

City of Selah
Council Minutes
May 26, 2009

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

A. Call to Order Mayor Jones called the meeting to order at 4:00pm.

B. Roll Call

Members Present: Summer Derrey, Kevin Jorgensen, Keith Larson, Denise Nichols, Paul Overby;
Dave Smeback

Members Excused: John Tierney

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

C. Pledge of Allegiance

Councilman Smeback led the Pledge of Allegiance. Pastor Jason Williams led the group in prayer.

D. Agenda Changes

E. Public Appearances

1. Community Pride Awards

Mayor Jones presented Community Pride awards in relation to the Community Days Parade, noting he remembers when you could hardly see the parade because it was so short. He noted that over the years it has grown, and with growth, there are always jobs to do.

He called Doug Fairchild forward, noting he has helped the parade by letting parade participants use the bathroom at Teriyaki Grille, drink his water and cool off in his facility.

Doug Fairchild said Community Days is what America and its small towns are all about.

Mayor Jones called Willie Quinell and Ken Pendleton forward, noting they "are a pair to draw to." He noted they have helped with the parade for years, setting up chairs, platforms, getting their sons involved in helping out.

Mayor Jones called City Supervisor Frank Sweet forward noting that since he has been here, Frank has always taken care of the judges. He presented the Community Pride Award to Frank Sweet and his daughter Tiffany Bishop. Mayor Jones thanked them all again.

Mayor Jones moved on to Communications and then on to the Consent Agenda.

F. Getting To Know Our Businesses

G. Communications

1. Oral

2. Written

H. Proclamations/Announcements

I. Consent Agenda

Councilman Larson suggested the addition of M - 2 and Councilman Overby suggested adding M - 3.

Councilman Larson moved and Councilman Overby seconded to make these additions to the Consent Agenda. By voice vote, support was unanimous.

Mayor Jones read the Consent Agenda as amended.

Councilwoman Nichols moved approval of the Consent Agenda as amended. Councilman Larson seconded. By voice vote, the Consent Agenda was adopted unanimously.

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

- * 1. Approval of Minutes: Study Session & Council Meeting May 12, 2009
- * 2. Approval of Claims & Payroll:
 - Claims Checks Nos. 54114 – 54186 for a total of \$ 215,171.07
 - Payroll Checks Nos. 65944 – 66022 for a total of \$ 137,032.20
- * 3. Item M – 2 Resolution Declaring a 1994 Ford F 150 as Surplus
- * 4. Item M – 3 Resolution Establishing June 23, 2009 as the Date To Conduct a Public Hearing To Consider a Revision of the Six-Year Transportation Improvement Program for the Years 2010 to 2015
- * 5. Item N – 1 Ordinance Amending the 2009 Budget To Purchase an SCBA Air Compressor with Grant and Reserve Funds
- * 6. Item N - 2 Ordinance Amending Selah Municipal Code Title 1, Chapter 1.22 Changing the Title from “POLICE CIVIL SERVICE COMMISSION” to “CIVIL SERVICE COMMISSION”
- * 7. Item N – 3 Ordinance Amending the 2009 Budget for a FlashCAM Digital Vandalism Deterrent System

J. Public Hearings

K. New Business

1. Purchase of a Used Ten-Yard Dump Truck from WSDOT

Public Works Director Joe Henne addressed New Business Item 1 and called Council Members' attention to the amortization schedule at the back of the packet. He noted Public Works is asking to purchase a ten-yard 1997 International 2574 Dump Truck with hopper with approximately 107,000 miles from the WA Department of Transportation. He said they are asking \$26,000 for it and will throw in a stainless steel sander and spreader box. He said it is plumbed for a plow, noting he's been looking for a truck for some time now. He requested approval to purchase the truck and paint it. He estimated the total cost at \$35,000, noting he has \$598,000 in his F171 reserve fund.

Councilman Larson asked if this will serve Public Works' needs as presented.

Mayor Jones said it should cover the town in one trip. He said he's been after Joe for years to get a good-sized dump truck.

Councilman Larson moved approval of the Purchase of a Used Ten-Yard Dump Truck from WSDOT. Councilman Jorgensen seconded. Roll was called: Council Member Smeback – yes; Council Member Larson – yes; Council Member Overby – yes; Council Member Nichols – yes; Council Member Jorgensen – yes; Council Member Derrey – yes. Support was unanimous.

L. Old Business

M. Resolutions

1. Resolution Assigning 503 Southern SEPA and Short Plat Appeals to the Hearing Examiner for consideration pursuant to S. M. C. 1.60.080(B) [971.79.08-01 - 503 Southern Avenue SEPA and 913.79.08-02(2) Short Plat Appeals—Torkelson]

Community Planner Dennis Davison addressed Item M - 1 apologizing for omitting the appeal from the Council packet. He handed the appeal out to Council Members. He explained that the South Selah Neighborhood Association felt the SEPA official had not adequately addressed the transportation or stormwater drainage elements. The Hearing Examiner then sent it back to the Planning Commission. He noted the Planning Commission reviewed on May 5 and recommended the short plat be approved, and the Administrator concurred. He noted now SSNA has again appealed the SEPA decision and Short Plat decision, and Planning is recommending that the Council send this back to the Hearing Examiner for his decision, which will be the final decision unless it is appealed to superior court.

Councilman Overby asked how it would be different this time, noting the Hearing Examiner remanded this back to the Planning Commission before.

Mr. Davison said both the SEPA and Short Plat have been approved. If the Hearing Examiner upholds them, SSNA can appeal to Superior court.

Councilman Larson moved approval.

Mayor Jones recognized Jane Williams and allowed her to ask a question.

Jane Williams, 701 South 7th St., asked if the appeal fee is refundable.

City Attorney Bob Noe said his recollection was that that question was raised in regard to 605.

Mrs. Williams corrected him, stating it was for a 503 hearing.

Mr. Noe said there had been internal discussion about charging an additional fee, so he was surprised when Mr. Carmody sent in another \$300. He noted that fee can be refunded.

Jane Williams said that somehow on the approval from Frank there was a condition that the Planning Commission had approved that was on the Short Plat initially stating that each lot would have individual access. She said she didn't see that on the current short plat.

Dennis Davison said that on the first one there was a condition that each lot would have its own individual access; however, the second time around Planning Commission deleted that requirement because there was one driveway that could serve 6 dwelling units. He noted the Planning Commission has the authority to change any of those conditions, and they believed that the joint driveway could adequately serve those units.

Jane Williams said it seems to her that changes like that should go back to a hearing for them to look at that again.

Dennis Davison said the Planning Commission approved a 20-foot wide driveway, and he assumes they did that because they did not feel a forty-foot wide driveway was necessary.

Mrs. Williams asked how much of the driveway is on each lot.

Mr. Davison responded that to his understanding there is 10 in and 10 out on each lot.

Jane Williams hypothesized that if the middle lot gets sold off, we would have only a 10-foot wide access for six units.

Mr. Davison clarified that there is a four-unit structure and a duplex.

Mrs. Williams noted that they have been given approval to build two others.

Mr. Davison reminded her that half of those units have access to Fifth Street.

Mrs. Williams persisted that that would mean 10-foot access for the others for fire trucks, moving vans, etc. to get up in there, a ten-foot wide access for fire trucks to get up in there, moving vans a ten-foot wide access to get in and make a ninety (degree turn), because there's no cul-de-sac, no hammerhead. She continued, saying if at some point in time one of the lots sold, there would be only a ten-foot access for each individual lot.

Frank Sweet said that it would remain a twenty-foot access.

Mayor Jones said there is a twenty-foot easement.

Mr. Davison said it is not an easement, rather it is a joint use agreement, with ten feet on each side. He said the Planning Commission didn't feel that forty feet of concrete or forty feet of asphalt was necessary to serve six dwelling units.

Jane Williams asked if there was anyone present who attended that Planning Commission meeting. She said according to members of the South Selah Neighborhood Association that was not even discussed; all of a sudden it was just dropped from the requirements.

The Community Planner (who was in attendance at the meeting) said Commissioners talked about the access at the meeting and what the standard was.

Mrs. Williams asked if the engineers looked at that again, noting she couldn't remember seeing any comment on that in the engineering report that was submitted with the PDR.

Community Planner Dennis Davison said the engineers do not look at every minor change that is made in a short plat or a plat.

Jane Williams stated she has a concern because the Council was just handed the appeal and the wording of the questions that the SSNA attorney brought out. She stated she is very concerned that Council Members do not have enough time to review some of his new concern questions, and she would like to see this decision put on hold till next meeting. She noted the other concern that she had was that this was not just a minor thing to change this requirement of the ingress/egress on the short plat and that she would like the engineers to review it again.

Mayor Jones said it will have to be taken up with the Hearing Examiner, because it is his responsibility to figure out whether it has the proper ingress and egress. He said that's why we have a Hearing Examiner.

Councilwoman Nichols asked if the Hearing Examiner will address all of these issues.

Community Planner Davison said he is sure that the attorneys will present all of these issues, but he doesn't know if the Hearing Examiner will address each one in his final decision.

City Supervisor Frank Sweet noted the Fire Department had input on this access.

Mrs. Williams said she believed that was on the original, but said she hasn't seen anything on that new, revised entrance.

The Community Planner said it was on the original, and the Planning Commission deleted it the second time around with the second hearing on the new short plat.

Mrs. Williams asked if the fire Department reviewed it with the smaller roadway in. She said she was real (sic) concerned that that didn't happen.

Fire Chief Jerry Davis said it was reviewed through the Fire Marshal. He noted they wouldn't put a truck up in there whether it was forty feet wide or twenty feet wide; the truck is going to be backed up at the street.

Councilman Paul Overby said a lot of what Hearing Examiner does is relative to complicated land-use questions, noting a lot of the questions Mrs. Williams is bringing up are certainly going to be appropriate for the Hearing Examiner to address one by one. He noted the Hearing Examiner also determines whether the process was followed at every step.

Mrs. Williams interrupted to say "but it wasn't, so that concerns me that we're sending it to the Hearing Examiner..."

The Councilman continued, saying that speaking from his own perspective on this, these issues are sufficiently complex that they get beyond his expertise in terms of land-use law and land-use expertise. He noted the Hearing Examiner is a land-use attorney and is also a neutral third party. He noted it has been brought up a couple of times that during all that has been going on down there, we have been allowed to benefit from an a-political decision, something that doesn't involve elected officials (rather involves) somebody who is an expert in land use. He said the last couple of times this has come up, the Council has wanted to go to the Hearing Examiner just because of that external view. He expressed his confidence that the Hearing Examiner will do his job, and, if he finds any shortfalls, will remand that back to the Planning Commission to address those points or that some kind of a final decision would be made.

Mrs. Williams said, "And so the Council feels confident enough that staff has looked at this thoroughly and that you have received information timely in order to consider it before you have to make a vote on it. Again, that's my concern as a resident."

Mayor Jones said the Council has been looking at this thing for a long time, and there have been so many appeals.

Community Planner Dennis Davison stated the Resolution is to assign this issue to the Hearing Examiner, not for the Council to make a decision whether it is good or bad.

Councilman Larson said the Council will approve or disapprove the Hearing Examiner's decision.

The Community Planner corrected the Councilman, noting the Hearing Examiner's decision is final unless it is appealed to superior court.

Councilman Larson said he was on the Council when we started going to the Hearing Examiner rather than trying to deal with these issues on a Council level. He expressed his agreement with Councilman Overby that it makes sense because many of these issues deal with right-of-ways, easements, intricacies that are frankly above every Council Member with the possible exception of Council Member Smeback. He said the Hearing Examiner can make sense of all this and take some emotion out of it, so he supports sending it to the Hearing Examiner.

Councilman Overby said can't see what value would be gained by the Council trying to make that decision. He noted he does not feel in a position that he could make that decision correctly. **With that he seconded Councilman Larson's motion.**

Councilman Larson moved approval of the Resolution Assigning 503 Southern SEPA and Short Plat Appeals to the Hearing Examiner for consideration pursuant to S. M. C. 1.60.080(B) [971.79.08-01 - 503 Southern Avenue SEPA and 913.79.08-02(2) Short Plat Appeals—Torkelson]. Councilman Overby seconded. Roll was called: Council Member Smeback – yes; Council Member Larson – yes; Council Member Overby – yes; Council Member Nichols – yes; Council Member Jorgensen – yes; Council Member Derrey – yes. Support was unanimous.

- * 2. Resolution Declaring a 1994 Ford F 150 as Surplus
- * 3. Resolution Establishing June 23, 2009 as the Date To Conduct a Public Hearing To Consider a Revision of the Six-Year Transportation Improvement Program for the Years 2010 to 2015

N. Ordinances

- * 1. Ordinance Amending the 2009 Budget to Purchase an SCBA Air Compressor with Grant and Reserve Funds
- * 2. Ordinance Amending Selah Municipal Code Title 1, Chapter 1.22 Changing the Title from "POLICE CIVIL SERVICE COMMISSION" to "CIVIL SERVICE COMMISSION"
- * 3. Ordinance Amending the 2009 Budget for a FlashCAM Digital Vandalism Deterrent System

O. Communications

- 1. Oral

P. Reports/Announcements

- 1. Mayor
- 2. Council Members
- 3. Boards
- 4. Departmental

Clerk/Treasurer Dale Novobielski reported that next week is candidate filing.

Councilwoman Nichols asked the Clerk/Treasurer to interpret the report on sales tax.

He explained that the bar graph compares the first three months of 2009 with the monthly sales tax received in 2008. He said the graph shows that in the first three months, we are greater in dollar amount for the first quarter than the same period last year. He further noted that destination sales tax receipts will be favorable to Selah by about \$20,000 per quarter, so currently we are receiving about \$80,000 more a year than last year.

Councilwoman Nichols asked if that \$20,000 is incorporated into the "red bars" (2009 sales tax income).

The Clerk/Treasurer responded affirmatively, noting it is part of the actual receipts.

She asked if sales revenues would still be ahead if we took out the \$20,000.

Mr. Novobielski said the City would still be ahead. He said February was phenomenal; the City received \$94,000 in tax receipts, the highest in any month in over a year. He said that was primarily due to construction.

Councilwoman Nichols said if she understood correctly, January through March last year is comparable to January, February and March of '09 if one factors out the \$20,000.

The Clerk/Treasurer responded that he would say that if you factor out the 20 grand that we are still ahead, but not by, well, and 20 grand happens to be about 10% of the total. We've received \$212,000 in the first three months, so, even if you back that off at \$190,000; he doesn't have here what the first three months of '08 was, but he felt comfortable that we were still in excess of '08, if we back out 20 grand. He said he hopes it will continue.

Councilwoman Nichols asked if there in an ending on the destination sales tax.

The Clerk/Treasurer said he didn't think so.

City Supervisor Frank Sweet said his understanding is that there is no end.

Mr. Novobielski said some cities were impacted in a negative way, but for those cities there are some mitigation payments where somehow they've done some formula funding and they're helping those governments that have lost, but, from what he knows, that does have a time limit on it. That they're assisting them, he doesn't know, for what period of time, but then those governments will no doubt have to find other replacement revenue sources or reduce expenditures.

Councilwoman Nichols asked to receive these reports quarterly.

The Clerk/Treasurer assured the Councilwoman that he is always willing to provide information.

Community Planner Dennis Davison reported that his vacation was great, and he didn't think about the City of Selah until this morning. He noted the flags look great, and he's already caught up on his email and phone calls. He said they spent time in Montana and three days on the Oregon coast.

Public Works Director Joe Henne reported the plan reviewer has completed review of the proposed Taco Bell facility at the entrance of Save-on-Foods. He noted comments have been given to the designer and those permits will probably be issued in June. He stated Public Works will host an open house on the Speyers Road project tomorrow night at the big meeting room at Fire Station 1.

Councilwoman Nichols asked if Public Works notified neighbors about this Speyers Road meeting.

Mr. Henne said they put door hangers on everybody that lives along the road and two houses in on Bartlett, Home and Cherry; they had a notice in the Selah-Independent and one on the board at the Civic Center and a notice that went out and a small blurb that explained where it was and that you could contact us in Spanish. He reported that Carl Torkleson has contacted them relative to a stop work order on 605 during which time some roof shingles and building wrap has blown off. The contractor has requested to reapply building wrap and finish the roof. Mr. Henne said Mr. Torkelson was given permission to complete that work.

Parks & Rec Director Jeff Hagler passed around a new Parks brochure. He reported that the City is expecting lots of visitors this weekend for the 2A State Softball Tournament. Sixteen teams from all across the state will be here. He noted the Mayor will fry hamburgers for those teams Thursday night at 6:00pm.

Police Chief Stacy Dwarshuis thanked the Council for being able to sit in on the Council Retreat. He reported he received the FlashCAM today and will get the camera up and running in the next couple of weeks after they learn all about it.

Councilman Larson thanked staff for setting up the retreat.

City Attorney Bob Noe reported that Matson Fruit has made a motion to recover their attorney's fees. That was scheduled for last Friday, as well as a written order on the judge's decision, but the judge was not available then, so that was rescheduled for this Friday.

Fire Chief Jerry Davis said he hopes to have Deputy Chief Hanna back in next couple of days. He reported that wildland fire season is already starting; they had their second alarm to the Highland area today. He reported he will be attending the Chiefs' Conference for the rest of the week. He thanked the Council for allowing him to surplus his department's truck.

Mayor Jones noted the City sparkled for Community Days. He praised the Public Works crew for all of their hard work getting ready. He said the pool is almost functional; it's full and clean.

Jeff Hagler said it will be open June 1st.

Mayor Jones praised everybody for their tremendous job for Community Days. He noted Alan Pelzel should also get a Community Pride award.

Q. Executive Session

No Executive Session was scheduled.

R. Adjournment

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

The meeting adjourned at 4:47pm.

Robert L. Jones, Mayor

Paul Overby, Council Member

Summer Derrey, Council Member

Denise Nichols, Council Member

Keith Larson, Council Member

(Excused)

John Tierney, Council Member

Kevin Jorgensen, Council Member

Dave Smeback, Council Member

ATTEST:

Dale E. Novobielski, Clerk/Treasurer