

City of Selah  
Council Minutes  
October 12, 2010

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.

B. Roll Call

Members Present: Keith Larson, Paul Overby, John Tierney, Kevin Jorgensen, Dave Smeback,  
John Gawlik

Members Excused:

Staff Present: Frank Sweet, City Supervisor; Bob Noe, City Attorney; Joe Henne, Public  
Works Director; Dennis Davison, Community Planner; Jerry Davis, Fire Chief;  
Stacy Dwarshuis, Police Chief; Dale Novobielski, Clerk/Treasurer; Monica  
Lake, Executive Assistant

Mayor Bob Jones welcomed the students attending the meeting.

C. Pledge of Allegiance

Councilman Gawlik led the Pledge of Allegiance. Pastor Rex Van Beek led the opening prayer.

D. Agenda Changes

Mayor Jones noted Agenda changes as printed.

1. M – 4 Resolution Authorizing the Mayor to Sign the Agreement between the City of Selah and Yakima Basin Environmental Education Program for Professional Consultant Services relative to Stormwater Education.

E. Public Appearances

F. Getting To Know Our Businesses

G. Communications

The Mayor requested Pastor Van Beek address the Council.

2. Written

- a. Letter from Selah United Methodist Church Thanking the Police Department for Escorting their Centennial Celebration Parade

Pastor Van Beek addressed the Council, thanking the Police Department and Chief Dwarshuis for their cooperation and assistance during the Centennial Celebration parade. He spoke briefly on the history of the church, and the walk from the city plaza (the original location of the Selah United Methodist Church) to their present location.

1. Oral

Mayor Jones opened the Public Hearing.

- a. Clarification re: Fifth Street Estates Public Meeting

Kathy Hoffert asked if comments would be allowed during the Fifth Street Estates Public Meeting.

City Supervisor Frank Sweet explained the difference between a Public Hearing and a Public Meeting to Ms. Hoffert, stating that a Public Meeting is for Council action only.

Mayor Jones introduced his two grandsons, Taylor and Tanner, to the Council and welcomed them to the meeting.

The Mayor closed the Public Hearing, moving on to the Consent Agenda.

- H. Proclamations/Announcements

- I. Consent Agenda

Mayor Jones read the Consent Agenda.

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

- \* 1. Approval of Minutes: Study Session & Council Meeting September 28, 2010
- \* 2. Approval of Claims & Payroll:  
Payroll Checks Nos. 69481 – 69571 for a total of \$222,783.94  
Claim Checks No. 56985 for a total of \$ 2,866.35  
Claim Checks Nos. 56986 – 57074 for a total of \$130,145.57
- \* 3. Resolution M – 1 Resolution authorizing the Mayor to Sign a Letter to Yakima Valley Conference of Governments notifying them of the City of Selah’s Approval of the Proposed YVCOG 2011 Budget
- \* 4. Resolution M – 2 Resolution authorizing the Mayor to Sign a Grant Agreement between the City of Selah and the Department of Ecology for the Municipal Stormwater Capacity Grant Project

- \* 5. Resolution M – 3 Resolution to accept Well No. 8 Drilling, Casing, Testing, and Pump as Complete

**Councilman Larson moved and Councilman Jorgensen seconded to adopt the Consent Agenda as read. By voice vote, approval was unanimous.**

- \* 6. Resolution M – 4 Resolution authorizing the Mayor to Sign the Agreement between the City of Selah and Yakima Basin Environmental Education Program for Professional Consultant Services relative to Stormwater Education

**Councilman Gawlik moved and Councilman Tierney seconded the addition of Resolution M-4 to the Consent Agenda as read. By voice vote, approval was unanimous.**

J. Public Hearings

K. New Business

1. Select Council Member to Fill Vacancy

Mayor Jones addressed the concerns expressed about the alleged illegal vote to select a Council Member at the last Council meeting. City Supervisor Frank Sweet talked a bit about the process of filling a position. The Mayor requested Executive Assistant Monica Lake to poll the Council on their votes, according to seniority. The City Supervisor requested a motion and a second prior to polling the Council.

**Councilman Overby moved to appoint Allen Schmid to the Council and follow up by polling the Council Members. Councilman Jorgensen seconded. Roll was called: Council Member Larson – yes; Council Member Overby – yes; Council Member Tierney – no; Council Member Jorgensen – yes; Council Member Smeback – yes; Council Member Gawlik – no.**

City Attorney Bob Noe requested that the Council Members identify which candidate they voted for. The Mayor requested roll that be called, with each Council Member stating who they voted for.

**Roll was called: Council Member Larson – Allen Schmid; Council Member Overby – Allen Schmid; Council Member Tierney – Patrick Kelly; Council Member Jorgensen – Allen Schmid; Council Member Smeback – Allen Schmid; Council Member Gawlik – Patrick Kelly.**

Allen Schmid was called to the podium and sworn in as a Council Member by Clerk/Treasurer Dale Novobielski. Councilman Schmid then proceeded to his seat at the Council table.

Councilman Jorgensen commented on the Council Member selection, noting that in the most recent election 681 people voted for Councilman Gawlik and 676 people voted for Councilman Schmid. He went on to say that Selah is in a unique position right now in that 100% of the people who voted in the last election now had their chosen representative on the Council.

2. FIFTH STREET ESTATES public meeting to Consider Hearing Examiner's Recommendation

Councilman Gawlik recused himself, stating that he was a building inspector for the City of Selah for almost 6 years, and he worked with Mr. Torkelson on his projects for approximately 10 months after his employment with the City of Selah concluded. He stated that he has also received numerous pieces of communication from opponents, and in the interest of fairness he recused himself from this issue.

Councilman Tierney recused himself, stating that in the interest of fairness on this issue, he felt it necessary to recuse himself. He said that he has had contact and correspondence with many of the people who are opposed to the issue, and reminded the Council that he had recused himself on a previous issue involving Mr. Torkelson and the City.

Councilman Overby stated that he had been asked to recuse himself in the past, but nothing has been brought up so far in regards to this development. He stated that he has not received any correspondence in this matter and in the interests of fairness it is up to the proponent whether he be recused from this issue.

Attorney Ken Harper, representing Mr. Torkelson, responded to Councilman Overby's statement, stating that Councilman Overby had indeed been asked to recuse himself in previous matters dealing with Mr. Torkelson. He referenced documentation submitted to the Planning Commission by Councilman Overby, in his capacity as a Council Member, in opposition to Mr. Torkelson's projects. He spoke briefly on the appearance of fairness doctrine, noting the key involves a quasi-judicial decision. He asked Councilman Overby if he had signed a petition on behalf of the South Selah Neighborhood Association, with respect to its opposition to a project of his client in the vicinity of Fifth Street and Southern Avenue.

Councilman Overby responded that he was not a Council Member at that time, but that this has come up before as the signature was undated. He also stated that the document was specific to a development at 605, and not this particular one. He then stated that this is why he has a question as to whether this is an issue that warrants his recusal at this time.

Attorney Harper asked if he has had communication with any individual who identifies himself or herself as a member of the South Selah organization.

Councilman Overby responded that he did not believe so. He deferred to City Attorney Bob Noe.

Selah City Attorney Bob Noe stated that he did not believe Councilman Overby had had any ex parte conversations on this matter.

Attorney Harper asked if Councilman Overby had any lingering views or predispositions against Mr. Torkelson's proposal of Fifth Street Estates, based on any decisions or view he might have had prior to this point.

Councilman Overby stated that his views have to do with the increase in the density in the south, but that the R-3 zoning is intact and this would in no way add to or detract from that. He said that in the interest of fairness, he felt that he should recuse himself.

Attorney Harper thanked Councilman Overby for his candor, and then requested that he recuse himself, noting that it was on the basis of Councilman Overby's own concerns and that he recognizes that the petition no longer represents the Councilman Overby's views.

Councilman Overby stated that he would like to recuse himself from the issue at this time.

Councilman Schmid stated that he would like to recuse himself, as he has given testimony on this issue. He said that in the interests of fairness, he feels he should recuse himself.

Attorney Harper said that he and his client both take the fairness act seriously, and he appreciated the candor of the Council Members.

Councilman Larson said that Mr. Hoffert had addressed him after a Council Meeting about a year ago, and while that is the only communication he has had, he was concerned that it qualified as ex parte communication.

Attorney Harper responded, asking Councilman Larson if it was an exchange of opinions or if Mr. Hoffert had merely been expressing his views.

Councilman Larson stated that Mr. Hoffert was expressing his opinion on the issues discussed.

Attorney Harper asked if he responded with an opinion.

Councilman Larson said that he talked about the increase in density, and the R-3 zoning. He also commented to Mr. Hoffert that the density on that property was only half of the allowable density, and that he didn't understand why it was still such a big issue. He felt that was the extent of his conversation with Mr. Hoffert.

Attorney Harper inquired if he felt that this would affect his ability to be fair in the matter before the Council today.

Councilman Larson responded that he did not think so.

Attorney Harper said he did not feel a need to request recusal.

Selah City Attorney Bob Noe called point of order, stating that they did not have a quorum at this point. He said that under the statute, if there is not a quorum due to objections or recusals, then they all would come back and listen too the issue. He asked Attorney Harper to confirm.

Attorney Harper initially agreed then stated he was unsure whether he did agree or not. He said that his understanding is that in the absence of quorum that the matter can proceed with the Council Members coming back and asked for Attorney Noe's opinion.

The City Attorney stated that was his understanding of how the statute works.

Attorney Harper agreed to the extent necessary to create quorum, but felt that did not allow all the Council Members to come back and hear the matter.

The City Attorney inquired if he felt this meant it put the onus on the proponent to select who they wanted to come back. He stated again that he felt it means they all come back on, but that they could check the statute.

City Supervisor Sweet asked if they would all vote at that point.

The City Attorney indicated yes.

The City Supervisor then said they could take a look at the statute, take a quick 5 minute break to look it up then come back and take care of business.

The Mayor announced a recess at 4:27pm, and the City Supervisor, City Attorney, and Attorney Harper left the Council Chambers to check the statute.

The Mayor reopened the meeting at 4:36 pm.

The City Attorney said that they took a look at the statute. He said it talked about the rule of necessity: when you have Members who recuse themselves or there are objections to them and it results in a lack of quorum, then those Members can be brought back on out of necessity to hear the matter. He stated that they called Municipal Research Services Center to get their opinion on the statute, and their opinion is the same as his. He went on to state that the proponent's Attorney does not agree with that.

Attorney Harper stated his objections, saying that he believed that when Members recuse themselves and the next recusal would result in a lack of quorum, then that Member should not be recused but able to hear the matter to avoid a loss of quorum. He stated that he objected to having all the Council Members brought back, including those who said they wanted to be recused, as he did not feel that was necessary. He did feel it was necessary to allow the Council to act on the basis of a quorum, and that it would only take one additional Council Member to constitute a quorum. He felt that the appearance of fairness doctrine should yield only to the extent necessary to bring back one Council Member, and that is should be the last Council Member recused.

The Mayor said he would bring back Councilman Schmid, and asked Attorney Noe if he was agreeable with that.

The City Attorney stated again that he felt they should all come back; that's the way he read the statute.

Kathy Hoffert spoke up from the audience, saying that she objected to the proponent's Attorney looking at the statute with the City Attorney. She felt it was unfair to the opposition and that the Council was giving the proponent a lot of leeway when it was not supposed to be that way. She stated that if they were talking about fairness, then she felt that all the Council Members should be brought back in to vote.

The City Attorney reiterated that the way he has always read the statute is that they all come back in, and that MRSC agreed when they were contacted.

The City Supervisor said that historically they follow what MRSC says, and to bring them all back.

The Mayor requested the Council Members to be brought back.

Council Members Gawlik, Tierney, Overby and Schmid returned to the meeting.

Mr. Carl Torkelson said that they aren't sure about this, since they are discussing it, and that he has made the mistake before of sitting there while the Council tried to rezone property out from under him. He stated that the Council has a lawsuit upon them right now because of that, and more than likely he'll get some money out of that lawsuit because of the Council's actions. He asked that the Council table this discussion until they know what they're doing and know exactly the right answer, before they make a mistake again. He stated that he asked them to do so last time, but they didn't, and instead made a decision to rezone his property. He went on to say that he got a lawyer from Seattle and put a tort claim on the Council. He asked why they didn't do the smart thing this time and table it, until they know exactly what they are supposed to and how to do it, and get it right.

The City Attorney stated that he knows exactly what he is doing and has addressed this issue many times, and that MRSC echoes his position, so he is sticking with it.

Mr. Torkelson stated that he wanted that to be said in case they ended up in court.

Ms. Kathy Hoffert spoke up from the audience asking if that was for the record, that he was threatening the Council Members.

Mr. Torkelson said he wasn't threatening anybody.

Ms. Hoffert said yes, he was.

The Mayor stated that from here on out this was a Council matter and everybody is involved, then called on Community Planner Dennis Davison to address the Council.

Community Planner Davison discussed the minutes from the Hearing Examiner's public hearings, along with the binders of documentation handed out with the packets. He gave a brief summary of the issue at hand, explained why the Hearing Examiner recommended denial and stated that the staff's report recommended denial of the Hearing Examiner's recommendation and approval of the planned development. He then opened the discussion to questions from the Council Members.

Councilman Gawlik asked why he was back in, as he had recused himself from the voting process.

The Mayor replied that it was because we didn't have a quorum.

The City Attorney stated that there was a statute that applies to let them back in when there isn't a quorum.

Councilman Jorgensen said that it looks like the Hearing Examiner's main reason for recommending denial is due to the vagueness of the Ordinance, and asked if that was a fair statement.

The City Attorney responded that he did read the Hearing Examiner's decision dated September 13<sup>th</sup>, and it looks like he found compliance with everything except Chapter 10.24 of the Selah Municipal Code, specifically .010, sub 1, which is admittedly vague. He felt that the Hearing Examiner struggled with that vagueness. He went on to say that the problem with having vague standards for development standards is that it's tough for a proponent to meet the standard.

Councilman Smeback said that he is worried by the wording the City has currently that was adopted by the Planning Commission for the City.

The City Attorney inquired if it was the terms of the Ordinance itself that worried him.

Councilman Smeback responded that it is the way the paragraph is written.

The City Attorney responded that that is our Ordinance; it went through the Planning Commission and came to the Council and became part of the City's Ordinances.

Councilman Smeback stated that he remembered the original was even more vague and that this Ordinance was an attempt to be more specific.

The City Attorney said that if we wanted to discuss the intent behind the provision, he felt that the intent of the Council, and probably the Planning Commission, was to provide flexibility. He said that the language is vague to the extent that it provides flexibility, and that the Hearing Examiner flipped it around and used the vagueness as a method for recommending a denial. He stated that he felt the intent is the opposite; the vagueness is there so there can be approvals. He mentioned that this is consistent with case law, citing Anderson versus the City of Issaquah found that Issaquah cannot deny a permit based on vague standards.

Councilman Jorgensen stated that there are dwellings constructed on this ground.

The Community Planner agreed, and pointed out the 2 lots currently without a dwelling on the site map posted on the bulletin board.

Councilman Jorgensen inquired if the existing building were currently renter-occupied dwellings.

The Community Planner said yes, they are.

Councilman Jorgensen asked if the intent now was to convert these to individual parcels that would be sold off and be owner-occupied dwellings.

The Community Planner affirmed that they would be individual parcels available for sale.

Councilman Jorgensen asked if the County would assign a parcel number to each individual property.

The Community Planner stated that the property would be subdivided into 12 lots, with an open space area, and each parcel would be provided a tax parcel number.

Councilman Tierney commented that there is no assurance that they would be owner-occupied.

The Community Planner said no, there is never any assurance that they would be owner-occupied. He stated that half the single family homes in Selah are renter-occupied. He said they are available for sale, but there's never any assurance they will sell.

Councilman Smeback inquired as to what would be in that open space.

The Community Planner referred the Council to the site plan in their binders, which shows seven trees and three picnic tables.

Councilman Overby asked, in regard to the cited case versus the City of Issaquah, and in light of a vague standard the hearing Examiner rules as vague, if the burden of proof lies on the City to prove that the proponent is not meeting the standards.

The City Attorney concurred, stating that if you are going to have development standards they have to be very specific in order for a proponent to meet those standards. He said if they are vague, then it becomes difficult for a proponent to know what they need to do to meet those standards. He said if you have a vague standard, the burden of proof shifts to the City on how the proponent doesn't meet that standard versus the burden being on the proponent to establish that they meet it. He went on the say that is what the case law provides for, for vague standards.

Councilman Overby commented that it was fairly awkward in this situation. He said the City staff are saying not only do they not meet it, but they actually do meet to our standards. He went on to say that the burden of proof would be on the City staff and the City, and they are saying they meet the standards.

The City Attorney stated that we are recommending approval, and that the standard in our opinion is vague and that it would be difficult to deny the application based on a vague standard.

Councilman Tierney asked if there was an avenue available to clarify those standards with City staff, and if it had been done in this case.

The City Attorney stated that, while he was not directly involved in the application process, he understood that there was some back and forth on how to meet the standards.

The Community Planner said he read the Ordinance when reviewing the application submitted. He stated that he made suggestions where he thought it might be weak, but didn't feel it was his place to tell him what to put in the application.

Councilman Tierney said the purpose of Chapter 10.24.010 of the Selah Municipal Code is to allow new development that is consistent with the Comprehensive Plan. He asked if the developer was to go back to the Comprehensive plan to determine what is consistent with his new development.

The Community Planner referenced the Comprehensive Plan, stating that the land is designated High Density Residential and the developer's consistency is to develop a project that does not exceed the permissible density according to the Comprehensive Plan.

Councilman Tierney asked if he is compliance with that with 16 units.

The Community Planner affirmed that he is compliant, and could have more than 12 units on the property if he chose.

Councilman Overby raised a question on the Hearing Examiner referencing that it did not meet the criteria for esthetically appealing, which is contained in 10.24.01. He inquired of the City Attorney how you would define esthetically pleasing from a legal standpoint.

The City Attorney responded that that was the point he was making; it's vague. He stated that from a legal standpoint, he didn't feel you could deny someone based on a vague standard such as this one.

Councilman Tierney asked if you took out section 1 of 10.24.010, and the rest of the Ordinance stands, what position we would be in as a council for approval or denial. He added that it is a severable statute, if any portion is deemed unconstitutional or illegal or improper; then the rest of the statute stands.

The City Attorney stated that this is another point of contention with the Hearing Examiner's decision; he mentions sections 2 through 8 but those were eliminated by the Ordinance. He stated that there is only section 1 now, but Hearing Examiner seems to believe that they are retained but what was passed by the Council eliminated those sections.

Councilman Tierney then asked if the Hearing Examiner's interpretation of sections 2 through 8 was incorrect.

The City Attorney noted that the Hearing Examiner used sections 2 through 8 as examples of the intent of the Planned Development Zone, but they are not in the Ordinance.

Councilman Smeback stated that in looking through the conditions and covenants, he noticed that they seem very similar to condo associations around Yakima. He asked the City Attorney if he saw those conditions as being enforceable.

The City Attorney responded by saying that those types of covenants are enforceable among the association of the homeowners; the City can't really enforce those. He went on to say that people assume since it's recorded that the City is the strong arm and the enforcement mechanism, but in reality it is the association of owners that has to see to the enforcement. He stated this is a pretty typical set of CCRs you'd see with a development such as this.

Councilman Tierney brought up another question in regards to sections 2 through 8, referencing page 73 of the binder provided by the Community Planner. He stated that it shows section 2, section 3, section 4, section 5, section 6 and section 7, which was passed by the Council in October of 2009, which leads him to believe these are a part of that ordinance.

The City Attorney pointed out if you look at those sections, they have nothing to do with 2 through 8. He stated that they're just titles for that particular ordinance. He went on to state that section 7 talks about the effective date of the Ordinance, section 6 is severability, section 5 relates to 10.24.060 – a completely different Ordinance. He said the one thing that relates to 10.24.010 is section 2 of that Ordinance, and there is no 2 through 8 under that section 2.

Councilman Tierney commented that it's no wonder he is confused.

Councilman Jorgensen made the comment that, as he stated in the Matson case, he is firmly, ideologically bound to the fact that private property rights are sacred. He went on to say that he accepts the fact that governments have the right, in protection of the citizenry, to encumber that private property owner with certain regulations. He felt that in this case it could have been multi-density with a lot more housing units per parcel. There are other similar development throughout the community by this same developer that add, not detract to our community.

**Councilman Jorgensen moved that the Council approve the staff's recommendation in denying the Hearing Examiner's recommendation and make a motion for approval. Councilman Larson seconded. The Community Planner requested that the motion be for the Planned Development and the Preliminary Plat, since they are part and parcel. Councilman Jorgensen added to his motion, stating "and the preliminary plat as is recommended because it also includes all the conditions". Councilman Larson seconded the amended motion. Roll was called: Council Member Larson – yes; Council Member Overby – yes; Council Member Tierney – no; Council Member Jorgensen – yes; Council Member Smeback – yes; Council Member Gawlik – abstain; Council Member Schmid - abstain. Motion carried with 4 voting aye, 1 voting no and 2 abstentions.**

Prior to casting his vote, Councilman Tierney stated that many months ago he requested the authority of this Council to review these proposals and was denied, referred instead to the Hearing Examiner who does the analysis. He said that the Council was deemed not qualified to do so. He went on to say that based upon that, he has no option but to rely upon the expertise of the Hearing Examiner.

The City Attorney clarified that staff will put together findings and bring back an Ordinance to effectuate the Zone change at the next meeting.

Councilman Tierney inquired if there was something that could be done in the immediate future to clean the Ordinance up.

The Mayor responded that he thought there was.

The City Supervisor responded that they are doing some research right now into Ordinances that are not vague, that would allow staff to advise developers on what they need to do to meet requirements. He went on to say that they hoped to have some of those Ordinances in a week to 10 days to take to the Public Works committee and then take back to the Council.

Councilman Tierney reiterated the need to clean the Ordinance up; that it is neither fair to developers or homeowners/citizens in the community to have something drag on like this. He stated that he is pro-growth and pro-business, but that this has gone on so long that it needs to be clearer for everyone involved.

L. Old Business

M. Resolutions

- \* 1. Resolution Authorizing the Mayor to Sign a Letter to Yakima Valley Conference of Governments notifying them of the City of Selah's Approval of the Proposed YVCOG 2011 Budget
- \* 2. Resolution Authorizing the Mayor to Sign a Grant Agreement between the City of Selah and the Department of Ecology for the Municipal Stormwater Capacity Grant Project
- \* 3. Resolution to Accept Well No. 8 Drilling, Casing, Testing, and Pump as Complete
- \* 4. Resolution authorizing the Mayor to Sign the Agreement between the City of Selah and Yakima Basin Environmental Education Program for Professional Consultant Services relative to Stormwater Education

N. Ordinances

- 1. PROPOSED Ordinance of the City of Selah, Washington, creating a new Selah Municipal Code Chapter 6.77, Registration and Maintenance of Abandoned Properties

Mayor Jones briefly spoke on the background of the proposed ordinance, and then deferred to City Attorney Bob Noe for further discussion.

Councilman Gawlik commented as to his time as a Code Enforcement Officer and talked about the possibility of the City filing a lien at the County Auditor's against the property owners. He stated that he was not opposed to any Ordinances, but wanted to enlighten the Council as to the tools already available.

The Mayor acknowledged the possibility, and then shared the frustration he and City Supervisor Frank Sweet have experienced in trying to contact someone at the lending institutions to deal with the issue.

City Attorney Bob Noe noted that the house had to be deemed dangerous for the lien to be filed, and that most of these houses would not fall under that category, as most of these houses simply have maintenance issues. He then spoke on the proposed Ordinance, touching on the highlights of the proposal.

Councilman Jorgensen queried as to houses that are not foreclosures, but have been let go or abandoned by the owners.

The City Attorney stated that the nuisance codes would come into play in that type of situation, and that there are mechanisms to try to locate the owner, even to the extent of a court order that allows service by publication.

Councilman Overby enquired about the elderly, who might not be able to fulfill the requirements of the codes.

The City Attorney responded that those might have to be looked at on a case by case basis. He discussed the options available to the City in those types of cases.

The City Supervisor stated that they would usually try to contact the next of kin, or whoever is in charge of their affairs, to deal with the issue.

Councilman Overby asked if there was some latitude, as the abatement penalties seem a lot stiffer than the existing Ordinance.

The City Supervisor said that it would never get to that situation as long as there was someone willing to work with the City. This Ordinance would apply to those times the lending institution ignores the City's request.

Councilman Overby asked which fund the fees would go into.

Attorney Noe responded that there could be a designated fund for it to go into, but it would probably go into the General Fund.

The City Supervisor commented that it would probably be revenue for Code Enforcement, as those people would be doing the work. He went on to say that this will be going to the Public Works committee, and to please contact him or Attorney Noe with questions or concerns.

O. Communications

1. Oral

P. Reports/Announcements

1. Mayor
2. Council Members

Councilman Tierney had no report.

Councilman Larson welcomed Councilman Schmid to the Council.

Councilman Jorgensen had no report.

Councilman Smeback welcomed Councilman Schmid to the Council.

Councilman Overby welcomed Councilman Schmid to the Council. He expressed an opinion about the process of selecting a Council Member and requested that they codify the process for the future.

The City Supervisor indicated the intent to bring this before the Council in the future in regards to the selection process, most likely in the form of a Policy rather than an Ordinance.

Councilman Gawlik had no report.

Councilman Schmid had no report.

3. Boards
4. Departmental

Community Planner Dennis Davison briefly discussed his intent to present an Ordinance at the next Council Meeting, to appoint a Hearing Examiner Pro Tem in cases where the Hearing Examiner chooses to recuse himself from hearing them. The Mayor polled the Council and the consensus was to have the Ordinance presented at the next meeting.

Clerk/Treasurer Dale Novobielski had no report.

Public Works Director Joe Henne had no report.

Fire Chief Jerry Davis mentioned the Fire Commissioners' meeting later tonight to discuss the joint budget for the City district.

Police Chief Stacy Dwarshuis had no report.

City Attorney Bob Noe had no report.

City Supervisor Frank Sweet handed out packets concerning the 2011 Budget and briefly explained the current status of the 2011 Budget, highlighting some specific issues.

Councilman Gawlik confirmed that if the Initiatives regarding liquor fail, it would take care of a large percentage of the current budget shortfall. He then inquired about furloughs as an option.

The City Supervisor stated that everything is on the table at this point. He talked about the frugality of the City in previous years, and how this means there isn't extra in the budget to be cut to balance it. He touched on some areas that need to be analyzed, and how revenues might be increased to help in this issue.

The Mayor said that furloughs are out, and that they will be going back over the budget to see what can be cut out.

Councilman Gawlik expanded on his reasons for mentioning furloughs.

The Mayor responded that he feels the City has a tight and efficient crew.

The City Supervisor stated that he feels furloughs are more for public relations and not really effective, since work not getting done leads to overtime and that removes any economic savings for the City. He indicated that the intent is to still provide services and keep the employees on staff.

Councilman Tierney inquired about a shortfall on water, asking if the numbers included the 3% increase.

The City Supervisor confirmed that the numbers do reflect the 3% increase.

Q. Executive Session

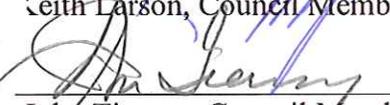
No Executive Session was scheduled.

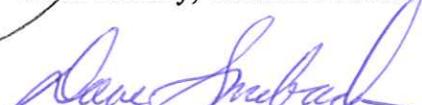
R. Adjournment

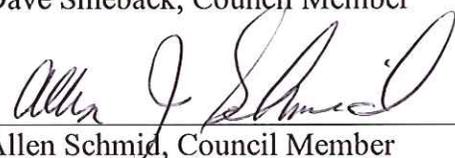
**Council Member Larson moved, and Council Member Jorgensen seconded that the meeting be adjourned. By voice vote, the motion passed unanimously.**

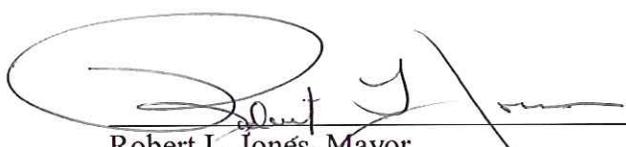
The meeting adjourned at 5:30pm.

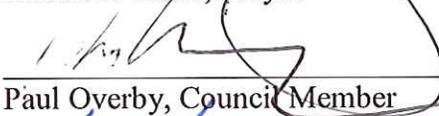
  
\_\_\_\_\_  
Keith Larson, Council Member

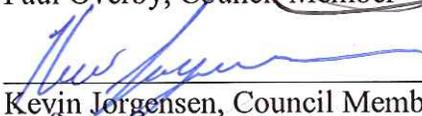
  
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John Tierney, Council Member

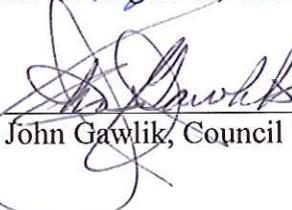
  
\_\_\_\_\_  
Dave Sméback, Council Member

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

  
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Robert L. Jones, Mayor

  
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Paul Overby, Council Member

  
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Kevin Jorgensen, Council Member

  
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John Gawlik, Council Member

ATTEST:

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