

**City of Selah
Council Minutes
of
June 24, 2003**

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 4:04pm.

B. Roll Call

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

Members Excused:

Staff Present: Frank Sweet, City Supervisor; Rick Gutierrez, Police Chief; Jim Martin, Fire Marshal; Joe Henne, Public Works Director; John Gawlik, Code Enforcement/Building Inspection Officer; Dale Novobielski, Clerk/Treasurer

C. Pledge of Allegiance

Councilman Kobes led the Pledge of Allegiance.

D. Agenda Changes

E. Public Appearances

F. Getting To Know Our Businesses

G. Communications

1. Oral

Ed Switz, 404 Riverview, addressed the Council identifying himself as a parent of a Selah student. He stated he supports City managers and leaders and wants the City to put a stop to hazing in Selah. He stated his opinion that hazing is nothing short of menacing. He commended the Police for being there, but noted all they seemed to do was control traffic. He stated he will also address the school board and anyone else who will listen. He said he can not understand how church and business leaders could allow hazing to happen on their property.

Mayor Jones stated these children broke no laws of the City. He stated the City cannot govern what happens with kids; that is for the parents. He noted City and Police officials were there as a presence to make sure no one got hurt and that no laws were broken. He stated businesses were not involved and

only provided a hose to clean off. He stated it is a good example of “Half Journalism” to only cover the top and reporters did not check with the City or businesses to find out the whole situation.

Mr. Switz stated menacing is a crime. He said he was there to hear children tell the Police Chief “where to go,” and heard kids tell other kids if they were not there, they would be taken care of the first day of school.

Mayor Jones asked Mr. Switz if he had made a formal complaint with the Police.

Police Chief Rick Gutierrez stated no parent had reported anything prior to the hazing, nor had any parent contacted him after the event. He stated his department was looking for acts of violence and would have intervened if they had seen any. He noted the students he knew of were willing participants and their parents were aware that they involved.

Mr. Switz stated he would like to come to the Chief’s office and file a formal complaint requesting that this procedure be stopped. He stated these young people were guilty of battering. He predicted the practice will end up like the Chicago suburbs. He stated assault did occur, citing water balloons as a means of assault.

Mayor Jones said neither the City nor the school board condone hazing. He noted the City provides recreation for kids, for example there are 350 kids in soccer, 250 involved in Little League, and numbers of children in girls softball and boys Legion baseball. He stated the City maintains a safe environment, noting his biggest fear is that they’ll take it to high country where nobody is around.

Mr. Switz concluded, saying it (hazing) is menacing and should his child be harassed, assaulted or in any way, shape or form be humiliated come September further action has to be taken and he will ensure that someone is held accountable.

2. Written

H. Proclamations/Announcements

1. National Aquatic Week – July 13 – 19, 2003

Mayor Jones read the Proclamation declaring July 13-19, 2003 as National Aquatic Week.

I. Consent Agenda

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

- * 1. Approval of Minutes: June 10, 2003
- * 2. Approval of Claims & Payroll – Claims check nos. 41114 – 41205 for a total of \$131,425.63 and Payroll checks nos. 51305 – 51373 for a total of \$92,669.35.

Mayor Jones read the Consent Agenda.

Councilman Larson moved and Councilman Schmidt seconded to adopt the Consent Agenda as read. By voice vote, the motion carried unanimously.

J. Public Hearings

K. New Business

1. Request for modification of Permit #958.85.00-1 for River Ridge Golf Course

City Supervisor Frank Sweet stated the Council has before them a request from the Laurvicks and Mr. Carmody to modify four conditions of the Shoreline Management Substantial Development Permit. He stated that the City is unable to issue a business license or Certificate of Occupancy until the Council takes some type of action to approve or disapprove the request for modification. He stated that after viewing the request, Bill Hordan prepared a staff report which recommends support of the modification requests except the one to temporarily connect the new clubhouse to a well and septic system. He stated the other requests: modification of the parking lot, being able to use the temporary facility, having the time frame of having to April 30, 2005 to complete the clubhouse and to extend the water and sewer upon completion of the easement from the Elks. He stated staff believes these modifications are within the scope of the original criteria of the Shorelines Development Permit, and believes issuing a temporary business and a temporary CO for the building they want to use for their temporary offices until they complete the clubhouse should be approved. He stated it is not unusual for a golf course to do business prior to completion of a clubhouse. He stated both the Fire Marshal and Building Official have reviewed this; Laurvicks have indicated that they will build an ADA restroom and prior to the completion of that the City would propose they be allowed to use an ADA port-a-potty.

Councilman Kobes asked what their source of water will be. The City Supervisor responded that a well and septic tank are on site. He noted that a performance bond does not seem to be an option, but there will be penalties after April 30, 2005 if not completed. He noted this seems to be a good compromise.

Jamie Carmody addressed the Council, noting he appreciates the work and time staff have spent since he was last before the Council. He stated he and the Laurvicks feel comfortable with the staff report. He stated their intent is to proceed with the clubhouse. He stated they are hopeful that the two-year time period will be adequate to achieve easements for sewer and water, and once clubhouse foundations are set, the goal will be to achieve the agreement of the Elks. He again stated his appreciation for Frank Sweet's efforts.

Councilman Keith Larson expressed his concern about the water and sewer easement, asking what vehicle would be used if after a year's time it had not been secured.

The City Supervisor responded that it is possible to go through private condemnation; Mr. Carmody could take legal route. He stated that case law supports that the Elks will not have a liability if the easement is granted. In response to a question from Councilman Kobes, Mr. Sweet stated that while the City could seek condemnation, it would be the Laurvicks who would do that if necessary.

Mayor Jones complimented Laurvicks on the course they've built, saying it is a welcome addition to the City of Selah.

Councilman Allen Schmid requested the addition of "submitted to City Engineer by September 1, 2003" in item 2 of the staff recommendation.

Mr. Carmody stated those drainage plans have already been submitted to the City Engineer.

Councilman Schmid stated he was uncertain in #3 of the staff recommendations which building will be used as a temporary facility.

Mr. Carmody stated it is the small building (the pool house) they have been using as an office.

Mr. Schmid asked that an August 15, 2003 deadline be added to item #3 for completion of the temporary restroom facility.

There ensued discussion regarding whether a licensed engineer's stamp is required on parking lot plans.

Frank Sweet stated we usually have them stamped because our City engineer will not be looking at them. City engineers Huibregtse, Louman, & Associates will be reviewing the plans. He noted if HLA find a problem, they could kick plans back to the proponents.

Councilman McNew moved and Councilman Schmid seconded the Request for Modification of Permit #958.85.00-1 for River Ridge Golf Course be approved subject to conditions outlined in the staff report dated June 20, 2003 with the inclusion of the deadline of September 2, 2003 for staff recommendation #2 and the deadline of August 15, 2003 for staff recommendation #3. Roll was taken. Councilman Smeback – yes; Councilman Schmidt – yes; Councilman Schmid – yes; Councilman McNew – yes; Councilman Larson – yes; Councilman Kobes – yes; Councilman Deatherage – yes. Motion carried unanimously.

L. Old Business

1. Appeal Jerry and Tara Wilkey – Peddlers License

City Supervisor Frank Sweet stated this issue is back from the previous Council Meeting.

Jerry Wilkey addressed the Council, giving his address as 600 Gibson Road.

Mayor Jones asked the City Supervisor to continue.

Mr. Sweet stated that through research he learned that the City is unable to run background checks on peddlers and solicitors. He stated from everything he has learned he still recommends the Council uphold the staff recommendation to deny appeal since there is no way to control who is out there with our kids.

Jerry Wilkey stated he can understand the concern, but if City issues him a permit they will know him; he will be licensed, regulated and insured. He stated others from Yakima come in and sell and don't even try to get a license. He made the point that his check was accepted by the City and the City sent a check back to him.

Mr. Sweet stated the City has no legal authority to run a background check.

Mr. Wilkey stated it is up to the parents to watch their kids, noting he is careful and watches out for them while he sells ice cream.

Mayor Jones asked why anyone would want to own a restaurant, meet requirements for ADA bathrooms, pay property taxes, suggesting peddlers have an unfair advantage over persons holding regular business licenses.

Mr. Wilkey argued the point, stating his opinion that he pays more for the ice cream truck than he does for his business in Yakima.

Councilman Scott Smeback asked if the process is the same for business license and peddlers permits. The City Supervisor responded that the process is the same, although the application is different. The Councilman asked Chief Gutierrez if all licenses cross his desk.

Police Chief Gutierrez stated that he sees all applications, but can only investigate criminal background if liquor sales are involved in the business.

Mr. Wilkey stated the Yakima application asks, "Have you ever been convicted of..." on their applications. He and his wife both said Yakima does a background check on owners and drivers. Mr. Wilkey characterized himself as "one of the little guys."

Mr. Sweet stressed it is not an issue of ice cream or the Wilkeys.

The Wilkeys argued back and forth with the Mayor and Mr. Sweet. Voices were raised.

Councilman Keith Larson commended the Wilkeys for approaching this in a legal manner and not selling in Selah without a permit to do so. He noted it does not make it legal that others are doing it. He stated that after the last Council Meeting he went to Yakima and noticed people selling silk pictures, seat covers, flower baskets, etc. He asked how the City can give it to one without allowing other types of peddlers and potentially endangering our City by losing control over what is happening on our streets.

Councilman Deatherage stated he would rather see a piece of Americana be allowed to stay. He cited how it's handled in other cities. He stated if an ice cream man went by, he'd be out there with the kids even though he has lots of ice cream in his own freezer.

Councilman Kobes asked if there is a way we can grandfather in this business and deny others.

The City Supervisor stated the Council need to make a decision on what's in front of them, either uphold the denial or support the appeal and then go on from there.

Councilman Schmid stated he is interested what other cities do, how they define "peddler." He said he likes the idea of the Mayor's having discretion. He stated the Council needs to determine the legalities of it.

Councilman Schmidt stated that obviously other communities in our area have had this same problem and have dealt with it in a variety of ways. He moved to deny the appeal, expressing the opinion that he'd like to see the Wilkeys "grandfathered in." Councilman Larson seconded.

Councilman Schmid stated he would rather table this items until after the new City Attorney comes on board.

Councilman Deatherage asked if the item could be tabled until we get legal counsel, but give a temporary permit to Wilkeys

Mr. Wilkey interjected the suggestion that he be allowed to operate one truck individually in Selah.

Councilman Larson called for the question.

The motion on the floor was to deny the appeal of Jerry and Tara Wilkey – Peddler License. Roll was taken. Councilman Smeback – yes; Councilman Schmidt – yes; Councilman Schmid – postpone; Councilman McNew – no; Councilman Larson – yes; Councilman Kobes – no; Councilman Deatherage – no; Councilman Schmid – no. Motion failed.

The City Supervisor explained that the no vote upheld the appeal, so the Wilkeys can have their Peddler License. He noted there is no sense in tabling action after the motion was acted upon.

Councilman Schmid suggested Council and the new City Attorney should review the Ordinance in regards to peddlers permits. He stated the Council is divided on the intent and application of this Ordinance and should consider it more closely. Discussion continued about this issue.

Discussion continued comparing/contrasting peddlers and delivery trucks.

Mayor Jones moved on to N – 1.

M. Resolutions

Ordinance N – 1 was considered prior to consideration of Resolution M – 1 (See below)

1. Resolution Approving the Preliminary Plat of “Quail Court” as Recommended for Approval by the City of Selah Hearing Examiner with those Specific Conditions Contained Therein

Councilman Schmid moved and Councilman Kobes seconded to approve the Resolution Approving the Preliminary Plat of “Quail Court” as Recommended for Approval by the City of Selah Hearing Examiner with those Specific Conditions Contained Therein. Roll was taken. Councilman Smeback – yes; Councilman Schmidt – yes; Councilman Schmid – yes; Councilman McNew – yes; Councilman Larson – yes; Councilman Kobes – yes; Councilman Deatherage – yes. Motion carried unanimously.

Carl Torkelson thanked Administrative Assistant Julie Gray and Councilman Allen Schmid for their assistance with the Planned Development proposal and materials.

- * 2. Resolution Authorizing the Mayor To Sign Public Works Trust Fund Loan Agreement, PW-03-691-022

N. Ordinances

1. Ordinance Amending Ordinance No. 420, Zoning Map Amendment No. 2003-2 Rezone to Planned Development (Quail Ridge)

City Supervisor Frank Sweet this has everything anyone would ever want to see in planned development. He stated this is likely the greatest, most professional proposal ever presented to Council. He recommended approval.

Councilman Allen Schmid asked if the map was redrawn showing the street. Builder Carl Torkelson called the Councilman's attention to the newly drawn PLSA map showing the 2% invert grade on the center street which will contain stormwater drainage on site.

Councilman Deatherage asked if these units are set up the same way as those in Terrace Heights. Mr. Torkelson said he ended up buying into that plat after the fact, so he didn't have the ability to change the covenants. Mr. Deatherage asked if Mr. Torkelson's intention is to sell these units or rent them.

Mr. Torkelson stated he would like to build them all, have them all finished, looking nice and then sell them, rather than build one-sell one.

Councilman Kobes asked if the Homeowners Association will be expected to enforce the covenants. Mr. Torkelson responded that if he retains a unit or two, he will be willing to enforce.

Councilman Schmidt moved and Councilman Kobes seconded to approve the Ordinance Amending Ordinance No. 420, Zoning Map Amendment No. 2003-2 Rezone to Planned Development (Quail Ridge). Roll was taken. Councilman Smeback – yes; Councilman Schmidt – yes; Councilman Schmid – yes; Councilman McNew – yes; Councilman Larson – yes; Councilman Kobes – yes; Councilman Deatherage – yes. Motion carried unanimously.

- * 2. Ordinance Amending the 2003 Budget for Animal Control Services

O. Communications

- 1. Oral

P. Reports/Announcements

- 1. Mayor
- 2. Council Members
- 3. Boards
- 4. Departmental
 - a. Building & Code Enforcement Monthly Report – May 2003

Public Works Director Joe Henne referred to the Transaction Committee with the nickel-a-gallon uses handout. He stated he wants to send in an application for Crusher Canyon for next funding go around for right-of-way acquisition.

Councilman Schmid asked what is a realistic timeline for when we're going to do something with Crusher Canyon.

Mr. Henne said he'll send a letter requesting a five-year extension on the project. He said if the City gets the funding, we'll get a ten-year extension.

City Supervisor Frank Sweet recommended that the City not compete with Parks & Rec Service Area Board for location of an aquatic center so we can concentrate on development of City property. Councilman Scott Smeback moved and Councilman Ron Deatherage seconded to authorize the City Supervisor to send a letter to that effect to the Chairman of the Parks & Rec Service Area Board. By voice vote, motion carried unanimously.

Councilman Keith Larson referenced the work his family started at the Civic Center this spring. He stated his father is wanting to start work in bathrooms and they were wondering about the budget.

Mayor Jones stated the City will absolutely support the volunteer efforts of the Larson family.

Mayor Jones announced they will be putting flags up for the 4th. He urged Council Members to volunteer.

Q. Executive Session

(Executive Session on real estate was held at 3:30pm Study Session)

R. Adjournment

Council Member Schmid moved and Council Member Schmidt seconded that the meeting be adjourned. With voice vote, the motion passed unanimously. The meeting adjourned at 5:30pm.

Robert L. Jones, Mayor

Ronald Deatherage, Council Member

Keith Larson, Council Member

Gerald Kobes, Council Member

Peter McNew, Council Member

Allen Schmid, Council Member

Herb Schmidt, Council Member

Scott Smeback, Council Member

ATTEST:

Dale E. Novobielski, Clerk/Treasurer