

City of Selah
Council Minutes

January 8, 2008

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

A. Call to Order Mayor Pro Tem Larson called the meeting to order at 4:05pm.

B. Roll Call

Members Present: Brian Harris, Keith Larson, Denise Nichols, Paul Overby, Herb Schmidt

Members-Elect Present: Summer Derrey, John Tierney

Members Excused:

Staff Present: Frank Sweet, City Supervisor; Bob Noe, City Attorney; Jerry Davis, Fire Chief; Rick Gutierrez, Police Chief; Stacy Dwarshuis, Police Lieutenant; Joe Henne, Public Works Director; Dennis Davison, Community Planner; Jeff Hagler, Parks & Recreation Director; Dale Novobielski, Clerk/Treasurer

C. Pledge of Allegiance

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

Mayor Pro Tem Larson said he was glad to see young adults here at the meeting.

1. Swearing in of Newly Elected Council Members

Clerk/Treasurer Dale Novobielski administered the Oath of Office to newly elected Council Members John Tierney and Summer Derrey and re-elected Council Members Brian Harris, Herb Schmidt.

D. Agenda Changes

The Mayor Pro Tem asked if there were Agenda Changes.

City Supervisor Frank Sweet requested removal of items M-3, M-4 and N-1 and the addition of a 15-minute Executive Session on litigation.

Mayor Pro Tem Larson read titles of those items to be removed.

M-3 Resolution Authorizing the Mayor Pro Tem To Sign the Contract between the City of Selah and Teamsters Local No. 760 for the Selah Police Department Effective January 1, 2008

M-4 Resolution Authorizing the Mayor Pro Tem To Sign the Contract between the City of Selah and Teamsters Local No. 760 for the Selah Public Works and Parks Departments Effective January 1, 2008

N-1 Ordinance Establishing the 2008 Salary Schedule for Management, Confidential and Unrepresented Employees

- E. Public Appearances
- F. Getting To Know Our Businesses
- G. Communications
 - 1. Oral

Dave Hoffert, 606 Southern Avenue, a member of the South Selah Association, addressed the Council. He noted his group is in litigation with City and filed a SEPA appeal which was originally scheduled in July and then was rescheduled for November 15 & 20. He stated on the 15th City Attorney Bob Noe and Attorney for the contractor, Ken Harper, called South Selah Neighborhood attorney Jamie Carmody and asked for an extension because the City neglected to put in the type class of buildings that were going to be put in and they would like that added to it. He stated he and others spoke with Jamie Carmody, who said let's work with them and show them a willingness to work together. He noted less than a week later they received a letter demanding another \$250 if they wanted to continue the appeal. He stated another issue is that for 3 years now have approached Planning Commission hoping to redesignate the area around the property which is in litigation from high density to low density. He stated for three years the Planning Commission has refused to forward that issue to the Council because of the litigation regarding the other property. He stated they have recently learned that the contractor has purchased the end property in that "outside area and that the building department issued permits in September to build on the foundation. He said now his group cannot go back and appeal that. He stated Bob Noe said that there is no problem with the litigation for them to continue their appeal. He stated they've been held up for three years and now, when it's too late, there seems to have been no problem with the litigation that would prevent them from having moved forward with the appeal, and they find that out now, when redesignation of that property is no longer feasible. He stated they would like an independent review by the Council and will have people here to listen to it at the next Council Meeting.

Mayor Pro Tem Larson said those are new issues he has not heard about.

Dave Hoffert said he knows that the Council is not being kept "in the loop."

Councilwoman Nichols asked what the protocol would be in discussing this problem, whether it would need to be done in Executive Session because of the pending litigation.

City Attorney Bob Noe said it would be best to talk about it in an Executive Session because of the pending litigation. He said there may have been some misunderstanding regarding the Class 1 review fee. He noted Jamie Carmody and Ken Harper contacted him together asking for continuance requesting consolidation of the Class 1 Review with the SEPA appeal review which legally made sense. He stated there was no discussion of an additional fee, and it wasn't contemplated that there would be an

additional fee because they were consolidated into an existing appeal. He said he believed that the \$250 should be refunded. He stated with respect to the other matter, he will have to take a closer look. He stated he did not know what analysis the Planning Commission went through to determine whether not handle requests because of pending litigation.

City Supervisor Frank Sweet asked if the City asked for the delay or the rescheduling.

Mr. Noe responded that Mr. Torkelson's attorney Ken Harper and Jamie Carmody got together and jointly requested consolidation of the two issues. He stated if they wanted a continuance, it didn't matter to him.

Councilman Tierney asked what needs to be done to return their \$250.

Frank Sweet stated he'll look at it tomorrow and find out why we took the \$250, and if we took it, we must refund it.

Mr. Noe stated when an appeal is consolidated, there should only be one processing fee.

Mayor Pro Tem Larson asked if it would be appropriate to draft a written response to these issues.

The City Supervisor stated he and Mr. Noe will get together with the Planning Department to address answers to this and have that in the next Council Packet.

Councilman Overby stated the Council has already instructed the Planning Commission to come to some kind of recommendation regarding the rezone. He noted it was remanded to the Planning Commission because the Council did not want it dragged out further.

The Mayor Pro Tem said that was his understanding, and that the request was for a "redesignation," not a "rezone."

City Attorney Bob Noe noted the Planning Commission will deal with it at their first meeting in February.

Police Chief Rick Gutierrez introduced Jerald Smith, new School Resource Officer.

Officer Smith stated he has been here about three years as a Police Officer and has just completed his first week as School Resource Officer. He thanked the Council and reported things have been very positive as he has been in the Junior High and High schools.

The Mayor Pro Tem noted the Council working on this for a number of years. This year we were able to budget. He stated his feeling that this is a positive step forward for the City and the schools.

The City Supervisor noted Officer Smith is also a presence at the youth center and elementary schools.

The Mayor Pro Tem moved to written Communications and then moved to the Consent Agenda.

2. Written

a. Letter from Pacific Power re. Streetlighting Policy Modifications

H. Proclamations/Announcements

Mayor Pro Tem Larson noted items I-1, I-2 and M-1 are on the Consent Agenda

I. Consent Agenda

- * 1. Approval of Minutes: Council Meeting & Study Sessions December 11, 2007
- * 2. Approval of Claims & Payroll: Payroll Checks Nos. 62414 – 62490 for a total of \$113,549.31, Payroll: Payroll Checks Nos. 62491 – 62582 for a total of \$158,853.83, Claim Checks Nos. 50907 – 50974 for a total of \$98,443.89, Claim Checks Nos. 50975 – 51046 for a total of \$245,626.25 and Claim Checks Nos. 51047 – 51054 for a total of \$4,326.39.
- * 3. M – 1 Resolution Authorizing the Mayor Pro Tem To Sign the Interlocal Correction/Detention Agreement between the City of Selah and the City of Wapato

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

Councilwoman Nichols moved and Councilman Tierney seconded to adopt the Consent Agenda. By voice vote, the Consent Agenda was unanimously adopted.

J. Public Hearings

K. New Business

1. Selection of 2008 Mayor Pro Tem

Mayor Pro Tem Larson explained that the City Council elects a Mayor Pro Tem to take the Mayor's place in his absence. He noted he was elected in December to preside over the first meeting in January, but the Council is required to select the Pro Tem in January.

Councilman Schmidt nominated Keith Larson, noting it is obvious that he will do a good job. Councilwoman Nichols seconded the nomination. There were no further nominations. Roll was called: Council Member Schmidt – yes; Council Member Larson – yes; Council Member Overby – yes; Council Member Nichols – yes; Council Member Harris – yes; Council Member Derrey – yes; Council Member Tierney – yes. Motion passed unanimously.

The Council, staff and audience applauded Mayor Pro Tem Larson.

L. Old Business

M. Resolutions

- * 1. Resolution Authorizing the Mayor Pro Tem To Sign the Interlocal Correction/Detention Agreement between the City of Selah and the City of Wapato
- 2. Resolution Approving Payment to Mountain States Construction Company for Work Performed through December 31, 2007

Ted Pooler rose to address item M-2. He thanked the Council and introduced himself as Huibregtse Louman contract engineer to the Wastewater Treatment Plant project. He noted this item reflects work
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that has been done through the month of December 2007. He stated that this Wednesday they will start the new centrifuge which separates wastewater solids from liquid. He stated that next the dryer will be started, but the manufacturer requires the test of the centrifuge first. He reported they have done a pre-final inspection on electrical, so all of that will start up in the month of January. He noted at main treatment plant, the work is primarily electrical; in order to bring everything up to date, the entire electrical system was redone. He stated they now have dual systems to run in case of a power outage and duplicated mechanical equipment for the same reason. They are beginning to move pieces from the old panel to the new. He noted it is methodical work, but they expect to have it done by the end of January. He recommended the City authorize payment to Mountain States in the amount of \$106,944.48.

Councilman Schmidt asked about item 4A, Unclassified Excavation and Haul to Waste, where the contract quantity was estimated at 2,175 and the quantity to date had risen to 12,423.68.

Mr. Pooler stated that item refers to hauling away trash, clearing the site for construction. He directed Council Members' attention to the increase in item #5 "common borrow." He noted their original estimate did not include all that had to be hauled away, and, of course, they had to haul in more dirt to replace what had been hauled away.

Councilman Schmidt moved approval of the Resolution Approving Payment to Mountain States Construction Company for Work Performed through December 31, 2007. Councilman Overby seconded.

The Mayor Pro Tem asked Mr. Pooler if he had the engineer's original estimate handy.

Mr. Pooler responded that he did not, but at the time they opened bids they had about \$250,000 in contingency. He stated, taking into consideration all of the extra payments and Change Orders, the project is still within budget.

Roll was called: Council Member Schmidt – yes; Council Member Larson – yes; Council Member Overby – yes; Council Member Nichols – yes; Council Member Harris – yes; Council Member Derrey – yes; Council Member Tierney – yes. Motion passed unanimously.

3. ~~Resolution Authorizing the Mayor Pro Tem To Sign the Contract between the City of Selah and Teamsters Local No. 760 for the Selah Police Department Effective January 1, 2008 - Withdrawn~~
4. ~~Resolution Authorizing the Mayor Pro Tem To Sign the Contract between the City of Selah and Teamsters Local No. 760 for the Selah Public works and Parks Departments Effective January 1, 2008 - Withdrawn~~
5. Resolution Authorizing the Mayor To Sign an SIED Application

Ted Pooler addressed Item M-5, authorizing the Mayor to sign an application for funding through the Supporting Infrastructure for Economic Development (SIED) program for the completion of South Park Drive and Larson Drive, noting that will complete the street network for the Selah Business Park. He stated the application asked for \$227,000 in loan money and \$227,000 in grant funds. He noted the estimated project cost is \$442, 000 with total project cost of \$849,000. He stated to strengthen the

application, they included City monies of \$349,600 already spent toward this project. He explained this makes the application appear stronger.

The City Supervisor stated Les Schwab plans to submit plans this spring and build in early or late summer, and Helms Hardware will build in the summer or fall of 2008. He noted Weber & Associates may not happen until 2009, but they plan to build two fast food restaurants.

The Mayor Pro Tem asked if the City Supervisor has any warm fuzzy feelings on the success of this application.

Frank Sweet said he is hoping that will happen.

Ted Pooler stated one of the conditions is that we have businesses that are ready to move forward. Another plus is that these businesses will not proceed unless this street happens.

Councilman Overby moved approval of the Resolution Authorizing the Mayor To Sign an SIED Application. Councilman Tierney seconded. Roll was called: Council Member Schmidt – yes; Council Member Larson – yes; Council Member Overby – yes; Council Member Nichols – yes; Council Member Harris – yes; Council Member Derrey – yes; Council Member Tierney – yes. Motion passed unanimously.

5. Resolution Referring Class I Use Appeal to the Hearing Examiner for Consideration Pursuant to Selah Municipal Code 1.60.080(B) [924A.79.07-01 Southern Avenue Multiple Family Residential Development Applications – Torkelson]

Community Planner Dennis Davison addressed Resolution M-6 referring the Class 1 use appeal to Hearing Examiner.

Bob Noe pointed out a typo in the second "Whereas" where it should say "Class 1 Use appeal" instead of "SEPA." That correction will be made.

Councilman Overby moved approval of the Resolution Referring Class I Use Appeal to the Hearing Examiner for Consideration Pursuant to Selah Municipal Code 1.60.080(B) [924A.79.07-01 Southern Avenue Multiple Family Residential Development Applications – Torkelson]. Councilwoman Nichols seconded. Roll was called: Council Member Schmidt – yes; Council Member Larson – yes; Council Member Overby – yes; Council Member Nichols – yes; Council Member Harris – yes; Council Member Derrey – yes; Council Member Tierney – yes. Motion passed unanimously.

7. Resolution Authorizing the Mayor Pro Tem To Sign Change Order Number 6 for the 2006 Wastewater Treatment Facility Improvements

Ted Pooler addressed Item M-7 Change Order 6 for 2006 Wastewater Treatment Plant Improvements, noting it covers work that has already been implemented. He reviewed items included in the change Order. Selah Ditch converter repair, rotation of sludge conveyor drive unit to fit into the Pretreatment Building, repair of soft area under the headworks screen, removal of existing unknown concrete vault and bypass pump rental costs. He explained the contractor came up with a better way to construct the headworks and recommended approval of the Change Order.

Councilwoman Nichols moved approval of the Resolution Authorizing the Mayor Pro Tem To Sign Change Order Number 6 for the 2006 Wastewater Treatment Facility Improvements Councilman Overby seconded. Roll was called: Council Member Schmidt – yes; Council Member Larson – yes; Council Member Overby – yes; Council Member Nichols – yes; Council Member Harris – yes; Council Member Derrey – yes; Council Member Tierney – yes. Motion passed unanimously.

8. Resolution Authorizing the Mayor Pro Tem To Sign Task Order No. 2008-1 for Design Engineering and Construction Services for the TIB-Funded East Fremont Avenue Improvements

Ted Pooler addressed M-8. He thanked the Council for asking HLA to serve as City Engineer for next 3 years. He stated he has wanted to bring things to Council as Task Orders so the Council can see exactly what the costs will be. He explained this project is funded in part by the Transportation Improvement Board (TIB) and provides for improvements to East Fremont Avenue. He noted the last page shows a fixed price on design work of \$36,900.00 as well as what they think it will take to perform services during construction not to exceed \$43,450.00. The project is to improve East Fremont Avenue from North First to North Wenas. He stated the project will include construction of a three-lane arterial with curb and gutter as well as sidewalks on both sides. He noted one corner clip will be necessary.

Councilman Schmidt moved approval of the Resolution Authorizing the Mayor Pro Tem To Sign Task Order No. 2008-1 for Design Engineering and Construction Services for the TIB-Funded East Fremont Avenue Improvements. Councilman Harris seconded.

Councilwoman Derrey asked if this project is connected to the SR 823 reroute.

Ted Pooler said that is correct. This project takes the street down to within about 15 feet of North Wenas, where it will be picked up by the SR 823 project.

Councilwoman Derrey asked whether the three lanes will run all the way from North 1st to North Wenas.

Mr. Pooler responded affirmatively, noting there will be a turn lane in the center.

Roll was called: Council Member Schmidt – yes; Council Member Larson – yes; Council Member Overby – yes; Council Member Nichols – yes; Council Member Harris – yes; Council Member Derrey – yes; Council Member Tierney – yes. Motion passed unanimously.

N. Ordinances

1. ~~Ordinance Establishing the 2008 Salary Schedule for Management, Confidential and Unrepresented Employees - Withdrawn~~

O. Communications

1. Oral

P. Reports/Announcements

1. Mayor

2. Council Members
3. Boards
4. Departmental

- a. Police Department Monthly Report – November 2007

City Supervisor Frank Sweet welcomed new and reelected Council Members. He reported Mayor Jones is having a good time and wanted him to welcome new Council Members on his behalf. He said a Council retreat will be scheduled when Mayor Jones returns.

Community Planner Dennis Davison reported SEPA and appeal notices will be mailed tomorrow.

Parks & Rec Director Jeff Hagler reported things are going well at the Selah Youth Center, where they are averaging 30-35 kids per day.

Police Chief Rick Gutierrez welcomed new Council Members.

Councilwoman Nichols referenced the Selah Kiwanis letter, asking if the City has written policy.

City Supervisor Frank Sweet suggested doing that when the Mayor gets back.

Councilman Overby announced the Council will host a Public Forum January 9 at 7:00pm at the Civic Center. He stated this forum will focus on Finance. He welcomed new members to the Council, and said he is looking forward to the Council retreat.

Councilman Schmidt praised Councilman Overby for standing behind his proposal and continuing with forums. He said he is glad Councilman Larson will direct activities while the Mayor is away.

Councilman Harris stated the Councilman Larson is the senior member of Council.

Councilman Schmidt corrected him, noting he not only has seniority on the Council, but is also the senior member of Council, celebrating his 75th birthday today.

Councilman Harris welcomed John Tierney and Summer Derrey, stating that the Council is a serious part of the City, and we're on the Council because we love this City. He announced the Selah wrestling team is wrestling tonight. He recommended the Community Pride award be given to the Selah volleyball team, 3-time state champions.

Councilman Tierney said he's looking forward to working with the Council to continue to make Selah a great place to live.

Mayor Pro Tem Larson welcomed the new Council Members and stated his appreciation to the Police Chief and City Supervisor for school police officer. He announced a five-minute recess before the Executive Session, noting students can get Council Member signatures during that recess.

The City Supervisor noted that the Executive Session will be about twenty minutes and will concern litigation.

- Q. Executive Session

The Council moved into Executive Session at 5:15pm

Councilwoman Nichols moved the Council come out of Executive Session at 5:48pm. Councilman Overby seconded. By voice vote, support was unanimous.

R. Adjournment

Council Member Schmidt moved, and Councilman Overby seconded that the meeting be adjourned. By voice vote, the motion passed unanimously.

The meeting adjourned at 5:49pm.

Keith Larson, Mayor Pro Tem

Paul Overby, Council Member

Summer Derrey, Council Member

Denise Nichols, Council Member

Brian Harris, Council Member

Herb Schmidt, Council Member

John Tierney, Council Member

ATTEST:

Dale E. Novobielski, Clerk/Treasurer