

City of Selah  
Council Minutes

November 27, 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 4:00pm.

B. Roll Call

Members Present: Brian Harris, Keith Larson, Denise Nichols, Paul Overby, Allen Schmid, Herb Schmidt, Scott Smeback

Members Excused:

Staff Present: 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 Schmid led the Pledge of Allegiance. Pastor Rex Van Beek led the group in prayer.

D. Agenda Changes

Mayor Jones noted the Executive Session on potential litigation has been withdrawn from today's Agenda.

E. Public Appearances

F. Getting To Know Our Businesses

G. Communications

1. Oral

2. Written

- a. Letter from Candie Turner
- b. Letter from Dave Cook, County Assessor
- c. Information from Selah Fitness Express on Corporate Membership

Parks & Recreation Director Jeff Hagler spoke to the information included in the packet from Selah Fitness Express. He reminded the Council of prior wellness promotions for staff. He said this is another opportunity for the City to promote staff wellness. He noted a monthly report will be available from Selah Fitness Express to monitor activity. He suggested offering some incentive for staff participation.

**Councilman Herb Schmidt moved to move the Selah Fitness Express item from information to the action agenda. Councilman Paul Overby seconded.**

Councilman Schmidt stated his intention in moving this to the action agenda, "This will allow us to have a corporate membership for 60 members of our City."

There was confusion about whether the cost for corporate membership was \$500 or \$300.

Councilwoman Nichols asked if the motion was to put this on the action agenda so the Council can discuss it.

**Roll was called: Council Member Smeback – yes; Council Member Schmid – no; Council Member Schmidt – yes; Council Member Overby – yes; Council Member Nichols – yes; Council Member Larson – yes; Council Member Harris – yes. Motion passed six to one.**

It was moved to New Business.

H. Proclamations/Announcements

I. Consent Agenda

- \* 1. Approval of Minutes: Council Meeting November 13, 2007
- \* 2. Approval of Claims & Payroll: Payroll Checks Nos. 62212 – 62289 for a total of \$112,369.39, Payroll Checks Nos. 62290 – 62329 for a total of \$83,735.28 and Claim Checks Nos. 50755 - 50809 for a total of \$187,123.71.

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

Mayor Jones read the Consent Agenda.

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

J. Public Hearings

K. New Business

1. Appointment of 2008 Mayor Pro Tem

Mayor Jones explained that a Mayor Pro Tem is appointed partly because he is out of Selah for the month of January. He noted Councilman Schmidt held that position for 6 years and Councilman Schmid for 3 years.

City Attorney Bob Noe cited state law which says a City with a Mayor-Council form of government will periodically select Mayors Pro Tem, and by our Ordinance, we have elected to do that yearly. He noted Selah City Council Minutes 11/27/07

that the Ordinance says that will be done in the month of January. He noted in the past, that Ordinance has not been followed because we've been doing it in December. He noted the state law also allows the Council the ability to appoint a Pro Tem as the need may arise. He said in order to comply with both the law and the Ordinance, his recommendation would be to appoint a Pro Tem to preside over the first meeting in January, and then, at that time, make the year-long appointment.

Mayor Jones asked if that would happen at one of those two meetings in January.

Mr. Noe affirmed that it would happen in one of those two meetings.

Councilwoman Denise Nichols asked for clarification that the term would be for one year and that it would happen in the month of January.

Mr. Noe stated the Ordinance stipulates that selection will be made in the month of January.

Councilwoman Nichols asked if the Council makes that appointment or the Mayor.

Mr. Noe stated selection is made by the majority vote of the Council.

Mayor Jones noted that it's usually done on a two-year cycle.

Mr. Noe restated his recommendation that the Council appoint a Mayor Pro Tem to preside over the meeting(s) in January and at one of those meetings select a Pro Tem for the year.

Councilman Allen Schmid noted the Council is in a situation where they have to appoint a Mayor Pro Tem because the Mayor will be out of state in January, and he (the current Pro Tem) will no longer be on the Council. He said he understands where Mr. Noe is coming from, because we're trying to provide continuity. He noted the Mayor recommends who will be Mayor Pro Tem with the approval of the City Council, and the Mayor will not be back until the first of February.

Mr. Noe stated there is nothing in our Ordinance that requires the Mayor to make a recommendation, although he has done that in the past.

Councilman Schmid stated that would allow the Council to change Mayors Pro Tem anytime they felt like it.

Mr. Noe said the statute says the City may periodically appoint Mayors Pro Tem, but Selah's Ordinance says that will happen in January.

Councilwoman Denise Nichols said she sees no problem with appointing for January and then electing in January.

Mayor Jones stated he is also the Chair for the Valley Mayors and they select representatives from the cities in the Valley for Boards and Commissions, and the Mayor Pro Tem participates in those meetings as well.

Councilman Harris asked the City Attorney if the Council could vote for a Mayor Pro Tem right now.

The City Attorney responded that our Ordinance states that will be done in a meeting in January, so in order to conform to state law and our Ordinance, we need to appoint someone to preside over the meeting(s) in January and have on the agenda the appointment of the Mayor Pro Tem.

Councilman Allen Schmid stated his understanding that there was some concern expressed by some people about why the Mayor Pro Tem shouldn't be voted on for the year, because some people feel that lame duck people on the Council shouldn't be selecting a Mayor Pro Tem for the coming year. He suggested the current Council passes the budget for the coming year, so why not shouldn't they elect the Pro Tem. Councilman Schmid suggested there is a coalition being formed, and stated that he doesn't think people should be doing things outside the Council. He said he will not be here (in January), but believes it is unprofessional for those who are not in office to politicize this issue.

Councilman Herb Schmidt said he supports what City Attorney Bob Noe is saying. **He nominated Keith Larson to be "temporary" Mayor Pro Tem.**

Bob Noe responded to Councilman Schmid saying the statute speaks to first meeting of the "new Council" and the selection of the Pro Tem. He said the push to move this to January is consistent with the statute.

Mayor Jones noted the Council has never followed that in the past.

Councilman Larson asked why it is an issue now if it has not been in the past.

Councilman-Elect John Tierney addressed the Council saying it has come up at this point in time because he saw it on the Agenda and researched it, finding Ordinance 972 passed in 1979 which says the Mayor Pro Tem is selected by the City Council at a meeting in January. He said even though the Council may have done it previously in violation of their own ordinance, they should not do it now. He stated as a new Council Member coming on board in January, he would like to be a part of that vote. He further stated the only Council Member he spoke to was Mayor Jones.

Mayor Jones stated that Mr. Tierney told him he talked several Council Members.

Mr. Tierney said he briefly spoke with Councilman Herb Schmidt on this particular issue. He said he placed a call to Councilwoman Nichols and Councilman Overby but was unable to reach either of them. He said there has not been a "vast conspiracy" to move this agenda. He stated the statute for the City Ordinance says it must be done in January, and, in the interim, the Council can appoint someone to chair the meeting(s) in January.

**Councilman Smeback seconded Councilman Schmidt's motion to appoint Council Keith Larson as Mayor Pro Tem for the first meeting(s) in January. Roll was called: Council Member Smeback – yes; Council Member Schmid – yes; Council Member Schmidt – yes; Council Member Overby – yes; Council Member Nichols – yes; Council Member Larson – abstain; Council Member Harris – yes. Motion carried with one abstention.**

Mayor Jones said Councilman Larson will do a fine job; he has been on the Council for ten years.

## 2. Corporate Membership Proposal from Selah Fitness Express

Mayor Jones moved on to Item K-2, the proposal from Selah Fitness Express, noting the corporate membership would be \$300 and include sixty people.

There was some confusion over whether the fee is \$300 or \$500. Clerk/Treasurer Dale Novobielski left to call Selah Fitness Express.

The Mayor said his only hesitation on this issue is that the Fire Department already has a work-out room that is used by firemen and police.

Fire Chief Jerry Davis said the Fire Department doesn't allow free weights, but that is the only difference.

Councilman Scott Smeback suggested looking at whether we have 60 people who are interested in doing this and if you don't, then we could consider it.

Mayor Jones said there is a monthly fee each participant would have to pay even with the corporate membership.

Councilwoman Denise Nichols said she agrees with Councilman Smeback in regards to supporting the City's promoting wellness, but believes participation should be tracked carefully, so as not to invade employee privacy.

Chief Davis said the Fire Department requires participants to sign in so they can keep track of equipment being used.

Councilman Brian Harris said he's never seen a piece of exercise equipment wear out.

Chief Davis said their equipment is available for all employees, Council Members and Fire Commissioners and their spouses.

The Clerk/Treasurer returned to the meeting reporting that he did not have an answer regarding the fee because he was unable to speak with Selah Fitness Express owner Mike Moore.

Paul Overby asked if we have the Fire Department's equipment free, why we would want to pay for a corporate membership.

Councilwoman Denise Nichols stated employees should be polled.

Mayor Jones stated we'll bring numbers back to the first meeting in December. He directed Department Heads to poll employees, noting he'll bring that information back.

Councilman Overby move to table the issue. Councilman Larson seconded. By voice vote, the motion to table carried unanimously.

L. Old Business

M. Resolutions

1. Resolution Approving "Fremont Heights" Preliminary Plat (912.63.07-01)

Community Planner Dennis Davison presented the Resolution approving the preliminary plat of Fremont Heights subdividing approximately nine and one half acres of property into twenty-eight single family residential lots each abutting a public street and served with a full range of public/private utilities. He noted the Hearing Examiner considered the proposal in a Public Hearing, with only the proponent and himself present. He reported that hearing was appropriately advertised as required by law. He stated the recommendation of Hearing Examiner is for approval with 18 conditions. Councilman Overby noted the Hearing Examiner's conditions omit one condition included in the original staff report regarding 145 foot extension of 16th Street and another condition referred to Public Works wanting to have the right to have the option of a sewer line. Mr. Davison stated that 140 foot section of road lies outside of the plat boundary, so he was not surprised that the Hearing Examiner omitted it. He added they didn't want to see another half street continued for years into the future.

Councilman Overby called the Planner's attention to a swale across lots 13, 18, 22 and 25. He asked if there might be an issue with run-off.

Community Planner Dennis Davison said the developer was present, but typically when a swale drains across the property, it would likely continue.

Brian Harris asked if there's a requirement to contain water on the property. The Planner responded affirmatively, stating when you build a house, it is your responsibility to convey water across your property so it continues its natural flow.

Mayor Jones asked about Driscoll.

Mr. Davison responded that Driscoll turns east off of 16<sup>th</sup> and is a private road.

Councilman Schmidt asked if Driscoll is paved.

The Planner responded affirmatively, but said there is no designated right-of-way, and he doesn't know if there is a road maintenance association or not.

Mayor Jones said half streets are all confined to West First Avenue and Nelson Place. He said the City ends up being responsible for half streets, and he doesn't see where it will be completed.

Councilman Schmid noted on the map there is a "West First Avenue." He suggested that name might be confusing, noting it might be better to have a named street.

Councilman Overby noted the street names haven't been approved yet, and plat approval will not confirm street names.

Councilman Schmidt asked who ends up labeling these streets.

Dennis Davison stated the proponents make recommendations on names, and then Public Works assigns final labels. When we record it, it will have permanent names.

Councilman Scott Smeback said it's important to keep police and fire in the loop.

Paul Overby stated his understanding is that the Council at this point can either accept or reject the Hearing Examiner's recommendation, but can't modify it.

City Attorney Bob Noe said the Council can send it back to the Hearing Examiner if they have questions.

Councilman Overby said he would like to see some language regarding the swale.

Proponent Chuck Johnson said he was willing to respond to questions.

Paul Overby asked where a house would go on Lot 22 and if the lot would be filled in.

Proponent Chuck Johnson said they have not done any engineering yet, but will have engineers create a grading plan. He noted the State Department of Ecology requires the builder to retain any water they create on site as part of their storm drain plan. He explained that pass-through drainage does not need to be retained. He noted the parcels below that property haven't experienced any runoff from that area. He said he plans to level the area, and whatever runoff there is will be retained on site. He concluded they don't foresee any problems.

Paul Overby noted it is steeper in the center. The way it looks right now is that the swale was created through time.

Allen Schmid suggested it was caused by irrigation.

Chuck Johnson said there was probably some runoff when it was an orchard. He asked the Council to adopt the Hearing Examiner's recommendation as written.

**Councilwoman Denise Nichols moved approval of the Resolution Approving “Fremont Heights” Preliminary Plat (912.63.07-01) and Adopting the Hearing Examiner’s Recommendation plus 18 Conditions. Councilman Schmid seconded. Roll was called: Council Member Smeback – yes; Council Member Schmid – yes; Council Member Schmidt – yes; Council Member Overby – yes; Council Member Nichols – yes; Council Member Larson – yes; Council Member Harris – yes. Motion passed unanimously.**

N. Ordinances

O. Communications

1. Oral

P. Reports/Announcements

1. Mayor

2. Council Members

3. Boards

4. Departmental

a. Whispers of Christmas

Mayor Jones called on Chief Gutierrez for a report.

Police Chief Rick Gutierrez reported that things are falling in place in their new building. He said he's just trying to remember to drive to South First Street.

Public Works Director Joe Henne reported that he is pleased to announce that the Transportation Improvement Board selected East Fremont for funding. That funding will be \$328,000 and WSDOT will provide \$10,000 to match plus \$500 from Graf and \$500 from the School District. The City's share is \$71,000. He noted they will start on the design next summer, and hopefully by that time, the state will have its plans for North Wenas. He said somebody on the Public Works crew will be coming in at 5:00am checking to see if there are slick spots. He said the State notifies him if it storms during the night.

Community Planner Dennis Davison reported the Planning Commission continued 2 Urban Growth Area Plan Amendments to their meeting December. 4. He said he may have them on Council Agenda December 11, but if not, he will have them for the first meeting in January.

Parks & Recreation Director Jeff Hagler reported the Christmas lights are on City Hall. He said Whispers of Christmas will be held this Saturday. He called Council Members attention to the Holiday Tour of Lights flyer.

Denise Nichols reported she visited the new Police Station, and it's very nice.

Police Lieutenant Stacy Dwarshuis said they are still in boxes.

Mayor Jones said when everything is out of boxes and put away, the Police Department will have an open house.

Allen Schmid said he hopes the Council will take heed of Mr. Cook's letter. He noted even though the Supreme Court has declared Initiative 747 unconstitutional, he hopes the Council will hold back its spending to no more than a 1% increase.

Paul Overby reminded the Council of the YVCOG invitation to the December 12 General Membership meeting at the Yakima Convention Center. He urged interested Council Members to RSVP by December 3. He noted they were scheduled to have Council Forum this month on finance, but much of that information is contingent on the budget process, which will not be completed until after a December Forum date. He suggested putting off the Forum until January. He asked if there were any objections. There were none.

Mayor Jones suggested that Councilman Overby set the date for the Forum in January.

Councilman Overby said attendance at the Forums has been increasing. He said a lot of that is contingent on the topic. We try to find something that has broad appeal. We can answer people's questions about I-747.

Councilman Schmidt reminded Council Members of the YVCCB Holiday Reception and Auction 5:00-8:00 Thursday evening. He urged Council Members to buy a candy cane because they have numbers that match up with gifts. Mayor Jones asked who will be attending. Councilwoman Nichols and Councilman Schmidt will attend.

Councilman Harris reminded young people in audience to drive slowly and safely and wear their seatbelts.

Councilman Smeback complimented Councilman Schmid on his Cougar shirt.

Mayor Jones reminded the Council of the special meeting on December 3<sup>rd</sup>, noting there will be a Budget Meeting from 2:00-5:00 followed by an Executive Session on Personnel. He enumerated those who helped with the Seniors Thanksgiving Luncheon.

Administrative Assistant Julie Gray announced that the Chamber of Commerce is sponsoring a Christmas lighting contest again this year. Awards will be given in two categories - best residential lighting and best business lighting.

Q. Executive Session

R. Adjournment

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

The meeting adjourned at 5:05pm.

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

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

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

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

\_\_\_\_\_  
Brian Harris, Council Member

\_\_\_\_\_  
Herb Schmidt, Council Member

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

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

ATTEST:

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