

**City of Selah
Council Minutes
of
March 23, 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 4:01pm.

B. Roll Call

Members Present: Brian Harris, Jerry Kobes, Keith Larson, Allen Schmid, Scott Smeback

Members Excused: Herb Schmidt, Pete McNew

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

C. Pledge of Allegiance

Councilman Schmid led the Pledge of Allegiance. Pastor Lowell Welker led the group in prayer.

D. Agenda Changes

Item L – 1, Reconsideration of the motion to approve the proposal of the Selah Community Days Committee to construct and maintain a memorial Rose Garden was withdrawn pending further study on the matter.

Corrected Item M-2, Resolution Declaring Four Parcels of Land Totaling 9.44 Acres as Surplus and Authorizing Their Disposal was substituted for Item M – 2 in the packet calling for the surplus of 22.93 acres.

E. Public Appearances

1. Community Pride Award

Mayor Jones presented the Community Pride award to Brian Cole for his many contributions to the City and support of community activities through the years. He noted Mr. Cole has been active on the Fire Department since 1999 and is now transferring to Whitefish, Montana.

Accepting the award on behalf of her husband was his wife April.

Fire Chief Jerry Davis praised Brian Cole and his business, Save-on-Foods, noting that even before joining the Department Mr. Cole was always willing to provide sports drinks and other supplies to the

Department. He noted this award is really for the entire Cole family since Mr. Cole's stepson Caleb joined the department in 2001 and his wife April joined the rehab unit last summer.

F. Getting To Know Our Businesses

G. Communications

1. Oral
2. Written
 - a. Letter of appreciation from Selah Junior High School Principal Joel Hollingsworth

Police Chief Rick Gutierrez read Principal Hollingsworth's letter thanking the Selah Police Department for their assembly regarding the dangers of gangs and drugs, and particularly thanking Officers Steen and Reeves and K-9 Rusty for their presentations.

Mayor Jones praised efforts made by the Police to preserve a good working relationship between Selah Police and the schools.

H. Proclamations/Announcements

I. Consent Agenda

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

- * 1. Approval of Minutes: March 9, 2004
- * 2. Approval of Claims & Payroll – Claims check nos. 42700 – 42791 for a total of \$152,909.40 and Payroll check nos. 53141 – 53226 for a total of \$91,591.95.

Mayor Jones read the Consent Agenda.

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

J. Public Hearings

1. Wharton Annexation Public Hearing (920.42.03-1)

Planner Dennis Davison introduced the Public Hearing on the annexation of two parcels (1.5 acres of land) and associated public right-of-way lying north of Lyle Avenue and immediately east of the proposed North Terry Lane extension known as the "Wharton Annexation." He stated that comments will be taken during the Public Hearing and subsequently the Council will take action. The staff recommendation is for approval. If the Council approves the annexation, then staff will submit documentation to the Yakima County Boundary Review Board.

Mayor Jones asked if Council Members had any questions. He called for comments from the audience. Seeing no one rise to speak either for or against the annexation, he closed the Public Hearing.

K. New Business

1. Wharton Annexation (920.42.03-1)

Councilman Schmid moved and Councilman Smeback seconded to approve the Wharton annexation (920.42.03-1) and to instruct staff to submit appropriate documentation to the Yakima County Boundary Review Board. Roll was called. Councilman Smeback – yes; Councilman Schmid – yes; Councilman Larson – yes; Councilman Kobes – yes; Councilman Harris – yes. Motion passed unanimously.

L. Old Business

M. Resolutions

- * 1. Resolution Authorizing the Mayor To Sign an Agreement with Huibregtse, Louman Associates for Growth Management Planning Services via Their Sub Consultant, Jones & Stokes
2. Resolution Declaring Four Parcels of Land Totaling 9.44 Acres as Surplus and Authorizing Their Disposal

City Supervisor Frank Sweet reminded the Council that in 2003 they surplussed about thirteen acres out of which the City sold one acre to the Yakima Valley Credit Union. He stated the balance of the acreage has been determined not to be useful for municipal purposes and recommended the surplus of the remaining 9+ acres and the sale of pieces of that property. He asked for Council support. He stated that after terrorist attacks on 9/11 consideration was given to the dangers of hazardous materials and positioning the Emergency Operations Center of the City so near the railroad tracks.

Councilman Smeback noted the irony of that decision, considering cities used to develop near to railroads.

Councilman Schmid moved and Councilman Larson seconded to approve the Resolution Declaring Four Parcels of Land Totaling 9.44 Acres as Surplus and Authorizing Their Disposal. Roll was called. Councilman Smeback – yes; Councilman Schmid – yes; Councilman Larson – yes; Councilman Kobes – yes; Councilman Harris – yes. Motion passed unanimously.

3. Resolution Approving the Preliminary Plat No. 912.61.03-2 Designated as "Orchard View Estates" by the City of Selah Hearing Examiner as Recommended with Twenty-Six (26) Specific Conditions

Councilman Kobes stated he is a neighbor of Mr. Paulson's and asked if he might be perceived as having a conflict of interest. Mayor Jones asked if anyone had objection to Councilman Kobes hearing this issue. No one, including Mr. Paulson, expressed objection.

Planner Dennis Davison called Council Members' attention to maps on the wall illustrating the proposed preliminary Plat of Orchard View Estates, stating the project will be in four phases. He noted that on Page 12 of Hearing Examiner's report Phase 2 Item 19 should read "Lots 20 and 27." He stated the Hearing Examiner recommends approval of all four Phases. He further stated Mr. Paulson wants to construct the first two Phases immediately, while Phases 3 and 4 rely upon some evaluation, design and potential improvements to a booster pump station that would serve property above the 1390 foot elevation. He stated Public Works and Fire have reviewed the proposal, which calls for the widening of

both West Goodlander Road and Terry Lane, adjacent to the Plat. The Hearing Examiner's recommendation includes 26 conditions. Mr. Davison stated irrigation water rights will be reallocated to property to the west of the Plat where Mr. Paulson plans to continue farming.

Councilman Schmid asked if those irrigation rights will later be available to City.

Community Planner Dennis Davison responded perhaps they would be available in the future, but not now.

Dainard Paulson, 700 West Goodlander Road, stated the east side of his property is no longer an orchard so he has transferred those irrigation rights to the area to the west that is still in orchard. He noted that later, when he no longer needs the irrigation rights he could make them available to the City.

Councilman Schmid stated that he does not want the City to lose the water rights when the orchard is all gone. He asked if it could be written in somewhere.

The Community Planner said he didn't know how it could be written in now.

Councilman Schmid stated he doesn't necessarily think it should be written into the Plat, he just wants it noted so that when the time comes to complete Phase 4 and 5 it will be taken into account. He praised the subdivision; however expressed concern about Item # 3, Page 9 of the Hearing Examiner's recommendation referring to providing municipal water service to lots above 1390 feet. He reminded the Council that this is an issue they have discussed previously; that they've adopted a moratorium on building above 1400 feet until the City can supply water above that pressure zone, and the City has not allowed the use of pressure pumps to supply those areas. He noted property on Heritage Hills, Cherry, etc. where parcels are above 1400 feet are different from Orchard View because they will be served by the reservoir proposed for Lookout Point. He noted there is land at the high point of Speyers Road earmarked for a reservoir to be built far in the future and eventually that reservoir could serve Mr. Paulson's area. He recommended that if the Council approves this preliminary plat, they direct Public Works Director Joe Henne to add a memo to provide for owners of these 1390+ lots to pay for special access to water (power and maintenance costs for pressure pump) as well as to look at some way of sharing cost of building another reservoir.

Councilman Kobes suggested it might be better to redo the pump that is there.

Councilman Schmid responded that that has to be done anyway.

Mayor Jones stated we're going to continue to have a problem topographically with all of Selah's hills. He noted the City puts about \$6,000 a year into the pump on Goodlander. He agreed the cost of that pump should be born by local residents rather than the entire City.

City Supervisor Frank Sweet asked how far north the coverage of the new Lookout Point reservoir will go, for example would it go north of Fremont.

Public Works Director Joe Henne stated theoretically the new reservoir could cover all the way to the north City limits, depending on how far you want to pump it. He noted the reservoir was designed to serve the area south of Fremont. He stated to go north of Fremont, you would have to snake pipes over and around hills.

Councilman Harris asked about the cost of building a reservoir on Speyers.

Public Works Director Joe Henne responded that the size would be about a million gallons and it would cost about \$50-75¢ a gallon and pipeline runs about \$45-75 a foot, so it might run about \$1.3-1.5 million.

Councilman Larson stated he agrees with Councilman Schmid that the City should be careful about booster pumps.

Public Works Director Henne reminded the Council that if they don't agree with the project, then they would need to hold their own hearing to determine a position other than the Hearing Examiner's.

Councilman Schmid reiterated that he just wants a memo in the file. He noted he broached this topic because of his belief that Council Members need to feel comfortable with their decision as well as with the explanation given to subdivisions they've turned down with lots above 1400 feet based on the need for the new reservoir.

Public Works Director Joe Henne stated the Council need to be careful about letting everybody in because the City could easily run out of storage capacity. He noted the City could pump water all the way from here to Seattle, but it shouldn't pump more than it can store.

City Supervisor Frank Sweet stated the only thing the Hearing Examiner's refers to is "engineering design." He asked how to ensure there is something in place regarding power costs paid by recipients of water.

Councilman Schmid stated that could be handled through the approval process by the Public Works Department; that could also be noted in the file and automatically kick in as the project is approved.

City Supervisor Frank Sweet asked if that could also include a right to purchase irrigation water rights of at least a right of first refusal of those rights.

Public Works Director Joe Henne stated that could be easily done.

Mayor Jones stated his belief that approving this Plat will not set a precedent because this is a unique situation where no matter what the City must use a pump station.

Public Works Director Joe Henne stated there is currently a pump station at the junction of Goodlander Drive and Goodlander Road. He noted people living in that area who receive the benefits of that pump station should share in the cost of maintenance and repair to that pump station.

Mayor Jones stated that when a new pump station was put in at Heritage Hills, Gene Mayer bought a new pump so that there would be a backup. He noted the importance of keeping a minimum of 45 pounds of water pressure to meet residents' needs.

Dain Paulson agreed that his lots should probably be assessed a cost above whatever it is now. He said it seems fair that if they use more energy they should be assessed for more

Rick Wehr PLSA suggested that new lots should only have to pay costs above what it is costing the City now.

Councilman Kobes stated the Hearing Examiner stipulates on page 6, item b the preparation of an engineering report demonstrating the feasibility of serving elevations above 1390 feet and acceptance by Public Works. He suggested this phrase provides an opportunity for Joe Henne to write a letter.

Councilman Larson stated he wants to be sure the Council is not setting a precedent where there isn't a firm footing for other situations that may come up. There was some discussion about property owned by Jim Kasner in Zone 3 and whether that denial was based on the need for a booster pump.

Councilman Schmid again noted his purpose in bringing this topic was to discuss these issues prior to making a decision. He also addressed the recommendation on page 10 item #6 regarding curbs and gutters, stating his preference for barrier curbs.

Mayor Jones stated walkers can stay on the sidewalk with rolled curbs, but they end up going out in the street with curb cuts and barrier curbs. He stated police should give warnings to cars parked on sidewalks. He asked Public Works Director Joe Henne to add a note about irrigation water rights and water cost assessment to the file on this Plat.

Councilman Schmid moved and Councilman Smeback seconded to approve the Resolution Approving the Preliminary Plat No. 912.61.03-2 Designated as "Orchard View Estates" by the City of Selah Hearing Examiner as Recommended with Twenty-Six (26) Specific Conditions. Roll was called. Councilman Smeback – yes; Councilman Schmid – yes; Councilman Larson– yes; Councilman Kobes – yes; Councilman Harris – yes. Motion passed unanimously.

N. Ordinances

City Attorney Bob Noe N-1 reported this item and the next were tabled at the last meeting so that the Planning Committee would have time to bring back recommendations. He stated the Committee wants to have an additional study session prior to taking action. He stated will make copies of latest revisions available to Council Members.

Councilman Schmid stated he would like to hear from anyone in the audience who would like to comment on the proposed ordinances.

Gary Gazzola, 703 North 1st Street, addressed the Council stating he feels like his name is written on this ordinance.

Mayor Jones assured Mr. Gazzola that he had not given any thought to the Gazzola property, rather there is one lot in south Selah that has nine cars on it in various stages of disrepair. He noted that at one time he and his wife had six automobiles.

Mr. Gazzola described Section 6.75 as “pretty draconian,” noting the City (Code Enforcement Officer) has discretion to declare almost anything a nuisance.

Mayor Jones stated the Council is working on the premise that a person’s home is his biggest investment and that habitual negligence in caring for property can result in a decline in property values. He stated the Council is trying to prevent this. He stated the Board of Appeals is available as a line of appeal to the Code Enforcement Officer’s ruling.

Councilman Schmid suggested Mr. Gazzola read and react to revisions made by the Planning Committee. Code Enforcement has to be able to use some judgment as to what constitutes a nuisance.

City Attorney Bob Noe gave Mr. Gazzola a revised copy of the Ordinance.

After reading, Mr. Gazzola stated he would likely be in violation. Mayor Jones stated "improved surface" could mean gravel; the City cannot expect everyone to provide pavement.

Gerald Christian, 815 South 4th Street Loop, stated he is concerned with contractors who begin a development and walk away from it. He stated he would like to see some kind of time limit on when a contractor must either complete a project or return it to the previous state. He described the hill to the south of his property as a "scab on the hillside."

Code Enforcement Officer John Gawlik reported he has met with all of the developers still working on Crusher Canyon and has the number of a sub-developer who will apply water when requested. He stated kids who do not observe "no trespass" signs have been taking bikes out on the property and breaking the crust. He further reported he has met with the developer of property on southern who has promised dust will be abated and that he will finish excavation of that site and built another single family dwelling.

Councilman Schmid moved and Councilman Harris seconded to table items N – 1 and N – 2 to the April 13, 2004 Council Meeting and to refer those items back to the Planning Committee. By voice vote, motion carried unanimously.

1. ~~Ordinance of the City of Selah Adopting a new Chapter to the Selah Municipal Code, Chapter 6.75, "Code Enforcement"; Providing for Severability; and, Establishing an Effective Date~~ **TABLED**
2. ~~Ordinance of the City of Selah Amending Selah Municipal Code Chapter 6.58 "Nuisances," Providing for Severability, and Establishing an Effective Date~~ **TABLED**

O. Communications

1. Oral

P. Reports/Announcements

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

Jerry Davis reported his grant application will be completed and submitted this week.

Councilman Smeback reported the Citizens Academy has been a phenomenal opportunity. He stated he got to participate shooting exercises, but missed the pepper ball. He stated last night they saw the drug

dog exhibit his skills at finding even tiny amounts of drugs. He concluded it has been a great experience.

Councilman Harris stated if he can get information on the free yard waste pickup, he'll get it on reader boards on south First. He reported he wore shorts today to show off pepper ball bruises from the Citizens Academy.

Police Chief Rick Gutierrez reported next Monday his department will graduate 28 participants of this year's Citizens Academy. He further reported that today his department will start weapons qualifications at the Training Center. He stated he and Sergeant Dwarshius are working on updating Policy & Procedures.

Parks & Recreation Director Jeff Hagler reported his department is getting ready for spring and summer. He stated 507 is the current count of kids in soccer, kindergarten through sixth grade.

Public Works Director Joe Henne reported he has put in an application for an additional \$21,000 in funding for Crusher Canyon and has gone out to ad on Fourth Street improvement projects. He stated the roof is done on west shelter at Wixson Park, and they will start on the other soon.

Mayor Jones complimented the work done on curbs at Wixson Park.

Code Enforcement John Gawlik reported the Quail Run development at Speyers and Pear is well under way with foundations and footings.

Clerk/Treasurer Dale Novobielski reported there is favorable news on sales tax; the City figures are \$21,000 or 16% ahead of the first three months of 2003.

Mayor Jones reported his daughter's friend enjoyed Citizens Academy. He stated Police Chief Rick Gutierrez and his brother in law Robert Perales gave a presentation to Valley Mayors' group. He stated he will be working on trimming trees on South 1st Street, and the Finance Committee is working on a salary recommendation for the unrepresented people and will have it at the next Council meeting.

Q. Executive Session

The Council moved into Executive Session at 5:38pm to discuss real estate.

R. Adjournment

The Council moved out of Executive Session at 5:54pm.

Council Member Schmid moved and Council Member Kobes seconded that the meeting be adjourned. By voice vote, the motion passed unanimously. The meeting adjourned at 5:55pm.

Robert L. Jones, Mayor

Gerald Kobes Council Member

Keith Larson, Council Member

(Excused)

Peter McNew, Council Member

Allen Schmid, Council Member

(Excused)

Herb Schmidt, Council Member

Scott Smeback, Council Member

Brian Harris, Council Member

ATTEST:

Dale E. Novobielski, Clerk/Treasurer