

City of Selah  
Council Minutes  
November 12, 2014

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

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

B. Roll Call

Members Present: Paul Overby; John Tierney; Dave Smeback; Allen Schmid ; Brooke Finch;  
Roy Sample; Jane Williams

Members Excused:

Staff Present: David Kelly, City Administrator; Bob Noe, City Attorney; Gary Hanna,  
Fire Chief; Rick Hayes, Police Chief; Dale Novobielski, Clerk/Treasurer;  
Joe Henne, Public Works Director; Charlie Brown, Recreation Manager;  
Andrew Potter, Assistant to the City Administrator; Monica Lake,  
Executive Assistant

C. Pledge of Allegiance

Mayor Gawlik led the Pledge of Allegiance. Pastor Brad Hill led the opening prayer.

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.

Wayne Petterson approached the podium and addressed the Council. He thanked City Administrator Kelly for his time in Selah, adding that he's sorry to see him go.

Wayne Worby approached the podium and addressed the Council. He said that, after the previous Council Meeting, he looked at the City's Municipal Code, and found it to be inconsistent and in conflict with itself in some sections. He handed out a list of proposed changes and asked that Council consider them at a future meeting. He volunteered to return and speak on the matter at the next Council Meeting.

City Administrator Kelly commented that the matter would need to go to the Planning Commission for recommendation and adoption.

Mayor Gawlik observed that the handout referenced a number of titles within the Code.

Mr. Worby responded that he used the City's Comprehensive Plan, the WAC Code, and the City's Municipal Code as references for appropriate changes.

Mayor Gawlik felt that any review of possible changes to the City's Code fell under the purview of the City Attorney's office.

City Attorney Noe remarked that it would come to the City Attorney's office, but would also go to the Planning Commission for public hearings.

Mayor Gawlik wondered if the Planning Commission would have the ability for legal interpretation if they have questions.

City Attorney Noe responded in the affirmative, adding that it would then be presented to Council, at which time they would also hold a public hearing on the matter.

Mr. Worby said that he asked the Planning Commission about impact fees that their last meeting, and was told that he'd need to address that with the City Council.

City Attorney Noe remarked that he will talk with Community Planner Davison about having it placed in the packet for the Planning Commission to consider.

Mr. Worby asked if it would be on the agenda.

City Attorney Noe replied in the affirmative, adding that, as the proponent, Mr. Worby would be invited to speak on the matter.

Mayor Gawlik inquired as to the next steps after the Planning Commission has had an opportunity to review the matter.

City Attorney Noe responded that he will put something together to go to the Planning Commission, and the Planning Commission will make a recommendation to the Council.

Mr. Worby wondered if the Planning Commission would hold a public hearing for input.

City Attorney Noe responded in the affirmative.

Council Member Tierney asked how the information is disseminated to the public.

City Attorney Noe replied that Community Planner Davison would publish a notice in the local newspaper.

Mr. Worby requested a meeting with City Attorney Noe to discuss the matter.

City Attorney Noe agreed to meet with him at a later date.

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

2. Written

- a. October 2014 Monthly Report for Building Permit, Animal Control and Code Enforcement

H. Proclamations/Announcements **None**

I. Consent Agenda

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: October 28, 2014 Council Meeting
- \* 2. Approval of Claims & Payroll:

Payroll Checks Nos. 78011 – 78044 for a total of \$213,554.97  
Claim Checks Nos. 64762 – 64838 for a total of \$199,574.51

**Council Member Tierney 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. Proposed 2015 budget for the City of Selah

Clerk/Treasurer Novobielski addressed J – 1. He gave a brief overview of the budget process, followed by a rundown of the various funds and expenditures, noting that the total for the 2015 budget is less than that for 2014.

Council Member Tierney wondered if the tennis courts improvements would be a shared expense with the Selah School District.

City Administrator Kelly remarked that they will pay fifty percent of the expenses.

Clerk/Treasurer Novobielski concurred, saying that the School District will pay half of the forty thousand needed for the tennis courts. He outlined the proposed utility rate increases and the proposed utility tax increase as previously discussed at two public hearings.

Council Member Sample commented that the City is virtually closing down the Planning Department, and that he believes it's a mistake to hire a contractor rather than having a full-time Community Planner.

Council Member Williams agreed, saying that the City is on the verge of growth, which will necessitate more planning hours.

Clerk/Treasurer Novobielski observed that the current budget figures are for a contracted employee.

Council Member Sample expressed his belief that the City will have more need for a planner in the future that they have had over the last five years, and that the Planning Commission should have regular meetings and education on what they should be doing.

City Administrator Kelly stated that this matter was pushed forward based on information from a consultant hired to assist Community Planner Davison. He noted that the consultant felt he could get the department caught up in approximately eighty hours of work.

Council Member Schmid agreed with a lot of Council Member Sample's concerns, adding that he seeing more development coming into the City down the road and that they should provide a service that is very fast and very forward to those looking to develop properties. He suggested a review of the code book and a reevaluation of how the department is currently structured.

Council Member Smeback said that he believes the City should have a full-time planner, although he approves of the budget and program put together for 2015. He felt that the workload coming through the office hasn't allowed Community Planner Davison to spend the time and energy necessary on some of the projects. He commented that the changed should be filtered through the Hearing Examiner rather than the Planning Commission, especially on the larger projects, because of his background and experience. He expressed an interest in seeing what a contractual employee could do on the smaller projects, and felt that twelve months would be enough time to show whether they need someone full-time or a part-time person can handle the workload.

Council Member Tierney echoed Council Member Smeback, adding that he would like to see a job description and duties of the position before making a final decision on the matter.

Council Member Sample agreed that there should be a job description, reiterating that he feels the job requires a full-time person, not a part-time consultant.

Council Member Overby remarked that they aren't losing the position, and that they can reserve the right to hire a full-time planner if and when the experiment doesn't work.

Council Member Finch echoed Council Member Overby's remarks. She stated that she trusts City Administrator Kelly in this matter and feels that it can certainly be changed from a consultant to a full-time employee at a later time.

Council Member Williams expressed some concern about valuable staff time being used to answer questions that the Community Planner can answer.

Mayor Gawlik remarked that he feels that it's important to have applications for any type of development be put before a professional versed in land use, who can then make recommendations to the Planning Commission and City Council. He suggested that they give the current proposal a chance to operate, and amend the circumstances if it isn't working out.

Mayor Gawlik opened the hearing. Seeing no one rise to speak, he then closed the hearing.

- K. New Business None
- L. Old Business None
- M. Resolutions

- 1. Resolution Authorizing the Mayor to Sign the Interlocal Correction / Detention Agreement with the Yakima County Department of Corrections for 2015

Police Chief Hayes addressed M – 1. He said that the increase in price for housing inmates has already been factored into his 2015 budget, adding that they don't use the County as much as they used to. He noted that they are currently working on a deal with Sunnyside, part of which would include Sunnyside delivering the inmates to court in Selah free of charge.

Council Member Tierney wondered if they were still using Wapato.

Police Chief Hayes replied in the affirmative, adding that they are closer and approximately the same price as Sunnyside. He commented that they only use the County for female inmates, when there's no room available at the smaller jails, or if the inmate has a mental or physical problem.

**Council Member Smeback moved, and Council Member Overby seconded, to Approve the Resolution Authorizing the Mayor to Sign the Interlocal Correction / Detention Agreement with the Yakima County Department of Corrections for 2015. Roll was called: Council Member Overby – yes; Council Member Tierney – yes; Council Member Smeback – yes; Council Member Schmid – yes; Council Member Finch – yes; Council Member Sample – yes; Council Member Williams – yes. By voice vote, approval was unanimous.**

City Administrator Kelly suggested that they move Resolution M – 2 to follow the Ordinances, as City Attorney Noe will be leaving when the item comes up for discussion.

Mayor Gawlik stated that Resolution M – 2 will be relocated to follow the Ordinances.

N. Ordinances

1. Ordinance Amending Section 4.34.040 of the Selah Municipal Code, "Occupations Subject to Tax – Amount"

Clerk/Treasurer Novobielski addressed N – 1. He said that he and City Administrator Kelly discussed giving relief for low income seniors and disabled as far as the utility tax is concerned, and that he is proposing that they pay the same rate paid to private investors, which is currently six percent, and be exempt from supplemental increases over that amount. He noted that those currently enrolled in the program would save approximately eighty dollars per year.

Council Member Tierney wondered what the qualifiers were.

Clerk/Treasurer Novobielski replied that for seniors they need to be sixty-two years old and have an annual income of fifteen thousand dollars or less, and that those who are disabled have the same income level requirements to qualify. He noted that the City only counts two-thirds of their pension and Social Security benefits.

Council Member Williams stated that she found the wording a bit confusing, and asked if that six percent utility tax could increase.

Clerk/Treasurer Novobielski responded that the private providers' tax could only go up by a vote of the people, and if that were to occur the City would charge the same rate for those on the program.

Council Member Williams reiterated that she felt the wording was confusing. She requested that the information be placed on the utility bills to inform citizens of the program.

Clerk/Treasurer Novobielski replied that he discussed the matter with Utility Billing Clerk Bigby earlier that day, adding that the information is also available on the website under utility services.

City Administrator Kelly remarked that some of this is a moot point, as those currently on the program will get the decrease in utility taxes, while anyone new would need to apply going forward. He commented that they haven't put the message on utility bills in the past, but will do so soon.

**Council Member Tierney moved, and Council Member Overby seconded, to Approve the Ordinance Amending Section 4.34.040 of the Selah Municipal Code, "Occupations Subject to Tax – Amount". Roll was called: Council Member Overby – yes; Council Member Tierney – yes; Council Member Smeback – yes; Council Member Schmid – yes; Council Member Finch – yes; Council Member Sample – yes; Council Member Williams – yes. By voice vote, approval was unanimous.**

2. Ordinance to Establish the Amount of Taxes To Be Levied upon Real and Personal Property in the City of Selah, Yakima County, Washington, and Fixing the Tax Levy for the Year 2015

Clerk/Treasurer Novobielski addressed N – 2. He said that this Ordinance will establish for the County Assessor the amount of taxation to add to the tax rolls for next year, noting that the dollar amount is a one percent increase.

Council Member Sample asked for confirmation that the fourteen thousand two hundred seventy-four dollars is a one percent increase on existing structures, and that the balance refers to new projects and improvements.

Clerk/Treasurer Novobielski answered in the affirmative.

**Council Member Smeback moved, and Council Member Sample seconded, to Approve the Ordinance to Establish the Amount of Taxes To Be Levied upon Real and Personal Property in the City of Selah, Yakima County, Washington, and Fixing the Tax Levy for the Year 2015. Roll was called: Council Member Overby – yes; Council Member Tierney – yes; Council Member Smeback – yes; Council Member Schmid – yes; Council Member Finch – yes; Council Member Sample – yes; Council Member Williams – yes. By voice vote, approval was unanimous.**

2. Resolution authorizing the Mayor to sign an Agreement for Legal Services with Kenyon Disend, PLLC **\*RELOCATED\***

City Administrator Kelly addressed M – 2. He stated that City Attorney Noe is moving on to become a partner with Kenyon Disend, PLLC, and that his firm is willing to supply the City with continued legal services. He noted that the rate, which was proposed by his firm, will be increasing, and that because of this City Attorney Noe will only attend those Council Meetings where there is an issues needing his attention, such as a planning matter or executive session. He said that the contract will allow the City to use him on an as-needed basis through 2015.

Mayor Gawlik remarked that they did some inquiries prior to bringing this matter to Council, and they discovered that legal services for civil tend to be higher than the price quoted for services, although this will be a higher dollar figure than what they have been paying.

Council Member Williams commented that it's an open-ended contract; if it's not working out we can cancel it.

City Administrator Kelly stated that this is typical language for the contracts he's brought before the Council, and that if it isn't working that Council can make the decision to change it.

Council Member Williams asked if the City will also be charged for work done by a paralegal.

City Administrator Kelly responded in the affirmative.

Council Member Williams noted that it stated the City won't be billed for mileage expenses but they will be charged for travel time, which would be of concern if someone from Seattle has to come over.

City Administrator Kelly replied that that is where the Council and the Mayor need to understand the questions they're asking.

Council Member Williams said that they are asking for City Attorney Noe, who lives locally.

Mayor Gawlik remarked that the City is contracting with the firm.

Council Member Williams asked if the City put this out for bid or requests for professional proposal.

Mayor Gawlik responded that they did some research on the matter and found that this price is at the bottom end of the scale; in addition to that, City Attorney Noe is familiar with the current circumstances of Selah, having been associated with the City for approximately eleven 11 years, and that a new attorney would have to be educated.

Council Member Tierney added that City Attorney Noe has done an excellent job for the City and they are fortunate to be able to maintain a relationship and keep him involved.

Police Chief Hayes wondered how this would affect Resolution and Ordinance clarifications.

Mayor Gawlik stated that the rules of the game have changed; when he answers the phone it becomes billable hours.

City Administrator Kelly suggested piling all questions together and giving him a block of information to work on; it's not as convenient but he can get the work done and get back to them.

Mayor Gawlik asked if there was anything that he felt needed to have a quicker response.

Police Chief Hayes replied that there are times when there are deadlines to get things done, such as contracts with the Sheriff's Department.

City Administrator Kelly recommended seeing how things work for the first month and then reevaluating the matter.

Council Member Finch felt that this was a temporary solution, adding that she feels that they benefit by having the City Attorney attend all Council Meetings. She stated that they should hire a full-time attorney.

Council Member Schmid said that he is comfortable with City Attorney Noe; he has done a good job for the City. He noted that City Attorney Noe is a municipal attorney and he understands the workings of how cities operate.

City Administrator Kelly commented that approximately half of small cities have an attorney attend meetings, and half don't. He asked if Council wanted to hire a full-time attorney, noting that City Attorney Noe is about a twenty percent employee, not full-time.

Council Member Finch responded that she wants to replace City Attorney Noe, not reduce the position, and that it will be a shame not to have him attend meetings. She felt that the contract should be a temporary solution while they look for someone to replace City Attorney Noe.

City Administrator Kelly noted that Council could use him in the same way but it will cost more.

Police Chief Hayes suggested checking the Ordinances, as he thought the city attorney was required to be at Council Meetings like he is required to be there as Sergeant at Arms.

Council Member Smeback commented that the contract doesn't state whether they bill in quarter hour increments, and asked if that could be included in the contract language.

David replied that he can contact them tomorrow about that and have it included, if Council so desires.

Council Member Tierney said that he would amend the motion to change the language of the contract to allow the City to be billed in quarter hour increments.

City Administrator Kelly observed that the last attorney he looked at billed in one-sixth of an hour increments, not quarter hour.

Council Member Finch felt there was too much room for error.

City Administrator Kelly called City Attorney Noe to ask about the billing increments. He stated that City Attorney Noe thought it was every ten minutes.

Council Member Tierney withdrew his amendment to the motion.

**Council Member Tierney moved, and Council Member Schmid seconded, to Approve the Resolution authorizing the Mayor to sign an Agreement for Legal Services with Kenyon Disend, PLLC. Roll was called: Council Member Overby – yes; Council Member Tierney – yes; Council Member Smeback – yes; Council Member Schmid – yes; Council Member Finch – yes; Council Member Sample – yes; Council Member Williams – yes. By voice vote, approval was unanimous.**

O. Communications

1. Oral

Mayor Gawlik opened the meeting. Seeing no one rise to speak, he then closed the meeting.

P. Reports/Announcements

1. Mayor

Mayor Gawlik said that he has had the pleasure and honor of working with City Administrator Kelly, a man who has the highest level of integrity, ethics and the ability to work well with others. He noted that it will be a tough act to follow.

2. Council Members

Council Member Finch had no report, but wondered why Community Planner Davison has stated on the record at the October 27, 2014 Planning Commission that he would meet with three Council Members to discuss the matter before the Commission.

Council Member Schmid stated that the meeting never happened.

Council Member Finch thought it was borderline inappropriate.

Council Member Schmid reiterated that he was never contacted to attend a meeting.

Council Member Smeback understood why Community Planner Davison might seek input from him, as he'd served on the Planning Commission in the past and is in the real estate business.

Council Member Finch felt it was inappropriate because her understanding is that the item is a quasi-judicial matter. She wanted to have it on the record as a point of concern.

Council Member Smeback commented that it would be interesting to have Community Planner Davison explain what the questions would have been as opposed to them speculating about it.

Council Member Finch was comforted to hear that the conversations never happened, adding that this is why they need to have a City Attorney; she would like to hear about the appropriateness of having conversations with Council Members.

City Administrator Kelly noted that Council Member Sample is no longer doing his original proposal.

Council Member Finch stated that she had no intention of attacking any Council Members.

Council Member Overby had no report.

Council Member Sample said that he was surprised when saw that, and that he wasn't contacted to set up a meeting. He noted that the conversation regarding duplexes didn't directly involve him.

Council Member Tierney thanked City Administrator Kelly for his outstanding service to the community, adding that he is disappointed to see him leaving. He remarked that the Parks Board minutes included in the packet were from May 2014 and that they had already discussed receiving those in a timely manner.

Council Member Smeback had no report.

Council Member Williams had no report. She inquired about the process for finding a new City Administrator.

Mayor Gawlik stated that they will advertise through the Association of Washington Cities (AWC), which is the same process used last time.

Council Member Williams wondered if the Planning Commission would continue with their training.

Mayor Gawlik responded that he encourages everyone on City Commissions and Boards to take advantage of any classes that would assist them in doing their job. He expressed his disappointment that no one attended the last AWC class for Planning Commission personnel held in Yakima.

Council Member Williams inquired if Community Planner Davison will present the Planning Commission with additional information beyond the two chapters he presented.

Mayor Gawlik replied that he did not know, but he will encourage him to do so.

Council Member Schmid said that he is sad and disappointed that City Administrator Kelly is leaving the City, as he has made some very good changes for Selah. He added that, while he hates to see him go, he is excited for his new opportunity.

### 3. Departmental

Public Works Director Henne said that they deiced the streets today in anticipation of the expected snowfall. He briefly touched on the water system plan to be presented at the next Council Meetings, noting that the information has been emailed to Council. He commented that he assumes each department will be paying for their usage of City Attorney Noe's services.

Clerk/Treasurer Novobielski gave a brief update on tax revenues for October, noting that the City is currently in receipt of ninety-six percent of the tax levy amount.

Mayor Gawlik asked at what point he stops accepting and posting late revenues to that calendar year.

Clerk/Treasurer Novobielski responded that those are received on a cash basis, which means that any revenues received in January will goes towards 2015 revenue, not 2014 revenue.

Recreation Manager Brown had no report.

Fire Chief Hanna had no report.

Police Chief Hayes said that the next Citizens' Academy will start on Jan 5th, and that application are available online, at the front desk of the Police Station ,and at City Hall. He noted that they will be going out to the range this Friday, and again on December 12<sup>th</sup>.

City Administrator Kelly said that the City's bond rating came back, and they received a AA-. He noted that the bond will go for sale next Monday morning, at which time they will find out the interest rate. He asked to meet with the facilities committee immediately following the meeting. He remarked that he has thoroughly enjoying working for the City, and that,. while they haven't always agreed on things, he and Mayor Gawlik have had a healthy and respectful working relationship.

Council Member Smeback commented that he has set bar higher and raised expectations considerably.

Council Member Williams observed that she has heard nothing but positive feedback from citizens regarding his service.

4. Boards

- a. Parks Board Minutes – May 5, 2014
- b. Planning Commission Minutes – Corrections page 8 of June 17, 2014; October 27, 2014

Q. Executive Session **None**

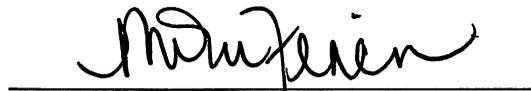
R. Adjournment

**Council Member Schmid moved, and Council Member Smeback seconded, that the meeting be adjourned. Motion passed with 6 yes votes and 1 no vote.**

The meeting adjourned at 5:39pm.

  
\_\_\_\_\_  
Paul Overby, Council Member

\_\_\_\_\_  
Dave Smeback, Council Member

  
\_\_\_\_\_  
Brooke Finch, Council Member

  
\_\_\_\_\_  
Jane Williams, Council Member

ATTEST:

  
\_\_\_\_\_  
Dale E. Novobielski, Clerk/Treasurer

  
\_\_\_\_\_  
John Gawlik, Mayor

  
\_\_\_\_\_  
John Tierney, Council Member

\_\_\_\_\_  
Allen Schmid, Council Member

\_\_\_\_\_  
Roy Sample, Council Member