction, whatever, but cautioned that he and the staff will need to have time to do that.

The City Attorney said in regard to the electrical wire through to chaseways, in the hearing before the Hearing Examiner Mr. Torkelson said there was conduit, but at some point later he retracted that. He said the record that went to the court contained that, causing the judge to ask directly if there was really electrical conduits going through these. He said the answer was "no, there is not." He said that as far as he knows, there is not electrical conduit.

Councilman Tierney remarked, "Honesty beats perjury."

Councilman Overby said he understands where the City Supervisor is coming from. He said it would be prudent for Torkelson to halt construction even for his own protection.

City Supervisor Frank Sweet said he anticipates Torkelson will address the three criteria this week. He said he also thinks that the contractor will not proceed until he has an idea of what is going to satisfy that court order. Councilman Tierney said Mr. Torkelson was down driving nails today.

Mayor Pro Tem Keith Larson said if the Council did take action today and it is eventually proven that Torkelson has the ability to mitigate this issue or challenge it, we could be on the hook for lost opportunity.

The City Supervisor asked if it is the Council's wish that the City ask Carl Torkelson to stop. He suggested the City could advise Carl to stop. Councilman Overby expressed concern about liability.

The City Attorney said he did not believe it would be a significant amount of time for a stoppage, since Harper and Torkelson said they will have something to the City by the end of this week. He said staff can talk about issuing that.

Councilwoman Nichols asked the City Supervisor to let Council Members know.

The City Supervisor said he will let the Council know tomorrow.

The Mayor Pro Tem moved on to Written Communications.

2. Written

a. Department of the Army – Public Scoping Information

Councilman Overby said Item G - a has the greatest implications on the City of Selah with greater demand for public services. He noted the City needs to be involved in this planning of increasing troop presence at the Training Center. He said he plans to attend the meeting and hopes that someone from Planning would as well.

The City Supervisor suggested the City might plan to run Yakima Transit out there as well.

b. Yakima County Water Conservancy Board Public Hearing Notification

c. WA State Boundary Review Board for Yakima County Member Recruitment

d. Charter Communication Announcement Re: FOX in HD

e. Charter Communication Announcement Re: Starz & Encore

f. YVCOG Potential Economic Stimulus Transportation Project List

g. Summary Stats for Selah Library 2008 from Michael Martin, Community Librarian

In regard to Item G - 2g City Supervisor Frank Sweet stated that Librarian Michael Martin has done a fantastic job.

Councilman Schmidt said he has had a number of people talk to him about the public library who also commended Michael Martin.

H. Proclamations/Announcements

1. Proclamation Dr. Martin Luther King, Jr. Week January 18 through 24, 2009

The Mayor Pro Tem read the Proclamation.

Councilman Tierney noted that the US is a republic not a democracy.

I. Consent Agenda

* 1. Approval of Minutes: Council Meeting & Study Session December 9, 2008
* 2. Approval of Claims & Payroll: Payroll Checks Nos. 64913 – 64989 for a total of $124,012.04, Payroll: Payroll Checks Nos. 64990 – 65077 for a total of $168,067.31, Claim Checks Nos. 53115 – 53116 for a total of $662.68, and Claim Checks Nos. 53117 – 553202 for a total of $143,350.34.
* 3. M – 1 Resolution Adopting the Amendment to the Solid Waste Collection Contract between the City of Selah and Basin Disposal, Inc. Effective January 1, 2009
* 4 M – 2 Resolution Authorizing the Mayor Pro Tem To Sign a Legal Advertising Contract with the Yakima-Herald Republic for the 2009 Calendar Year
* 5. M – 3 Resolution Authorizing the Mayor Pro Tem To Sign a Legal Advertising Contract with the Selah-Independent for the 2009 Calendar Year
* 6. M – 4 Resolution Accepting the East Fremont Avenue TIB Improvement Project as Complete and Authorizing Release of Retainage when Conditions Have Been Satisfied
* 7. ~~M – 5 Resolution Accepting the 2008 Road and Alley Improvement Projects as Complete and Authorizing Release of Retainage when Conditions Have Been Satisfied~~ removed at the request of Councilman Tierney
* 8. M – 6 Resolution Authorizing the Mayor Pro Tem To Sign a General Service Contract with Pacificorp for Electrical Service at Well No. 6
* 9. M – 7 Resolution Authorizing the Mayor Pro Tem To Sign the Right-of-way Easement to Pacificorp for Electrical Service at Well No. 6
* 10. N – 1 Ordinance Amending Ordinance 1737 Establishing the 2009 Salary Schedule for Management, Confidential and Unrepresented Employees To Show Two-Year Phase-in of Salaries for Firefighter/EMT and Firefighter/Administrative Assistant
* 11. N – 2 Ordinance Amending the 2009 Budget for Consulting Services for Analysis and Strategy for the City of Selah's Pool at Wixson Park

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

Councilman Tierney requested removal of Item M – 5 from the Consent Agenda.

Councilman Overby moved and Councilman Tierney seconded to adopt the Consent Agenda with the exception of Resolution M - 5. By voice vote, the Consent Agenda was unanimously adopted.

Councilman Tierney expressed concern about the check list on Item M - 5.

J. Public Hearings

1. Public Hearing To Consider the Johnson-Snodgrass Annexation

Community Planner Dennis Davison addressed item J - 1 Public Hearing, noting the Johnson Snodgrass Annexation originated in 2006 and the petitions failed in February 2008. He stated the original annexation

was for property north of Speyers Road, but the Council expanded the boundary to include 55 acres, "squaring off" the western boundary and including property both north and south of Speyers Road. He stated the proponents are required by law have to have at least 60% of assessed value sign the petition in favor of annexation. He said property owners of 12 parcels submitted in favor (out of 16 parcels proposed for annexation) with $1,460,000 in value equal to 72.17% of value of all of the properties. He said he has received calls with questions. In addition he has received letters of both support and opposition. He said with the number he now knows are opposed to it, he anticipates value will drop from 72 to 50%, but as it comes to the Council, it is signed for 72%. He noted Mr. Ruddick and one other individual oppose the annexation. He noted the minimum of 60% of the value is required to get it to the Public Hearing, beyond that there is nothing in the RCW that tell Council what they would have to have to approve the annexation.

The Mayor Pro Tem opened the Public Hearing.

Mary Clark, 101 Lynwood Lane, addressed the Council, noting she has had several conversations with Mr. Davison. She said originally she did not want to sign the petition and then she was pressure to sign by Chuck Johnson. She said she and Chuck Johnson are still at odds, explaining there is a small strip of land under contention. She said Chuck Johnson threatened her if she didn't sign the petition, and that Mr. Davison said there would be no benefits to those residents except to pay tax to the City. She said she feels as though she was forced into this.

Councilman Tierney suggested one benefit she would get would be improved service from the Selah Police Department.

In response, Ms. Clark asked what is happening with the motorcycle hill out there, saying she has complained to the county, but they've done nothing. She asked what the City would do as far as the motorcycles in that area. She reiterated that she doesn't see a benefit. She said the County finally did post the property. She said she got caught in the middle.

The Mayor Pro Tem said she is registered as a "pro" but basically sees no reason to support the annexation. He asked if others would like to speak.

Shane Snodgrass stated he represents his father who owns property at 1403 Speyers. He said he has been working with his father for several years to try to get his property annexed. He said this property has access to City water and sewer, whereas Mrs. Clark's property does not because it is farther west. He said the annexation has met all of the requirements. He noted the Comp Plan shows a need for growth to the west. He said this annexation represents 55 acres that would increase the tax base for the City and allow the growth forecast in the Comp Plan.

Leroy Bauman, 1301 Speyers, said he signed the petition, but doesn't want to be in the City. He said he can't see a benefit for those who already live there.

Nancy Wilson, 111 Lynwood Lane, said there was no benefit for her. She said that as a single mother with five boys, she would not be able to afford to pay for a City hook-up if her well failed. She asked if the City would plow the road or fill the ruts, noting if that's not going to get fixed, what's the point.

Public Works Director Joe Henne stated that if there is water within 200 feet, a resident is required to hook up. He noted if the road is private, the City won't maintain it.

Shane Snodgrass said if City utilities are not within 200 feet, then property owners do not have to hook up. He said Bauman and Snodgrass are the only ones who would be required to hook up, unless City utilities are extended by developers.

Mr. Henne said owners of property 200 feet outside current city limits could rebuild wells, provided the health department agrees. He said they look at "economic hardship" the cost of a well or a septic system.

Ms. Wilson said that the closer (Chuck Johnson) builds on that hillside, the closer City utilities will come to her home.

Councilman Paul Overby asked if the County could force her to hook up to City utilities if her septic system failed.

Mr. Henne responded that they might; if they feel the conditions warrant it, if the cost of re-drilling the well or putting in a new septic system would be greater than the cost of hooking up to City utilities.

Councilman Tierney asked if there is a possibility of making the hook-up of all the people in the area the responsibility of the developer.

The City Attorney said that would be a regulatory decision.

Councilman Overby said to keep in mind that the Council elected to expand the boundaries of the proposed annexation.

Mary Clark said the original proposal was only for the part north of Speyers Road. She asked why the City insisted on including her property.

The Community Planner explained that the Council wanted to "square-up" the boundary.

Ms. Clark said that is just an arbitrary decision; there's no reason to straighten out the boundary of the City.

Councilman Overby said he remembered discussion regarding difficulty for utility services to the south side of Speyers. He said it is not as arbitrary as it might appear.

Councilwoman Nichols said that's why we have a Public Hearing, so the public has as opportunity to give their input.

The Mayor Pro Tem pointed out that an irregular boundary creates problems if there are little pockets of property that choose not to be annexed. He said that explains why the Council has attempted to "square up" boundaries.

Mary Clark said only those living north of Speyers wanted this annexation.

The Mayor Pro Tem said that is why there's a requirement of 60% of assessed value to keep someone from dragging others into the City.

The Community Planner said there are people who signed in favor, but now do not continue to support. He said when he calculated it quickly, support has dropped to 50%.

The Mayor Pro Tem asked what needs to happen after the Public Hearing.

The Community Planner responded that the Council can adopt what they have in front of them and send it on to the Boundary Review Board, who would in turn hold a Public Hearing. He said the other options are to reduce the proposed annexation (redraw the boundary) or kill it.

Councilman Tierney asked how many of the seven property owners south of Speyers, supported the annexation.

The Community Planner said there appear to be three individuals south of Speyers that represent four parcels.

The City Supervisor suggested that the Council could direct staff to bring back boundary options to the Council.

Councilman Schmidt moved to direct staff to redraw boundaries and bring options back to the Council. Councilwoman Nichols seconded.

Shane Snodgrass said he was under the impression that once the 60% requirement was met to have the Public Hearing, it would move forward from there. He said he is confused by the process.

The Mayor Pro Tem explained that 60% threshold is required to get to the Public Hearing stage. He said the Public Hearing is so people can testify in favor or opposed. He said then the Council makes the decision, and if there is turmoil, it might be better to regroup.

The Administrative Assistant asked for clarification on the motion. **The motion was to direct staff to come back to the Council with the boundaries of the annexation redrawn to illustrate different options, to recalculate support based on those reconfigured boundaries and to have those reflect input received at the Public Hearing.**

Roll was called: Council Member Schmidt – yes; Council Member Overby – yes; Council Member Nichols – yes; Council Member Jorgensen – yes; Council Member Tierney – yes. Motion passed unanimously.

~~2. Public Hearing To Consider the West Yakima Avenue Right-of-Way Petitioned by Rick and Ann Washut~~

K. New Business

1. Selection of 2008 Mayor Pro Tem

Mayor Pro Tem Larson explained that the City Council elects a Mayor Pro Tem to take the Mayor's place in his absence. He noted he was elected in December to preside over the first meeting in January, but the Council is required to select the Pro Tem in January.

Councilwoman Nichols moved to designate Keith Larson as Mayor Pro Tem.

Councilman Schmidt said he made the motion last year to nominate Keith Larson, and he has done an excellent job. Councilwoman Nichols seconded the nomination. There were no further nominations. Roll was called: Council Member Schmidt – yes; Council Member Overby – yes; Council Member

Nichols – yes; Council Member Jorgensen – yes; Council Member Tierney – yes. Motion passed unanimously.

Councilman Tierney echoed Councilman Schmidt's praise for Mayor Pro Tem Larson.

L. Old Business

M. Resolutions

* 1. Resolution Adopting the Amendment to the Solid Waste Collection Contract between the City of Selah and Basin Disposal, Inc. Effective January 1, 2009

* 2. Resolution Authorizing the Mayor Pro Tem To Sign a Legal Advertising Contract with the Yakima-Herald Republic for the 2009 Calendar Year

* 3. Resolution Authorizing the Mayor Pro Tem To Sign a Legal Advertising Contract with the Selah-Independent for the 2009 Calendar Year

4. Resolution Authorizing the Mayor Pro Tem To Sign a State Operating Consolidated Grant Agreement between the City of Selah and the Washington State Department of Transportation

Ted Pooler addressed the Council, noting this item allows the City to receive $31,000 in grant money from the Department of Transportation, which is a redistribution of sales tax money to provide money for public transportation.

The Mayor Pro Tem gave high school students an opportunity to come forward and have their papers signed. They did so and left the meeting.

Ted Pooler continued, saying that population and other parameters determine the amount of the grant. He said cities can use it to offset transit expenses. He said they have estimated the cost for repair and paving of Civic Center parking lot is $60,000. He said the State has approved that project as an appropriate use of these grant monies. He said next year we anticipate a similar amount, so they plan to use two years of sale tax transit money to do that work and repay transit with grant money.

Councilman Tierney asked Mr. Pooler if we are assured to receive the grant given the State shortfall.

Mr. Pooler said the Councilman's crystal ball is as good as his.

Councilwoman Nichols asked about bike lanes and/or paths.

Mr. Pooler said the wording speaks to transit.

The City Supervisor said it is for public transportation.

Councilwoman Nichols said bike lanes are badly needed.

Councilman Tierney moved and Councilman Overby seconded to approve the Resolution Authorizing the Mayor Pro Tem To Sign a State Operating Consolidated Grant Agreement between the City of Selah and the Washington State Department of Transportation. Roll was

called: Council Member Schmidt – yes; Council Member Overby – yes; Council Member Nichols – yes; Council Member Jorgensen – yes; Council Member Tierney – yes. Motion passed unanimously.

5. Resolution Accepting the East Fremont Avenue TIB Improvement Project as Complete and Authorizing Release of Retainage when Conditions Have Been Satisfied

Councilman Tierney addressed Resolution M - 5, asking how the City can be assured work will be completed in the spring of '09 and if the City held back any retainage to ensure the completion. He said he was referring to punch list item 2.

The Public Works Director said they patched that, and it should have been a better patch, but they said they'd come back in the spring. He said we will release the retainage.

Councilman Tierney moved and Councilman Overby seconded to approve the Resolution Authorizing the Mayor Pro Tem To Sign a State Operating Consolidated Grant Agreement between the City of Selah and the Washington State Department of Transportation. Roll was called: Council Member Schmidt – yes; Council Member Overby – yes; Council Member Nichols – yes; Council Member Jorgensen – yes; Council Member Tierney – yes. Motion passed unanimously.

* 6. Resolution Accepting the 2008 Road and Alley Improvement Projects as Complete and Authorizing Release of Retainage when Conditions Have Been Satisfied

* 7 Resolution Authorizing the Mayor Pro Tem To Sign a General Service Contract with Pacificorp for Electrical Service at Well No. 6

* 8. Resolution Authorizing the Mayor Pro Tem To Sign the Right-of-way Easement to Pacificorp for Electrical Service at Well No. 6

9. Resolution Awarding the Construction Contract for Well No. 6 and the Zone 3 Pump Station to KRCI, LLC and Authorizing the Mayor To Sign Contract Documents as They Become Available

Public Works Director Joe Henne addressed Resolution M - 9, noting a bid opening was held last week, and bids came in at roughly 10% over the engineer's estimate. He said this is for construction of a pump house at Well 6 and Zone 3. He reminded the Council that they had previously passed a Resolution providing for equipment purchases for this construction which came in under the engineer's estimate, so there is still $26,000 in the fund to pay for the construction overage. He recommended the Council approve the resolution.

Councilman Overby moved and Councilman Schmidt seconded to approve the Resolution Awarding the Construction Contract for Well No. 6 and the Zone 3 Pump Station to KRCI, LLC and Authorizing the Mayor To Sign Contract Documents as They Become Available. Roll was called: Council Member Schmidt – yes; Council Member Overby – yes; Council Member Nichols – yes; Council Member Jorgensen – yes; Council Member Tierney – yes. Motion passed unanimously.

N. Ordinances

* 1. Ordinance Amending Ordinance 1737 Establishing the 2009 Salary Schedule for Management, Confidential and Unrepresented Employees To Show Two-Year Phase-in of Salaries for Firefighter/EMT and Firefighter/Administrative Assistant

* 2. Ordinance Amending the 2009 Budget for Consulting Services for Analysis and Strategy for the City of Selah's Pool at Wixson Park

O. Communications

1. Oral

P. Reports/Announcements

1. Mayor
2. Council Members
3. Boards
4. Departmental

a. Fire Department 2008 – 4th Quarter Newsletter

Parks & Recreation Director Jeff Hagler passed around a new brochure for Carlon Park, noting it will be used to promote activities at Carlon. He said there is a meeting of the Sports Commission tomorrow, and he will distribute brochures there.

Councilman Schmidt said consideration should be made for distribution of a stack of these to the Yakima Visitors Center.

Mr. Hagler continued, saying that Playland Park suffered approximately $4,000 worth of damage, barbeque grills, the arched bridge, sand for the volleyball and horseshoe pits. He said there is lots to do, and they started today. He said jail trustees are helping to remove gravel from the grass. He said the playground equipment is not going to be usable. He said he will bring recommendations.

Police Chief Dwarshuis said he'd like to promote the Business After Hours this evening at the Yakima Valley Credit Union from 5:30 to 7:00pm. He thanked the Council for surplussing the scooters, noting they brought in about $5,400. He praised the City departments for their quick and effective response to the flood.

Public Works Director Joe Henne reported they are just moving along trying to keep up with the snow and ice. He said the City did not experience the problems with the flood that many residents did.

Clerk/Treasurer Dale Novobielski said he has been busy wrapping up financials for 2008.

Fire Chief Davis noted his 4th quarter newsletter is in the packet. He said information was not accurate for EOC.

The Mayor Pro Tem asked if the Fire Department has been successful in recruiting new volunteers.

Chief Davis reported they have about fifteen so far and orientation will be next week.

City Supervisor Frank Sweet stated the City is lucky to have the staff we have. He said the response to the flood ran like clockwork.

Councilman Tierney gave his compliments to City crews, saying he has not had any problem getting in and out.

Joe Henne noted the Council has been generous in helping Public Works keep equipment up through the years.

Councilman Tierney called attention to Councilman Schmidt had a birthday this week.

Councilman Schmidt noted the Administrative Assistant also had a birthday this week. He wished the staff and Council a wonderful New Year, expressing his agreement with the City Supervisor regarding the quality of Selah staff.

Councilman Overby noted the land use action signs did bring people in to the Public Hearing today. He said that's working out well.

Mayor Pro Tem Keith Larson reiterated Frank Sweet's comments. He said staff handled the flood like a walk in the park. He said he didn't think a lot about it, until he got a call from Frank. He said he was struck by the inaccuracy of information to the media.

Chief Davis said the emergency information comes out of Pendleton.

The Mayor Pro Tem said the Council needs to go into Executive Session for fifteen minutes on real estate, and action will follow.

The Council moved into Executive Session at 5:41pm.

Q. Executive Session

The Council moved out of Executive Session at 5:54pm.

R. Adjournment

Councilman Schmidt said he is concerned about land for an RV park. The City Supervisor said the Council could turn down a sale and come up with $200,000+ to build one.

Councilman Jorgensen said he loves the idea of an RV park, but can't imagine the reaction of neighbors. He said that could be one of many obstacles. The City Supervisor said there were only going to be ten sites there.

Councilwoman Nichols said we wouldn't receive enough income to offset the costs.

The Mayor Pro Tem called the meeting back to order.

The City Supervisor said the City has received a request from Valley Construction to extend the purchase and sale agreement on the eastern portion of the Auto Zone property to July 2009. He said that is with the understanding that if a cash buyer should show up, Valley Construction will either close immediately or

waive the option and we as a City can sell to the new purchaser. He requested a motion to extend the purchase and sale agreement.

Councilman Tierney moved and Councilman Overby seconded to extend the purchase and sale agreement. Roll was called: Council Member Schmidt – yes; Council Member Overby – yes; Council Member Nichols – yes; Council Member Jorgensen – yes; Council Member Tierney – yes. Motion passed unanimously.

City Supervisor Frank Sweet said the City has received a purchase and sale agreement from Dr. Lloyd H. Butler for Lots 3 and 4 on North Park Drive. Dr. Butler will deposit $10,000 earnest money and will put the sale together within sixty days. He is offering $4.875 per square foot for $426,624. He noted the closing agent will be Pacific Alliance. He said Dr. Butler plans to put in a medical clinic, and perhaps a pharmacy and physical therapy facility. He said he'd like a motion to approve the sale and to authorize the Mayor Pro Tem to sign the closing documents upon preparation.

Councilman Overby moved approval of the purchase and sale agreement and authorization of the Mayor Pro Tem to sign the closing documents upon preparation. Councilwoman Nichols seconded. Roll was called: Council Member Schmidt – yes; Council Member Overby – yes; Council Member Nichols – yes; Council Member Jorgensen – yes; Council Member Tierney – yes. Support was unanimous.

Council Member Jorgensen moved, and Councilman Tierney seconded that the meeting be adjourned. By voice vote, the motion passed unanimously.

The meeting adjourned at 5:58pm.

Keith Larson, Mayor Pro Tem

Paul Overby, Council Member

(Excused)
Summer Derrey, Council Member

Denise Nichols, Council Member

John Tierney, Council Member

Kevin Jorgensen, Council Member

ATTEST:

Dale E. Novobielski, Clerk/Treasurer