

City of Selah  
Council Minutes

February 13, 2007

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

A. Call to Order Mayor Jones called the meeting to order at 4:01pm.

B. Roll Call

Members Present: Keith Larson, Denise Nichols, Paul Overby, Allen Schmid,  
Scott Smeback

Members Excused: Brian Harris, Herb Schmidt

Staff Present: Frank Sweet, City Supervisor; Bob Noe, City Attorney; Jerry Davis, Fire  
Chief; Rick Gutierrez, Police Chief; Joe Henne, Public Works Director;  
Dennis Davison, Community Planner; Jeff Hagler, Parks & Rec Director

C. Pledge of Allegiance

Councilman Allen Schmid led the Pledge of Allegiance. Ted Pooler led the group in prayer.

D. Agenda Changes

E. Public Appearances

F. Getting To Know Our Businesses

1. Barry's Tack & Feed

G. Communications

1. Oral

2. Written

a. Energy Connections – Pacific Power Newsletter

H. Proclamations/Announcements

I. Consent Agenda

Councilman Schmid moved and Councilman Smeback seconded to adopt the Consent Agenda. By voice vote, the Consent Agenda was unanimously adopted.

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

- \* 1. Approval of Minutes: Council Meeting January 23, 2007
- \* 2. Approval of Claims & Payroll: Claims check nos. 49048 - 49179 for a total of \$413,304.76 and Payroll checks nos. 60267 – 60348 for a total of \$147,063.44.

#### J. Public Hearings

1. Public Hearing Selah Urban Growth Area Comp. Plan Amendment 2006-2 (Orser/Bethune)

Community Planner Dennis Davison introduced item J-1, a Public Hearing to consider Selah Urban Growth Area Comprehensive Plan Amendment 2006-2, which would expand the Selah Urban Growth Boundary by 3.50+ acres and amend the future use map designating the property "Commercial" rather than Yakima County's designation of "Self Sufficient." He reviewed materials included in the packet and noted the staff recommended denial because proponents failed to show a public need for expansion. He noted there are no utilities available at the site. He passed around a statement from adjacent property owners Owens, Adams and Mitzel who oppose the expansion. He stated that after the conclusion of the hearing, staff will prepare findings and provide them to Council. He noted if the expansion is approved, it will go to the Board of County Commissioners, who have the ultimate authority.

Mayor Jones opened the Public Hearing.

Donald Miller, 2388 East Selah Road, spoke in favor of the expansion. He noted the Shell Station is part of the Urban Growth Area. He stated there is a demand for commercial property out there, noting that is likely the only interstate exit that doesn't have commercial property. He stated he wants to lease the property to control garbage. He stated this land is not good for any residential usage. He stated everyone will still have to follow rules and regulations. He stated he wants the property taken into the UGA and eventually zoned commercial.

Mayor Jones closed the Public Hearing.

Community Planner Dennis Davison stated he will work with City Attorney Noe to prepare Findings.

Councilman Allen Schmid asked what responsibility the City would have in relation to the roads that intersect at the site.

Mr. Davison stated the City has no responsibilities for the road, but that could change if the City were to annex the area. He explained that it is governed by Yakima County even if it is within the UGA.

Councilman Smeback asked why the County can't just change the designation.

Mr. Davison responded that the Board of Commissioners want a statement from the community before they would change a designation, otherwise they would be inconsistent with their own comprehensive plan.

Councilman Schmid stated at the time the UGA was determined, there was concern about what would happen with East Selah Road. He noted Council Members need to be sure of their direction in making this decision lest it come back to bite them.

The Community Planner stated the 1997 discussion was to include all of East Selah; however, since services could not be provided to the east side of the freeway, that did not pass. He noted there was discussion about whether to include the entire freeway interchange, and finally the Council decided to include only the existing fuel station on the east side of I-82.

Mayor Jones noted he was under the impression that the City had included all of the interchange. He stated that is prime commercial property along the interstate.

Councilwoman Denise Nichols asked the Planner to explain why the Planning Commission recommends approval and staff recommends denial.

Mr. Davison stated the map showing the area doesn't show that approximately 90 acres west of the interchange are already zoned commercial, and that seems adequate. He said staff could see no pressing need.

Councilman Overby noted that the City has already crossed the Rubicon on this issue; we've already gone out there. He said he agrees with Mayor Jones.

Mayor Jones asked who would want to build a home out there, noting the City would benefit greatly from taxes on this area. He stated developers would have to pay for provision of utilities. He said he would hate to see a sliver come through the Gap and have it become part of Yakima. He said he would rather see the City back up close to the Training Center. Councilman Larson asked if the Urban Growth Area boundary follows Interstate 82.

The Community Planner responded that it takes in the Tree Top spray fields and the golf course, but it excludes Tree Top's lagoon and Monson Fruit.

Councilwoman Nichols asked if the Council will just act on this little piece now or take action on a larger piece.

Mr. Davison responded the Council can consider the 3.5 acres now, and if they want to further expand the Urban Growth Area, they would propose that during the hearing process next fall.

Mayor Jones called on Mr. Miller who asked for an opportunity for rebuttal on the letter from Owens, Adams and Mitzel.

Councilman Schmid moved to direct the Planning and Legal staff to come up with Findings of Fact for consideration of this item at the next regular meeting. Councilwoman Nichols seconded. Roll was called. Roll was called: Council Member Smeback – no; Council Member Schmid – yes; Council Member Overby – yes; Council Member Nichols – yes; Council Member Larson – yes. Motion to develop the Findings passed 4 to 1.

Councilman Schmid requested staff to provide better maps of the area.

2. Public Hearing Selah Urban Growth Area Comp. Plan Amendment 2006-3 (City of Selah)

Community Planner Dennis Davison introduced Public Hearing Item J-2 to amend the text of the Comprehensive Plan. He noted the original intent of the wording was that any area designated as high density should be at least one acre, not that lot size be limited to one acre. He noted the Torkelson Planned Development case was lost based on this confusion within the Comprehensive Plan.

Councilman Schmid identified himself as part of the group that adopted the original verbiage, noting he is not too sure he agrees with the proposed change. He stated what happened on Southern Avenue was not relative to intent that any high-density development had adequate or more than adequate room to handle 24 dwelling units. He suggested the Council may have to reevaluate high density areas to make sure we are in compliance with our own rules.

Mayor Jones stated he also was part of that committee, and the big concern was affordable housing.

Councilman Smeback stated requirements including set-backs and green space should dictate lot size.

The Community Planner gave the example of someone with five acres who built an apartment building and a duplex, but if he sold it, he could not split a parcel off that was less than an acre.

Councilman Schmid responded you cannot develop a high-density and then downsize it.

City Attorney Bob Noe stated the intent is that if you are in R-3 you couldn't develop half an acre parcel, even if you only have half as many dwelling units.

Councilman Schmid stated that's what we wanted to do when we established the wording.

Bob Noe pointed out that the first sentence with each gross acre limited to 24 dwelling units and not that there is a limitation on lot size, as in the last sentence (which is recommended for deletion).

City Supervisor Frank Sweet asked about the relevancy of Planned Developments to this requirement.

The Community Planner stated if the Planning Commission and Council approve the total plan of a Planned Development, the developer has flexibility of the layout. The Planned Development is a unique animal.

Mayor Jones opened Public Hearing.

Donald Miller stated the intent was you begin with one acre; the interpretation was that you will end with one acre. He noted the wording is all wrong. We need to look to the future, use setbacks and parking requirements to accomplish this.

Angela Walker, 124 East Bartlett, stated she is concerned with Selah outgrowing itself. She noted high density puts pressure on police and fire and utilities.

Mayor Jones closed the Public Hearing.

Councilman Larson stated his understanding was that the Planned Development proposed on Southern started with at least an acre, and the zoning was high density. The Developer wanted to build townhouses and sell them individually.

Mr. Davison stated a high-density designation allows 24 dwelling units to the acre and is usually zoned R-3.

Councilman Schmid suggested the Planned Development on Speyers Road would be thrown out if it were challenged.

Dennis Davison noted there is a difference between land use designation and zoning. The minimum lot size in an R-3 zone is 9000 square feet. He explained that the issue being considered is changing the land use designation, not the zoning.

Councilman Larson stated land use designation and zoning are not the same, but he remains concerned about whether the City wants tiny lots.

Councilman Schmid reminded the Council that the Planned Development on Speyers was allowed by Council, the difference being that it was not challenged.

Bob Noe stated Planned Development is an exception to zoning almost like a variance. He noted the Judge said that the Planned Development on Southern was inconsistent with the Comp. Plan.

Mr. Davison stated he is willing to come back to discuss this issue in a Study Session.

Councilman Larson moved and Councilman Smeback seconded to delay further discussion on this issue and consider it in a study session to be held later. Roll was called: Council Member Smeback – yes; Council Member Schmid – yes; Council Member Overby – yes; Council Member Nichols – yes; Council Member Larson – yes. Motion passed unanimously.

Glenda Barry addressed the Council representing Barry's Tack & Feed at 502 South 1<sup>st</sup> Street. She stated they have been in business for almost a year. She said they carry a full line of livestock feed, horse feed, tack equipment, electric fencing, pharmaceutical products as well as gift items and jewelry.

Mayor Jones noted it is good to see a business on that corner.

K. New Business

L. Old Business

M. Resolutions

1. Resolution Approving Payment to Mountain States Construction Company for Work Performed through January 31, 2007 Provided They Have Transmitted the Required Approved "Intent To Pay Prevailing Wages" Form to the City

Ted Pooler addressed the Council regarding Resolution M-1. He thanked the Council, noting Mountain States has transmitted their intent to pay prevailing wage statement so the City is free to pay. He noted when they excavated, they found the area too wet for a foundation, so they had to solve that problem by

putting in pipes to drain clean ground water into the Selah Ditch. He stated the foundation for the clarifier will go in this coming week. He encouraged Council Members to put on rubber boots and visit the area, and recommended they stop in at the Mountain States office for a hard hat.

Mayor Jones recommended they ask someone from the Wastewater Treatment Plant to take them over to the new facility and show them around.

Councilman Larson moved approval of the Resolution Approving Payment to Mountain States Construction Company for Work Performed through January 31, 2007. Councilman Schmid seconded. Roll was called: Council Member Smeback – yes; Council Member Schmid – yes; Council Member Overby – yes; Council Member Nichols – yes; Council Member Larson – yes. Motion passed unanimously.

- \* 2. Resolution Establishing March 13, 2007 as the Public Hearing Date To Consider the “Driscoll Lane” Annexation (920.63.06-04)
- \* 3. Resolution Authorizing the Mayor To Sign the STP Interlocal Agreement Between Yakima County and the City of Selah
- \* 4. Resolution Authorizing the Mayor To Sign a Street Lighting Agreement with Pacific Power for Removal of Three Lights in Crusher Canyon
- 5. Resolution Authorizing the Mayor To Sign an Agreement with Wardell Architects, P.S. for Selah Police Facilities Tenant Improvements at 617 South 1<sup>st</sup> Street, Selah

City Supervisor Frank Sweet addressed Resolution M-5, noting the City found an architect who can meet our requirements and meet our timeline. He noted the contract has been reviewed by City Attorney. Wardell Architects have visited the site. They will do design work and construction plans and give those plans to contractors on the small works roster.

Councilman Schmid moved approval of the Resolution Authorizing the Mayor To Sign an Agreement with Wardell Architects, P.S. for Selah Police Facilities Tenant Improvements at 617 South 1<sup>st</sup> Street, Selah. Councilman Smeback seconded. Roll was called: Council Member Smeback – yes; Council Member Schmid – yes; Council Member Overby – yes; Council Member Nichols – yes; Council Member Larson – yes. Motion passed unanimously.

- 6. Resolution Authorizing the Mayor To Sign an Industrial Wastewater User Contract between the City of Selah and Tree Top, Inc.

The City Supervisor stated Resolution M-6 would allow the Mayor to sign a contract to formalize the City's agreement with Tree Top.

Mr. Pooler noted this contract is also required in the fruit industry. He stated they are outgrowing their wastewater facilities, and particularly have difficulty storing during winter months. He noted this agreement establishes limits on Tree Top discharges in the period of October through March. He noted Tree Top has discharged into the Pre-Treatment facility in the past and that has the capacity to receive this waste. He stated the limiting factor is the biochemical oxygen demand (BOD) of the wastewater. He noted Tree Top's discharge will raise the temperature of the pretreatment lagoon, which will increase biological activity. He stated entering into this contract is proper for the City.

Mayor Jones noted Tree Top has continued to pay us through the years.

Councilman Schmid moved approval of the Resolution Authorizing the Mayor To Sign an Industrial Wastewater User Contract between the City of Selah and Tree Top, Inc. Councilwoman Nichols seconded. Roll was called: Council Member Smeback – yes; Council Member Schmid – yes; Council Member Overby – yes; Council Member Nichols – yes; Council Member Larson – yes. Motion passed unanimously.

- \* 7. Resolution Authorizing the Mayor To Sign Change Order Number 1 for the 2006 Wastewater Treatment Facility Improvements
- 8. Resolution Amending Chapter 8 of the City of Selah Personnel Rules and Regulations by Addition of Section 8.12 “Substance Abuse Policy” and Renumbering of Subsequent Sections

The City Supervisor explained that Resolution M-8 to amend the Personnel Rules and Regulation would add the Substance Abuse policy back into the Rules and Regs. He noted this was inadvertently taken out. He noted everything else stays in effect.

Councilman Smeback moved approval of the Resolution Amending Chapter 8 of the City of Selah Personnel Rules and Regulations by Addition of Section 8.12 “Substance Abuse Policy” and Renumbering of Subsequent Sections. Councilman Larson seconded. Roll was called: Council Member Smeback – yes; Council Member Schmid – yes; Council Member Overby – yes; Council Member Nichols – yes; Council Member Larson – yes. Motion passed unanimously.

Mayor Jones noted the City of Selah has a program for random drug testing of all employees including Council Members and volunteer firefighters.

N. Ordinances

- 1. Ordinance Amending the 2006 Budget for Miscellaneous Year End Adjustments

Clerk/Treasurer Dale Novobielski presented Ordinance N-1, the final budget adjustments for the end of 2006. He reviewed the fiscal impact: Fund 150 Fire Equipment Reserve \$ 16,000; Fund 170 CE Equip Reserve \$ 773; Fund 231 Fire Station Refunding Bonds \$ 304; and Fund 411 Water \$ 11,177 and offered to entertain questions.

Councilman Schmid moved approval of the Ordinance Amending the 2006 Budget for Miscellaneous Year End Adjustments. Councilwoman Nichols seconded. Roll was called: Council Member Smeback – yes; Council Member Schmid – yes; Council Member Overby – yes; Council Member Nichols – yes; Council Member Larson – yes. Motion passed unanimously.

O. Communications

- 1. Oral

Angela Walker, 124 E. Bartlett, addressed the Council, noting she was sad the Police Chief already left. She presented a letter and pictures and said she has previously spoken to Police on matter of graffiti. She stated all of East Bartlett backs the City in controlling graffiti.

Mayor Jones said he is upset by graffiti and believes parents have a responsibility. He noted Mr. Noe is researching ways to hold parents accountable.

Councilman Schmid referenced the pictures in Ms. Walker's handout, stating there's only one thing he hasn't painted over in the alley off of Bartlett. He noted he has one young man who got caught who is now at his disposal.

Mayor Jones asked if they know what time the tagging happens.

Dave Black, 124 East Bartlett, said it happens at night and suggested cameras and lights in the alley.

P. Reports/Announcements

1. Mayor
2. Council Members
3. Boards
4. Departmental
  - a. Letter & Article Senior Softball USA
  - b. Progress Estimate No. 8 for Crusher Canyon Road Improvements

Community Planner Dennis Davison reported the 13<sup>th</sup> of March has been set for the Driscoll Lane Public Hearing.

Fire Chief Jerry Davis reported they've had 3 structure fires. One was the 1<sup>st</sup> fatality in 8 years in the district. He noted smoke detectors at the site were missing batteries. He stated President Bush delayed Firefighter grants for two months, but he has been notified his department will again receive a grant from Homeland Security for about \$51,000. He reported Battalion Chief Martin is back over at Harborview with an infection in his foot.

City Supervisor Frank Sweet reported Jeff Hagler did a great job with the sports commission meeting the other night.

Councilman Scott Smeback stated he is looking forward to new help at the ball fields and thanked the City for hiring good people to do that work.

Mayor Jones noted it is great to see the Boy Scouts in attendance at the meeting.

Councilman Larson introduced his son Derrick and Troop 275. He said he sympathizes with the tagging problem; Larson Fruit has been hit hard.

Councilman Overby reported he will attend the Selah CAN meeting tomorrow.

Councilman Schmid stated there are certain people here today and some not here today who need to apologize for their actions at the last Council Meeting. He stated he goes around and paints out graffiti around town, and said he will appreciate donations to his paint fund.

Mayor Jones told Mr. Schmid to charge his account at Helms up to \$50 for paint.

Councilman Schmid stated taggers seem not inclined to retag after he paints it over. He asked why the scouts are here today.

Derrick Larson stated they are here because of a requirement for a badge. The scouts and parents introduced themselves. Councilman Larson said scouts also have Community Service requirements.

Mayor Jones thanked Allen Schmid for taking his place while he was in California. He said it is great to be back, but he was disappointed to see all the graffiti.

Q. Executive Session

R. Adjournment

Council Member Schmid moved and Councilman Larson seconded that the meeting be adjourned. By voice vote, the motion passed unanimously. The meeting adjourned at 5:44pm.

\_\_\_\_\_  
Robert L. Jones, Mayor

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

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

\_\_\_\_\_  
Denise Nichols, Council Member

\_\_\_\_\_  
(Excused)  
Brian Harris, Council Member

\_\_\_\_\_  
(Excused)  
Herb Schmidt, Council Member

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

\_\_\_\_\_  
Scott Smeback, Council Member

ATTEST:

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