

**City of Selah
Council Minutes**

August 24, 2004

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

A. Call to Order Mayor Bob Jones called the meeting to order at 10:00am.

B. Roll Call

Members Present: Jerry Kobes, Keith Larson, Pete McNew, Herb Schmidt, Allen Schmid, Scott Smeback

Members Excused: Brian Harris

Staff Present: Bob Noe, City Attorney; Rick Gutierrez, Chief; Jerry Davis, Fire Chief; Joe Henne, Public Works Director; Jeff Hagler, Parks & Recreation Director; Dennis Davison, Community Planner; John Gawlik, Building and Code Enforcement Officer, Dale Novobielski, Clerk/Treasurer

C. Pledge of Allegiance

Mayor Jones led the Pledge of Allegiance. Pastor Lowell Welker led the group in prayer.

D. Agenda Changes

E. Public Appearances

F. Getting To Know Our Businesses

G. Communications

1. Oral

Pastor Lowell Welker addressed the Council, announcing that Selah Nazarene Church will celebrate its fiftieth anniversary on October 2 and 3, 2004. He stated he would send a formal announcement at a later date.

2. Written

H. Proclamations/Announcements

I. Consent Agenda

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

* 1. Approval of Minutes: August 10, 2004

* 2. Approval of Claims & Payroll: Claims check nos. 43656 - 43749 for a total of

\$134,554.86 and Payroll check nos. 54287 - 554381 for a total of \$108,293.72.

Mayor Jones read the Consent Agenda.

Councilman Schmid and Councilman McNew seconded to approve the Consent Agenda. By voice vote, the motion passed unanimously.

J. Public Hearings

1. Public Hearing on Reconsideration of Denial of Kimco Group LLC's Preliminary Plat 4, Phases 3, 4 & 5 (912.60.04-3)

City Attorney Bob Noe reviewed the history of this issue:

- The Hearing Examiner heard the plat application on June 17, 2004, formulated a recommendation of denial based on water flow and pressure issues and issued a written decision on July 1, 2004.
- The issue came before City Council on July 13, where, during a closed-record review, the Council upheld the Hearing examiner's recommendation.
- On July 30, Kimco Group, LLC filed a Land-Use Petition Act appeal with Superior Court asking the court to review the land-use decision.
- Upon receiving that, City staff reviewed the file more carefully and found that there were several items that had occurred after June 17 when the Hearing Examiner conducted his original hearing. Staff believes these items to be significant and spoke with attorneys for the applicant and agreed to enter into a stipulation to have Superior Court remand the matter back to City Council.

Mr. Noe reviewed the items:

1. The City obtained easements on June 30, 2004 necessary to the installation of the proposed water reservoir that would serve the plat.
2. The City obtained a quitclaim deed on June 30, 2004 for the property on which the proposed water reservoir will be situated.
3. The City has obtained funding to be used toward the installation of the proposed water reservoir.
4. A Determination of Non-Significance (DNS) was issued for the proposed water reservoir on July 14, 2004.
5. A final DNS was issued for the water reservoir project on August 19, 2004.

He noted staffs' belief that had the Hearing Examiner known about these five items, his ruling would likely have been different because the reservoir appears likely to be a reality in 2005. He further noted City Council was unaware of these factors at their closed-record hearing on July 13. He stated these factors deserve consideration particularly because this is a preliminary plat where the applicant would indicate provisions for water and water pressure for fire suppression, which may not be the case by the time it comes up for final plat approval. He stated if for some reason the reservoir were not completed by that time, the applicant would need to provide alternative means and show the alternative means are feasible.

The City Attorney stated the Planning Commission established 20 conditions for approval of this preliminary plat when it considered the issue in 1999, and staff agrees with those 20 conditions and proposes the Council adopt them as part of the approval, with modifications made to condition number 1. He handed out a proposed resolution and recommended its approval, noting it includes the 20

conditions and modification to number 1 that cover the contingency that the reservoir is not on line and provide for the use of booster pumps, designates responsibility for costs, etc.

Mayor Jones thanked the City Attorney and opened the Public Hearing.

Chuck Maduell, Attorney with Davis Wright Tremaine LLP, representing Kimco Group LLC, addressed the Council. He handed out a Hearing Memorandum and a Declaration of Charles R. Johnson. He stated their support for the reconsideration and subsequent approval of the Preliminary Plat for Phases 3, 4 and 5 of Plat 4 with the twenty conditions imposed by the Planning Commission in 1999 as modified by the proposed Resolution. He introduced the applicant Chuck Johnson as well as Rick Wehr from PLSA Engineering. He noted the length of time Mr. Johnson has waited for approval of this Preliminary Plat, and identified the “sticking point” as the proposed use of a booster pump system. He maintained the booster pump system “could” provide adequate water and pressure if it’s needed, i.e. if the reservoir is not on line. He stated because of the delays, the plat is currently in jeopardy.

Fire Chief Jerry Davis stated he wanted to reinforce the importance of fire flow. He noted there was a fire a week and a half ago within two blocks of this project, and there was a potential of two homes on fire simultaneously.

Councilman McNew asked if cost of power is included under “cost of operation” in condition number 1.

City Supervisor Frank Sweet stated power cost would be included in operation costs because the system could not operate without power.

Councilman McNew asked if the billable would go to the homeowner, the developer or back to the City.

The City Supervisor responded that he believed it would go to the property owner; however, the developer would decide how to distribute those charges. He stated those charges would not come back to the City.

Chuck Maduell asked that the developer not be required to do anything that was not required of the developer of Orchard View Subdivision.

There was discussion among the Council Members and staff whether power expenses were stipulated as part of the Orchard View approval.

Councilman Schmidt noted the importance of considering precedents that might be set when making policy.

Mr. Maduell stated he and his client understand the importance of setting precedents; however, they may be able to tie into Heritage Hills, which has a pump station, or the reservoir may well be completed.

Mayor Jones noted the City has avoided the use of booster pumps, and that those in place currently cost about \$1,000 a month. He stated the Council recently had the City Engineer give a Study Session on the issue.

He closed the Public Hearing

K. New Business

- * 1. Construction Contract Award – Southern Avenue Bike Path Improvements

L. Old Business

M. Resolutions

- 1. Resolution Approving Kimco Group LLC's Preliminary Plat 4, Phases 3, 4 & 5 upon Reconsideration

City Attorney Bob Noe asked the Council to pass the Resolution upholding the staff's recommendation to Approve Kimco Group LLC's Preliminary Plat 4, Phases 3, 4 & 5 with the conditions set forth in the Resolution he provided.

The City Supervisor asked if Kimco is in agreement with the change in condition number 1. The City Attorney responded positively and those representing Kimko concurred.

Councilman Schmid asked about wording so that it will be clear that "operation" means continued expense of the electricity.

City Attorney Noe suggested a parenthetical addition after "operation" in condition number 1 stipulating that operation costs will be determined in accordance with similar situations, i.e. Orchard View estates.

City Supervisor Sweet stated it is important to note that this project will be treated no differently than any other project.

After some discussion about Orchard View and what stipulations were made/or agreed to, Rick Wehr of PLSA Engineering stated he was with developer Dain Paulson when Orchard View was approved, noting some of that property lies above 1390 elevation and at that time he and Mr. Paulson agreed that if those lots were developed, they would have to improve that pump station and the cost would go to individual lots, proportionate for the additional power.

Mr. Noe proposed the following parenthetical addition to condition number 1: "applicant shall be responsible for the electrical power costs associated with operation as established by the Public Works Director consistent with similarly situated developments."

Council Members and Kimko representatives agreed with this modification.

Councilman Schmidt raised the issue of providing green space within subdivisions and asked if that had been addressed within the proposed development.

Mayor Jones responded that the City had opted years ago to establish and maintain City parks. He stated it would be both cost and energy prohibitive for the developers to take care of development and maintenance of parks.

Councilman Larson noted each proposed development allows for a certain percentage of green space.

Councilman Schmidt stated perhaps it is time for the City and or the Planning Commission to look at a requirement by developers to put money into a fund with which the City can buy larger plots to set aside for future parks.

Councilman Larson noted he sits on the Parks & Recreation Board and that group has done an inventory of parks that determined Wixson Park as the primary “drive to” park where citizens can enjoy family activities like picnics and Frisbee. He stated they have also discussed the need for a city park to the west where development is moving. He voiced his agreement with the idea of planning for more parks within the City.

Councilman McNew added that it would be good to broaden the definition of “a park” as a part of this consideration and planning.

Councilman Schmidt repeated his belief in parks and planning for green space.

Mayor Jones stated the City should be looking at purchasing twenty or thirty acres. He noted currently 2 ½ staff are working on parks, and he is looking at adding another ½ person.

Councilman Larson moved and Councilman McNew seconded to adopt the Resolution Approving Kimco Group LLC's. Preliminary Plat 4, Phases 3, 4 & 5 including the twenty conditions imposed on the plat by the Planning Commission and amendments made to condition number 1 made at this meeting. Roll was called. Councilman Smeback – yes; Councilman Schmidt – yes; Councilman Schmid – yes; Councilman McNew – yes; Councilman Larson – yes; Councilman Kobes - yes. Approval was unanimous.

N. Ordinances

O. Communications

1. Oral

P. Reports/Announcements

1. Mayor
2. Council Members
3. Boards
4. Departmental
 - a. Police Department Monthly Report – July 2004
 - b. Wastewater Treatment Monthly Report – July 2004

Community Planner Dennis Davison reported the Hearing Examiner has issued a recommendation of approval for Highland Court Phase 2 and Heritage Hills Phases 2 and 3. He noted Heritage Hills relies on a booster pump. He stated those applications will come before Council in September. He stated he and the Mayor will attend a meeting on updating the cities’ shoreline master programs. He stated he will get a thick packet of information to Council Members in the near future.

Councilman Schmid asked if there will be an opportunity during the consideration of Heritage Hills to discuss ways electrical costs on that pump could be passed on to property owners.

Public Works Director Joe Henne described pressure problems with the current booster pump system in Heritage Hills.

Clerk/Treasurer Dale Novobielski reported that August sales taxes are over \$65,000 making the amount more than any month in the last twelve months. He noted construction continues to be a strong sales tax area, but the majority is in retail.

Fire Chief Davis reported his department received its Homeland Security Grant of \$238,000 and will bring the “product” when it is in. He stated the grant was less than they had originally hoped, but it will purchase high-pressure air tanks that will tie in with equipment used by the cities of Yakima, Moxee and Union Gap. He thanked the Council and staff for the opportunity to attend a grant program earlier in the year.

Parks & Recreation Director Jeff Hagler reported they had the final day of swimming Monday and held a “doggie swim” with about fifteen dogs participating.

Mayor Jones noted he has instructed Gene Grimm to lock the restrooms at Wixson Park each evening.

Councilman Pete McNew reported having had a wonderful time at the Yakama Juice Grand Opening Celebration. He noted how impressed he is with the relationship between the Yakama leaders and the City and praised the efforts of City Supervisor Frank Sweet and Mayor Bob Jones in cementing that relationship. He stated his appreciation for the opportunity to learn more about the tribe and the Yakama culture.

Councilman McNew asked Community Planner Dennis Davison about progress on the Zoning Ordinances, Fee Schedule, etc. Mr. Davison responded that that issue will be before the Council this Fall.

Councilman Jerry Kobes echoed Councilman McNew’s sentiments about Yakama Juice. He noted that company seems to know what’s it’s doing and will bring needed job opportunities to Selah. He reported that the library subcommittee is still working to set a meeting with the Yakima Valley Regional Library Board. He noted he gave a preliminary proposal to Director Monica Weyhe and does not expect the YVRL response to be favorable.

Councilman Schmidt stated he was glad Councilman Kobes reported they were trying to get together with the YVRL Board today. He expressed his regret for not being able to attend the Yakama Juice opening, but noted he did appreciate the press coverage.

Councilman Keith Larson reported his father Vern is gearing up for the facelift of the big room at the Selah Civic Center.

Councilman Smeback asked if the City will lose its recycling program with the new ownership of Superior.

City Supervisor Frank Sweet said there would be no change in residential, curbside recycling with the new ownership.

On further discussion, Councilman Smeback identified his concern as the large Yakima Waste containers that have recently be removed from the High School.

Mayor Jones stated those became too messy to keep up with, so he asked for their removal. Those bins were taken to the Middle School. They will remain unless they become an issue.

Mayor Jones reported he has asked Jeff Hagler to look into the heating system at the Civic Center. He noted there is no air conditioning in the senior room. He noted he also was impressed with the Yakamas, their rituals, their emphasis on religion, their preservation of their identity. He praised the City Supervisor for his work with the Yakama Nation.

He announced a short recess before going into Executive Session to discuss personnel.

Q. Executive Session

1. Executive Session concerning personnel

Council moved into Executive Session at 11:00am. They moved back into Regular Session at 11:20am.

R. Adjournment

Council Member McNew moved and Council Member Smeback seconded that the meeting be adjourned. By voice vote, the motion passed unanimously. The meeting adjourned at 11:21am.

Robert L. Jones, Mayor

Gerald Kobes, Council Member

Keith Larson, Council Member

Peter McNew, Council Member

Allen Schmid, Council Member

Herb Schmidt, Council Member

Scott Smeback, Council Member

(Excused)

Brian Harris, Council Member

ATTEST:

Dale E. Novobielski, Clerk/Treasurer