

City of Selah
Council Minutes
March 24, 2009

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

A. Call to Order Mayor Jones called the meeting to order at 4:00pm.

*****Swearing in – Council Member Dave Smeback

Clerk/Treasurer Dale Novobielski swore in Council Member Dave Smeback.

B. Roll Call

Members Present: Summer Derrey, Kevin Jorgensen, Keith Larson, Denise Nichols, Dave Smeback, John Tierney

Members Excused: Paul Overby

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

C. Pledge of Allegiance

Councilman Tierney led the Pledge of Allegiance. Jason Williams, Pastor of Harvest Community Church led the group in prayer.

D. Agenda Changes

Mayor Jones told the Council to remove all Ordinances from their packets and replace them with those provided at their places.

E. Public Appearances

F. Getting To Know Our Businesses

1. Lonnie Wolverton, Manager, Yakima National Bank

Lonnie Wolverton introduced herself to the Council as the new Manager of Yakima National Bank here in Selah. She said she is a transplant from Boise, Idaho who has been in Selah since January.

Mayor Jones welcomed Ms. Wolverton and said she'll be seeing him at the bank.

G. Communications

1. Oral

Wayne Petterson addressed the Council. He said he planned to read his statement because it's just easier. He first thanked Council Person Nichols for basically giving him a heads-up on not presenting a sculpture proposal to the Council today. He said he wasn't really sure what she was trying to say to him at the last meeting, but he has decided that she was trying to save him the pain of addressing an issue which Council may not see as viable until the Council is ready for beautification within Selah. He said there are lots of other things that are just as important, and art does not seem to be at the forefront of Selah's time and money right now. He said secondly that he was somewhat taken aback by comments made to him while he was addressing the Council, not the comments of Mr. Noe or anyone on City Council but by non-Council Member Frank Sweet. He said he was asking today for a written and verbal apology from Mr. Sweet or asking for immediate resignation of his position at the City. He said if citizens of the area are not allowed to speak freely, the system of democracy fails. He said that's as simple as he can get.

Mayor Jones said in the first place art does mean something to the City of Selah, and Mr. Petterson has the wrong perception there. Secondly, when Mr. Petterson started off with, "What has the City of Selah done for the school district?" that could have been put another way, "What has the school district done for the City of Selah?" He said if we are to have a quality City, we must have a quality education system. He said he has been pushing for that long and hard. He said he and the Council have worked long and hard with their time and their resources. He gave the example of Veterans Park, saying the Veterans Administration does not have one dime in that park because the community built that on its own, believing that VA money should go for medical costs and to help veterans who have given so much in wars. He said if there is anything added to that park, it will be located by this Council.

Mr. Petterson said he understood.

Mayor Jones continued by telling Mr. Petterson to go out, find others who are interested, get a plan together, and then bring it to the Council. He said he's sure it would be accepted with open arms.

Mr. Petterson asked why, in the Mayor's opinion, would Ms. Nichols advise him not to bring it to Council.

The Mayor said he could not speak for Mrs. Nichols, he was just saying he's the Mayor and that's what he believes.

Councilwoman Derrey asked what Councilwoman Nichols said.

Mr. Petterson said that when he said he would be presenting, she said to take it to another group first, somewhere else first. He said then he found out that nobody asked anyone anything about the murals on the Civic Center; it was just done.

Mayor Jones said that was up to the Chamber.

Councilman Dave Smeback said it came before the Council too.

Mr. Petterson went right on, saying regarding the schools...because we've only been here a year and a half, we're just finding out some of the, there is politics here he's not aware of yet, but he's kind of being briefed on it because people volunteer information. He said it goes as far back as when Superintendent Jenkins was here ten or twelve years ago, and a Council Member voted against the bond.

Mayor Jones asked how Mr. Petterson knows that.

Mr. Petterson responded that the Council Member's sister told him.

Mayor Jones said that is the beautiful part about democracy, we can vote in secret, and if someone voted against the bond there was evidently something he didn't like about it.

Mr. Petterson said he agreed, saying the last bond asked for things that are ridiculous. He noted, however, that Selah schools are hurting now, positions are being cut, and teachers are losing their jobs, cutting a million dollars in jobs right this year. They need all of your guyses (sic) help.

Mayor Jones agreed, saying the school is the cornerstone of the community. He noted it kind of bothers him that Davis has an accelerated program when this is a community out here that is above average income. He said if anybody should have an accelerated program, it should be Selah. He invited Mr. Petterson to come to his office one of these days to discuss this, noting he has been here in Selah forty-four years. He said as far as the apology, he doesn't think Mr. Sweet was that far out of line, and he, the Mayor, is in charge of personnel, and that's not going to happen.

Councilwoman Nichols and Councilman Larson tried to speak.

Councilman Tierney said this is truly a personnel issue. He requested a fifteen-minute Executive Session to discuss it.

Mayor Jones agreed to have an Executive Session.

Councilman Larson said he hopes the Council has not given the impression of not caring about art.

Mr. Petterson tried to interrupt.

Councilman Larson asked Mr. Petterson if he might continue his thoughts. He continued, saying the Mayor has said it well, that if Mr. Petterson has an interest in promoting art in the community, he should search out others who are interested, rather than coming immediately to the Council for funding. He suggested Mr. Petterson research what kinds of funding are available and then he could bring a proposal to the Council. He predicted that might be very well received.

Mr. Petterson said, "Wayne Petterson has enough money, and I can put the piece out there." He said, however, he doesn't feel that he has enough money to "plant the piece," but he has the studio and the materials to create it.

Councilman Larson said when Mr. Petterson looks at this Council he is seeing an awful lot of years in this community, noting they welcome new ideas. He said the impression at the last meeting was that Mr. Petterson was calling the Council liars and saying that what they were saying was not true. He noted that was wearing a little thin on his patience too.

Mr. Petterson interrupted the Councilman to say that he got one mixed message from the WA State Arts Council, who gave him the rules and regulations for appropriations for art based on cities. He noted that has changed in last 6 years, now it's only for state and County facilities. He said he was not aware of that until he received a new memo from the Arts Council. He said he apologized for that. He said he does not want to ask the Council for any money, and he never will. He went on to praise the onion

statues in Walla Walla, saying how neat it would be to have apple statues in Selah. He said the onions are sponsored by local businesses, and Seattle has pigs. He said someone suggested benches with apples. He said it's just the idea that we need something to make our City go forward.

Mayor Jones told Mr. Petterson that he has his blessing to go out, talk to others, get a plan together, and bring that plan back to Council. He echoed Councilman Larson's feelings that Mr. Petterson might be surprised how warmly that might be received.

Councilwoman Nichols said she was a little troubled by a few of Mr. Petterson's comments. She said as she recalled the previous meeting, it was the Mayor who suggested getting a committee of artists together, a community of artists.

Mr. Petterson started to interrupt.

She asked him to let her continue, saying that group could determine what might be appropriate. She said if he brings a piece of artwork to this body, he will have 8 different opinions on "like it, not like it, appropriate, inappropriate." She said she appreciated the Mayor's suggestion to get a committee together, and she knows there are many good artists in this community who might jump at the chance to have some public art in the community. She concluded, saying it's a process Mr. Petterson needs to go through, and she hopes he takes it as a positive recommendation.

Wayne Petterson said he's been told by other artists, a fairly prominent artist, in the area not to try to put any art in Selah, because they don't like anything.

Mayor Jones said he thinks that perception is absolutely wrong.

Mr. Petterson said if he showed the Council what he has designed for this park up here (Veterans Park) some would like it and others would not; most of his stuff is that way.

Mayor Jones said he thinks they've been very gracious to allow Mr. Petterson so much time to express his point of view. He suggested Mr. Petterson move into the City and run for his position as Mayor.

Mr. Petterson said he doesn't want to live in the City, and he's looking for someone to speak out for the 23,700 who live in rural Selah. He said he commends the members of the Council, but persisted with his view that when you make it larger (than 7000), you get more ideas. He said there are business owners who live outside the City, and that's why he brought up the idea of opening up just one spot for someone outside the City. He concluded by saying that people shop at Top Foods and others because the City of Selah does nothing for them.

Councilman Jorgensen said he attended the Chamber meeting today, but Mr. Petterson wasn't there. He noted that the kind of passion Mr. Petterson has and is looking for is going on now on the Chamber. He encouraged Mr. Petterson to become active in that. He further noted that Superintendent Howard has a citizens advisory committee, and he and former Council Member Allen Schmid have attended every meeting. He suggested that would be a great outlet for Mr. Petterson.

Mr. Petterson said he thought the Chamber meeting was tomorrow.

Mayor Jones thanked Mr. Petterson and asked Fire Chief Jerry Davis if he would like to introduce the new Fire Department staff member.

Chief Davis introduced Ron Cline, noting he joined the Department in September of 2001 and went career here the first of March. He stated Mr. Cline is married to Teresa and has one little one and another on the way.

Mr. Cline apologized for getting embarrassed easily, but said he is quite happy being a member of the Selah Fire Department on a career basis. He thanked the Council for funding another position in the Department.

Councilman Larson asked Mr. Cline what his specific job is.

Ron Cline said his job is primarily maintenance, but he also serves as an EMT, a firefighter, helps out John (Shipley) or anybody else. He said he will do anything.

Mayor Jones noted Ron handled the Christmas potluck for several years. He said he was pleased that Ron is the one chosen, noting Pepsi Cola will miss him.

Mr. Cline said he hopes so.

2. Written

H. Proclamations/Announcements

I. Consent Agenda

The Administrative Assistant pointed out that the amended Ordinances were marked for the Consent Agenda.

Mayor Jones read the Consent Agenda as amended.

Councilman Tierney moved approval of the Consent Agenda as amended. Councilman Larson seconded. By voice vote, Consent Agenda was adopted unanimously.

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

- * 1. Approval of Minutes: Study Session & Council Meeting March 10, 2009
- * 2. Approval of Claims & Payroll:
 - Payroll Checks Nos. 65481 – 65577 for a total of \$ 131,768.07
 - Claims Checks Nos. 53651 – 53651 for a total of \$ 371.12
 - Claims Checks Nos. 53652 – 53661
and 53750 – 53829 for a total of \$222,908.71
- * 3. Item N - 1, Ordinance Amending Selah Municipal Code Sections 1.10.030, 1.10.040, 1.10.041, 1.10.042 and 1.10.043
- * 4. Item N – 2, Ordinance Repealing Selah Municipal Code Chapter 1.25
- * 5. Item N – 3, Ordinance Amending the 2009 Budget for Tennis Court Improvements

J. Public Hearings

K. New Business

1. Request for Funding To Install Netting at Carlon Park

Parks & Recreation Director Jeff Hagler addressed New Business Item K - 1, noting there has been concern about foul balls hitting spectators at Carlon Park. He stated this is a joint effort between the City and GYGSA. He reported that Astoria Sportsnet was able to come to Selah and install the netting prior to the beginning of the season. He said they were the only company who could install the netting and that they have asked for $\frac{1}{3}$ down since they are a small business.

Councilwoman Nichols expressed concern about the pending Washington license.

Mr. Sweet said they would not do anything in Selah without a Washington Contractor license. He guessed that they are new and are just beginning to do business in Washington.

Councilman Tierney asked if the support poles mentioned are included in the \$29,000.

The Mayor and City Supervisor said the City would be putting in those poles.

Councilman Smeback asked about sales tax.

Mr. Hagler said he wasn't sure, noting his assistant Jeff Glaspie is working on documents with the contractor.

Councilwoman Nichols asked whether they have records regarding the durability of the netting. She also suggested checking on a warranty.

Councilman Tierney asked if this is just a foul ball netting.

Mr. Hagler responded affirmatively.

Councilwoman Nichols said she didn't know what "legal and accounting costs" refer to. She said netting is a good idea.

Frank Sweet said his understanding is that they are trying to get it done before season starts. He said if the Council wishes, they could conditionally approve it and put some requirements on it.

Councilman Larson asked if there were competing bids.

Mr. Sweet said his understanding is that they tried, but no one else could install it and/or meet the timeline.

Councilwoman Nichols said she is not as concerned about the time frame because we've gone along without netting so far. She said she's more concerned with getting it done right. She asked if there is money set aside for the City's share.

The City Supervisor said there is money in Fund 301, Capital Improvements.

Councilwoman Nichols moved to approve paying half of the cost of netting at Carlon when the City Supervisor can find an appropriate contractor with proper credentialing. Councilman Larson seconded adding a spending limit of \$20,000.

Councilman Jorgensen asked about the necessity of a competitive bid.

The City Supervisor said that shouldn't be necessary, since the Parks Department went through the competitive bidding process initially.

Roll was called: Council Member Tierney – yes; Council Member Smeback – yes; Council Member Larson – yes; Council Member Nichols – yes; Council Member Jorgensen – yes; Council Member Derrey – yes. Motion carried unanimously.

Parks & Recreation Director Jeff Hagler thanked the Council.

L. Old Business

1. Request To Proceed with Pool Renovation Option #2

Mr. Hagler said he hoped the Council has had time to read the proposals for the pool at Wixson Park. He said he wants Council approval to proceed with Option #2 gathering information and formulating a plan to take to the Parks and Rec Service Area Board.

Councilwoman Nichols expressed her disappointment in the information given to the Council, noting some of it needs to be verified. She suggested this be a topic for the Council retreat. She said the key question is "Does Selah want to continue having a municipal pool, and, if so, what might that pool look like." She said that should be the Council's first question – "what is our twenty-year vision." She said then we could look at funding options. She said the Parks & Rec Service Area is at the very bottom of the junior taxing authority, usually 20 - 30 cents, so they need to check out funding capacity. She said what she did not want to happen is for Mr. Hagler to go out in the community and talk about a \$3million pool project that will look like this (referring to the map) when that's not what we're talking about. She said it's important not to get ahead of ourselves.

The City Supervisor said first they should find out from Jacob Tate at the Assessor's office how much is left, available to use, in that cap, and then if that doesn't factor in close to what's needed, then it's another ball game, and we need to come back and say, "Here's what we need." He said he called Mr. Tate today and asked him to prepare something the Council could take a look at.

Councilman Tierney said they should be aware that any bond issue would be competing with the School District and Criminal Justice. He further noted that no one's going to get much of anything approved by the voters in this economy.

Mayor Jones said it would need to be a community effort including the support of soccer and grid kids and all who use that facility. He said it would require a great effort. He praised the family focus of the pool at Wixson.

City Supervisor Frank Sweet said he didn't want staff to start down this road without the support of Council.

Councilwoman Nichols said she would like to see research started because they've not even responded to Yakima yet.

Mayor Jones said we need to decide what we want this to look like.

Councilman Smeback asked if Don Carey has any year-round facilities we could look at.

Councilwoman Nichols said the City wouldn't want that because indoor facilities don't even come close to paying for themselves.

Mr. Hagler said covering Wixson Pool has been discussed before, but that was not considered feasible.

Councilman Larson asked Mr. Hagler what he expected to see happen next if this were to be approved.

Jeff Hagler said what Councilwoman Nichols has brought up about finding answers to financial questions would be good.

Frank Sweet said if the Council approves this, he and Mr. Hagler could gather information and bring it to the Finance Committee.

Councilman Larson suggested Mr. Hagler should also get feedback from the community, to get ideas for other options.

Mayor Jones asked Councilwoman Nichols if her idea was to determine if the consensus of the Council is for the Parks & Rec Director to proceed.

Councilwoman Nichols said Council Members need feedback about sustainability of the pool.

Councilman Tierney brought up the issue of time for the current pool, noting timelines would be pushed back farther if the Council doesn't deal with it now.

Mr. Hagler said the pool liner is on the edge.

Councilman Jorgensen asked when this might come before the voters.

Councilman Tierney said it would probably be a year and a half.

Several Council Members agreed.

Councilman Larson said there's no way the SPRSA Board, which has no funding mechanism, no resources, can move forward with ideas unless some organization promotes the idea to them.

Frank Sweet said this would take a whole marketing package, design, then it could go before Council and then on to the SPRSA Board.

Councilwoman Nichols suggested if the City Supervisor and Parks & Rec Director will work on this, the Council can then take some time at the retreat.

There was concurrence among Council Members.

M. Resolutions

1. Resolution Approving Payment of the Invoice Submitted by Eco-Northwest for Stormwater Education Services Provided under the Terms of Their Professional Services Agreement with the City of Selah

Mr. Sweet stated that this is an update on what is going on with the stormwater education program. He said they're out this week stenciling stormwater drains.

Mayor Jones told the Council about going up to SIS to observe Mr. Tuck's class.

Councilwoman Derrey moved to approve the Resolution Approving Payment of Invoice Submitted by Eco-Northwest for the Stormwater Education Services Provided under the Terms of Their Professional Services Agreement with the City of Selah. Councilman Jorgensen seconded. Roll was called: Council Member Tierney – yes; Council Member Smeback – yes; Council Member Larson – yes; Council Member Nichols – yes; Council Member Jorgensen – yes; Council Member Derrey – yes. Motion carried unanimously.

2. Resolution Authorizing the Mayor To Sign an Agreement for Energy Analysis Services between the City of Selah and Pacific Power To Determine Potential Energy Savings Available from the Installation of Energy Efficient Measures in City Facilities

The City Supervisor said Mr. Henne started this effort with Pacific Power.

Clark Satre, Regional Manager for PPL, addressed the Council. He stated PPL has been in business for 99 years, and they're probably the only business in town that encourages their customers to use less of their product. He said Washington is only 8% of their service area, and fewer coal powered power plants exist here because of customer energy savings through their programs. He explained that this agreement does not obligate the City to do anything except open the door to an engineering firm PPL will hire to analyze energy used by City facilities then recommend cost-effective measures the City can take to reduce usage. He said then PPL will pay up to half the cost for implementation of changes the City makes based on those recommendations, which are cost-effective, energy saving measures. He gave examples of lighting in City Hall, perhaps on a dimmer control. He suggested zonal controls might be used on a heating system so that different areas of the building won't have to compete with other areas. He predicted happier, more productive employees would be the result. He said there is lots of money to be saved.

Mayor Jones said he believes it is essential when we're asking the City to go green that we set the example.

Councilwoman Nichols moved to approve the Resolution Authorizing the Mayor To Sign an Agreement for Energy Analysis Services between the City of Selah and Pacific Power To Determine Potential Energy Savings Available from the Installation of Energy Efficient Measures in City Facilities. Councilwoman Derrey seconded. Roll was called: Council Member Tierney – yes; Council Member Smeback – yes; Council Member Larson – yes; Council Member Nichols – yes; Council Member Jorgensen – yes; Council Member Derrey – yes. Motion carried unanimously.

3. Resolution Referring the SSNA Appeal of the Administrative Approval for Plan Modification for 605 Southern Ave. to the Hearing Examiner Pursuant to Selah Municipal Code 1.60.080(b)

Community Planner Dennis Davison reminded the Council that the South Selah Neighborhood Association appealed the City's decision on 605 Southern which went from the Hearing Examiner on to Superior Court where the Judge ruled that the plans did not meet the City's zoning ordinance requirements. After that, the developer submitted plans for modifications which he believed would correct deficiencies identified by the Court. He said those documents were then submitted to the City's plan and review consultant, who responded on the design and whether it met Code. He said the City Supervisor then reviewed all of the documents for the proposed buildings, etc. He said there is clarification of intent that they met with the honorable judge who issued the written decision. The City then issued the permits and notified the SSNA property owners and their attorneys who then appealed the City Supervisor's decision to approve those modifications and the City's issuance of permits. He said as in the past, we are giving that appeal to the Hearing Examiner to take the decision out of the realm of politics.

Councilwoman Derrey asked the City Attorney to explain Mr. Hoffert's concerns.

City Attorney Bob Noe said part of what they are requesting through the appeal is a reversal of the administrative decision to approve the modifications to the structures, process of applications according to applicable law, termination of any use or occupancy until the review is complete and discontinuance of any work until the applications have been processed according to law.

Councilman Tierney asked what that means to the City.

The City Attorney said it is just like any other appeal, a hearing body needs to decide the issue, whether the appeal has any merit. He said what they're asking for is for the Council to assign this to the Hearing Examiner to conduct a hearing to see if the appeal has any merit.

Councilman Tierney said one thing he had that might go along with what Councilwoman Derrey had was on page one of Mr. Hoffert's letter Item #3. (He read from first page of the appeal) "In the course of the approval set forth by City Supervisor Frank Sweet, the specific court order gave 5 reasons to deny the approval of these structure. . . They are listed in the court order 'blahdeeblah' on page 4, items A thru E. The City Supervisor used only one portion of this ruling pg-4-C) to make his decision, and totally ignored the remaining 4 decisions. Nowhere does he address items A,B,D,&E." The Councilman asked if those items were addressed and how were they addressed.

City Attorney Bob Noe said the Councilman was now talking about the merits of the appeal, and that's what the Hearing Examiner would decide. He explained that Mr. Tierney is reading from their claim upon which the City needs an administrative hearing where that can be decided. He said he would not care to comment upon whether or not he personally believes this has any merit or not. He said it should go to the Hearing Examiner because he has land expertise.

Councilwoman Nichols asked if the Hearing Examiner would then send it back to the Council.

The City Attorney responded that the precedent and intent are that the Council gives the Hearing Examiner the authority to decide, and any appeal of his decision would go directly to Superior Court.

Councilman Larson noted having the Council hear it would be complicated in this case because two Council Members live in the area and originally signed the petition.

The City Attorney noted that the Hearing Examiner is also impartial, which is another reason he is being recommended.

Councilwoman Nichols asked if the Hearing Examiner receives all of the documents and takes testimony.

The City Attorney responded that the hearing is an open record appeal, and the Hearing Examiner receives whatever documents or testimony the parties wish to present. He noted if it goes on to Superior Court, then that would be closed record hearing.

Councilman Smeback asked if, at the conclusion, the judge would provide the technical data for the contractor to comply or would it then have to go to another judge.

Mr. Noe suggested several possibilities of what a judge might do, including giving specific directions to the builder, remanding it back to the Administrative Official to make changes or ruling that the administrative approval was correct.

Councilwoman Nichols said there was some dialogue about the ability of the contractor to continue to work or proceed with any occupancy or permits. She asked what the status is on those issues.

Bob Noe said the City has consistently taken the position that the permits that have been issued are valid until such time as they are shown to be invalid by either the Hearing Examiner or the court.

Councilwoman Nichols asked Mr. Noe if he represents the City in these hearings.

Mr. Noe said yes he does and he has. He said Mr. Torkelson's attorney and the appellants' attorney provide the documents and testimony and the City's position is more neutral.

Councilwoman Nichols moved approval of the Resolution Referring the SSNA Appeal of the Administrative Approval for Plan Modification for 605 Southern Ave. to the Hearing Examiner Pursuant to Selah Municipal Code 1.60.080(b). Councilman Larson seconded.

Jane Williams, South 7th Street, asked to be heard. She expressed concern whether the Code that allows the Council to refer this to the Hearing Examiner stipulates that the Hearing Examiner's recommendation comes back to the Council.

Mr. Noe said that issue came up under the first (SSNA) appeal, and we brought that back to the Council for clarification of the resolution. He said this resolution states that an appeal of the Hearing Examiner's decision would go directly to Superior Court.

Councilman Jorgensen said that's what we're doing today is taking the vote to refer this to the Hearing Examiner.

Ms. Williams said it seemed peculiar because the judge has already ruled on this issue. She stated that she saw reference in Selah Municipal Code to a Building Code Review Board and she wondered if that might be a group that could take a look at this so it wouldn't have to go through the court system.

Mayor Jones clarified that Mrs. Williams was referring to the Board of Appeals.

She asked if the City still has that.

The City Supervisor said he believed the City does have that Board.

Mrs. Williams asked if that Board could look at this issue rather than continuing on through the court bouncing back and forth and back and forth. She referred to Chapter 21.03.060 where the Board of Appeals is referenced.

Mayor Jones said this issue has gone to the point that a professional on land use should hear it. He said members of volunteer boards are not educated in land use.

Councilwoman Derrey asked why 605 Southern is going back (to the Hearing Examiner).

Mr. Noe explained that these structures were initially approved by City as multi-family structures. He said the Court went through those and ruled in favor of the City on all of those issues with exception that the court did not believe the structures were compliant with City Zoning. He said the Judge ruled that the building had to be structurally connected somehow, that connection had to provide some additional livability, and the connection had to have some utility. He said then the developer submitted modifications to the structures to the City, where they were reviewed and approved, and now that decision is being appealed.

Councilwoman Derrey asked why we don't just take them back to the judge.

Mr. Noe said Judge Hackett rendered his ruling on January 9, and is no longer on the bench because he retired January 19.

Councilwoman Derrey said the process seems needlessly repetitious.

Mr. Noe agreed, but said you have to exhaust the process before it can be resolved. He suggested that there is a possibility that the Hearing Examiner will make a ruling that everybody's happy with, and there will be no appeal.

Councilman Larson said the builder has the right to defend his position and his proposal.

Councilman Dave Smeback said that is a pretty common "fix," noting there have been developments in Yakima where they bring in single-family "boxes" with a common walkway and utilities and a conduit running between them, and they become "multifamily dwellings." He said there are going to be lots of examples where similar "fixes" have been used before and are common practice. He said people may not like it, but there are lots of examples.

Jane Williams asked if the City could bring in an expert to suggest a "fix" and have him give an opinion on Frank's decision, or is the Hearing Examiner the only option the City has.

Mr. Noe responded that the proposed "fixes" were sent to an independent building reviewer...

Mrs. Williams interrupted, saying she was aware of that, but he just sent it back and didn't give an opinion if it fit in our City Codes.

Mr. Noe said he thought that his time the consultant said they constitute a multi-family structure.

Mrs. Williams said that he did not. She said she did not think he could do that, and she deferred to the City Supervisor.

Mr. Sweet said he thought the consultant did that the first time.

Mr. Noe said now they were getting into the merits.

Mayor Jones said that's why we have a Hearing Examiner who is a land expert, a professional at land use. He noted the lay Council is not, so they rely on him to give them what he feels is the fix for this project. He noted the process is expensive (for the appellant), but it also costs the City to have him come in here, and all the taxpayers are paying that bill.

Mrs. Williams said her concern is that it is the same Hearing Examiner that heard this before, so it's likely going back to court and go around and around again.

Councilman Larson said he thinks any decision is going to be appealed, and it wouldn't necessarily change with another person. He said this is the administrative process.

Councilwoman Nichols said she believes they have to trust the process.

Mrs. Williams thanked the Council for their time.

Roll was called on the motion to approve the Resolution: Council Member Tierney – yes; Council Member Smeback – yes; Council Member Larson – yes; Council Member Nichols – yes; Council Member Jorgensen – yes; Council Member Derrey – yes. Motion carried unanimously.

N. Ordinances

- * 1. Ordinance Amending Selah Municipal Code Sections 1.10.030, 1.10.040, 1.10.041, 1.10.042 and 1.10.043
- * 2. Ordinance Amending Selah Municipal Code Title 1, Chapter 10.040 By Substitution
- * 3. Ordinance Amending the 2009 Budget for Tennis Court Improvements

O. Communications

- 1. Oral

P. Reports/Announcements

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

- a. Memorandum of Understanding Yakima County Active Shooter Coordination of Training Agreement

Community Planner Dennis Davison reported he is trying to finalize all of the maps for the Johnson-Snodgrass Annexation. He said documents are being prepared regarding surplus property created when Crusher Canyon was realigned. He said he expects to receive the Lochner traffic study this week regarding the "503 Southern" 614 a & b and 622 a & b South 5th Street Torkelson project. He said once we have that, we will publicize it and issue a new decision. He noted that will all be subject to appeal.

Public Works Director Joe Henne reported the pre-construction conference for Speyers Road was held yesterday for water and sewer. He said they have had some interest back on the letter they sent out last week for exemption from old rates. He said Mr. Davison is going to the Homebuilders Association who perceive it to be a rate increase. He noted that ruling happened ten years ago. In response to a question from Councilman Larson, the Public Works Director said that letter was only sent only to those who are not currently on water and/or sewer.

Councilman Tierney asked if the City is going to extend the period for hook-ups to those who do not have access to utilities.

Mayor Jones said he would imagine that would be the case and asked for the Public Works Director's opinion.

Mr. Henne responded that he doesn't have an opinion. He said the Council set that time limit ten years ago when they brought in new rates. He said lots of residents just can't hook-up because the sewer line is too far away. He explained that if the sewer line is 100 feet away, it could cost \$75.00 a foot to extend that to your property. He said he talked to an 82-year-old lady whose sewer line is 50 feet away. He told of neighborhoods who developed an LID, where some residents never have hooked up to water and sewer.

Mayor Jones said this is a good lesson about why developers need to take utilities to the end of the lots in new developments.

Councilman Tierney said residents could receive significant savings if they hook up now.

Councilman Jorgensen suggested a group could come to Mr. Henne and request an LID.

Mr. Henne said if they want to put an LID together, he would meet with them, tell them how much it would cost, prepare a petition, send that out, and if 60% want to form an LID, then sell a bond to cover the cost, and then bring it to Council.

Councilman Jorgensen said during annexation discussion we talked about a requirement to hook-up.

The Public Works Director said if you live in the City and your septic system fails and the hookup is within 200 feet, you can be required to hook up. He said if you're in the County and within 200 feet, the County will issue a reconstruction permit to you. He said he hasn't had experience with failing wells.

Councilman Larson said if your system fails you have to hook up.

Mr. Henne concurred.

Frank Sweet pointed out that the Health Department would demand a hook-up.

Fire Chief Jerry Davis said Doc Hastings beat him to it, but the Fire Department did get their grant for \$50,000 from Homeland Security. He stated they have gone to bid on their Self Contained Breathing Apparatus SCBA air compressor. He further reported that they finally got rid of the surplus fire truck, selling it to Ocean Shores as a back-up pumper. He said their utility rig is having service problems

Parks & Recreation Director Jeff Hagler passed around handouts, a welcome flyer Helms Hardware added to team welcome packets, urging people to spend money in Selah.

Police Chief Stacy Dwarshuis asked if anyone had questions regarding the Memo of Understanding included in the packet. He said his department is seeking a grant for rapid responder active shooter equipment to outfit 175 officers in the County. He reported having gone through active responder training. He said he attended vendor demonstrations out at West Valley Fire and units in the area are considering the purchase of two vendor packages that would put agencies "on the same page."

Council Members wished the Mayor happy birthday tomorrow.

Mayor Jones announced there would be a 5 minute recess and then the Council would reconvene for a 10-minute Executive Session on Personnel. He noted no action will be taken after the Executive session.

Q. Executive Session

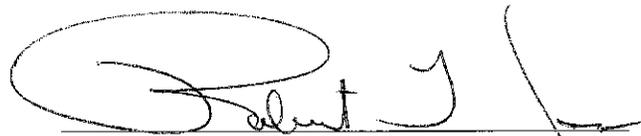
The Council moved into Executive Session at 5:45pm.

The Council moved back into Open Session at 6:04pm.

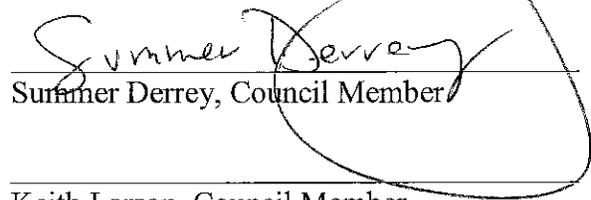
R. Adjournment

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

The meeting adjourned at 6:06pm.



Robert L. Jones, Mayor

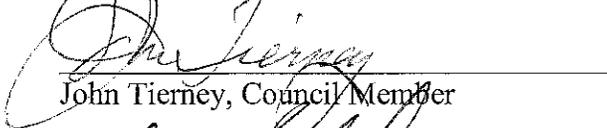


Summer Derrey, Council Member



Denise Nichols, Council Member

Keith Larson, Council Member



John Tierney, Council Member



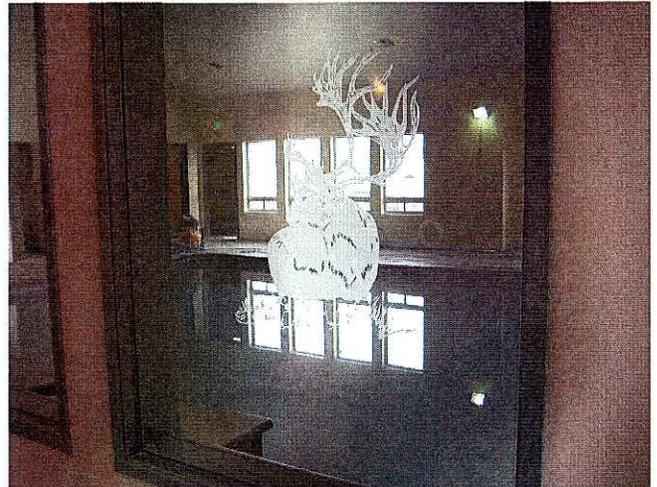
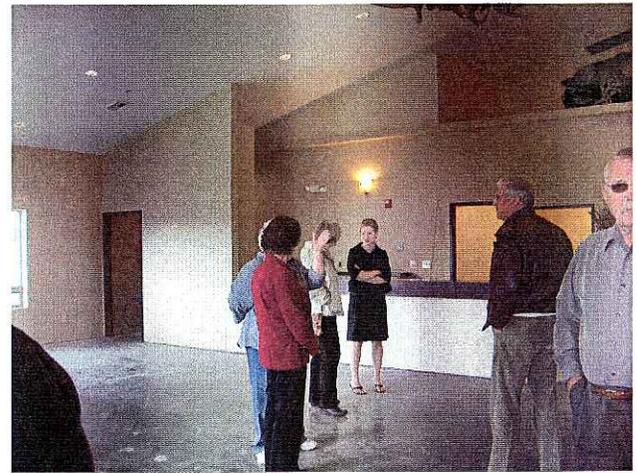
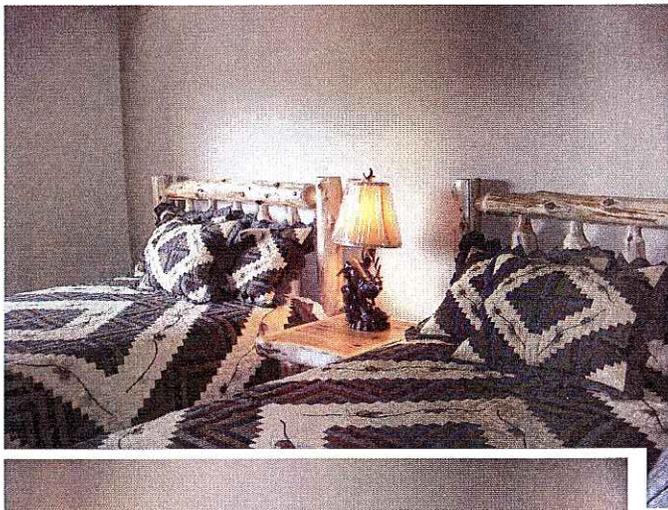
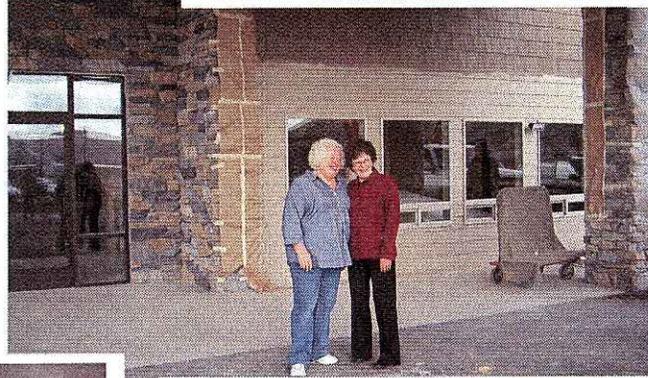
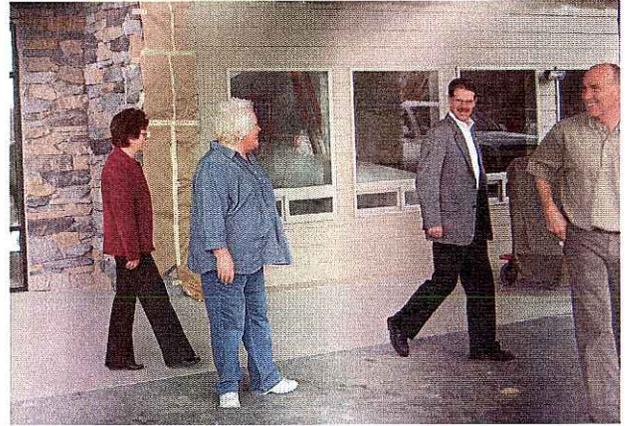
Kevin Jorgensen, Council Member



Dave Smeback, Council Member

ATTEST:


Dale E. Novobielski, Clerk/Treasurer



Study Session March 24, 2009