Study Session Minutes
Selah City Council
October 13, 2020
4:30pm

Mayor Raymond opened the Study Session then turned over the meeting to the committee, consisting of Council Members Peterson, Carlson, and Bell.

Council Member Bell gave a brief overview of what the committee had discussed, saying that they determined that there were three groups, one being employees with a code of conduct in the employee handbook; the second group was people under contract such as the City Administrator, City Attorney, and Police Chief, with the recommendation that all future contracts include the verbiage listed in the Police Chief's contract rather than what has been used in previous and current contracts; and the third group consisting of elected officials, who do not have a code of conduct in place. He referred the group to a slightly modified version of the one used by the City of Sunnyside, noting that theirs wouldn't be binding on the Mayor but they could ask that she participate in it and that they would have to hold themselves accountable as an elected official can't be fired by a vote of the Council. He went on to say that they currently have an ordinance with rules of decorum regarding how to respond amongst themselves and to the public, and the committee agreed that it would be appropriate to also adopt a code of conduct, either a modified version of Sunnyside's or a different one. He noted that they could renegotiate contracts with other groups currently under contract, but it would also open up everything to be renegotiated.

Discussion followed on the following items: whether this would apply to the Planning Commission; creating a template to be discussed and use as the basis for their Code of Conduct; enforcement being self-responsibility and self-enforcement; what could be modified on the Sunnyside Code of Conduct, such as striking item fifteen and rewriting part of item seventeen to fit Selah's form of government and contracted attorney; a request for guidelines for Council Members with regard to responding to emails; including some guidelines similar to what the AWC handbook contains; the need to be careful and not create issues where there isn't one; the level of expectation and how council can call out one of their members for not going along with the agreed Code of Conduct; using the Code of Conduct as a tool that outlines their expectations for each other; making sure that there are no violations of the OPMA with regard to emailing suggestions for modifying the Code of Conduct; and selection of one committee member to be the recipient of said modifications.

The date of October 23 was set as the deadline for Council Members to submit their suggestions and modifications to Council Member Carlson, who would then compile them for the committee review prior to October 27.

The Study Session ended at 5:22 pm.

City of Selah
Council Minutes
October 13, 2020

Regular Meeting
Electronically Via Zoom
115 West Naches Avenue
Selah, WA 98942

A. Call to Order — Mayor Raymond called the meeting to order at 5:32 pm.

B. Roll Call

Members Present: Kevin Wickenhagen; Jacquie Matson; Clifford Peterson; Roger Bell; Russell Carlson; Suzanne Vargas; Michael Costello

Members Absent: None

Staff Present: Donald Wayman, City Administrator; Rob Case, City Attorney; Dale Novobielski, Clerk/Treasurer; Joe Henne, Public Works Director; Eric Steen, Deputy Police Chief; Treesa Morales, Public Records Specialist; Monica Lake, Executive Assistant

C. Councilmember Absence – Motion to Excuse **None**

D. Pledge of Allegiance

Mayor Raymond led the Pledge of Allegiance.

E. Invocation

Pastor Matt Alexander gave the prayer.

F. Agenda Changes

Add: N – 1: Resolution Authorizing the Mayor to Distribute Coronavirus Relief Funds

G. Public Appearances/Introductions/Presentations

1. Katrina Henkle, Selah Downtown Association – Update

Katrina Henkle, Selah Downtown Association (SDA) Executive Director, addressed the Council. She said that it had been announced earlier that day that Yakima County was in Phase Two now, which meant fifty percent occupancy for restaurants, and that tomorrow from 8am to 10am she would be hosting a coffee chat via Zoom to talk about Phase Two and answer questions. She noted that there would also be a Town Hall Facebook live meeting Thursday with Comprehensive Mental Health. She remarked that the Selah CARES Grant information was before Council for review and approval, thanking the three-person committee for reviewing applications and making recommendations, and those Council Members who also helped with outreach. She added that it was a blind review process

with redacted business names to make it as fair as possible, and that they were recommending just shy of two hundred sixty thousand dollars to be distributed to seventy-five businesses.

H. Getting To Know Our Businesses **None**

I. Communications

1. Oral

Mayor Raymond opened the Public Meeting.

City Attorney Case read aloud the rules of conduct as stated in the Agenda.

Executive Assistant Lake said that there were ten comments submitted, of which one was withdrawn and six would not be read aloud. She read aloud the following statements provided via the online public comment submission form.

From Bill Callahan, Selah:

This is an important quote: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

From Lorrie Smith, Yakima:

The recent city policy of removing non-political signs is highly illegal and unconstitutional, in my opinion. John Roberts, Clarence Thomas, Ruth Bader Ginsburg, Stephen Breyer, Samuel Alito, Sonia Sotomayor, Elena Kagan, Antonin Scalia and Anthony Kennedy all seemed to have agreed with my opinion that such actions are unconstitutional. Please notice that I am not purporting to speak on behalf of them. Rather I am simply speaking for myself by reasonably inferring this based on their unanimous decision regarding the "Reed vs. Town of Gilbert" case. I really disagree with the Mayor allowing the signs to continually be stolen, despite the violation of the first amendment it constitutes.

From Gabriel Fabian, Selah:

The city has proven time and time again that their chalk cleaning policy has nothing to do with actually keeping the city streets and sidewalks clean and maintained. Rather it's certain messages that are being targeted. First there were cases of dirt and even splintered 4x4 beams being left in the street and on sidewalks. Now there happens to be many pieces of glass in a location that has been repeatedly pressure washed to clear it of chalk. This glass has been present in an intersection for approximately 2 months. I'd estimate that city workers have gone by at least 20 times without taking any action. It seems odd that the city has a policy of immediately cleaning chalk off of their streets, yet when an actual hazard is present, no action is taken to maintain streets and sidewalks. I think this is a ridiculous policy. It shows a disregard for the actual safety and maintenance of City property in exchange for hunting down a non-damaging, water soluble art medium.

Having no further comments to be read, Mayor Raymond closed the Meeting.

2. Written **None**

J. Proclamations/Announcements **None**

K. Consent Agenda

Council Member Carlson noted a clerical adjustment on page nine of the minutes where the bolded part of the motion referred to parking prohibited on certain streets rather than the actual discussion and motion on an ordinance amending the 2020 budget for legal services.

Executive Assistant Lake read the Consent Agenda.

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

* 1. Approval of Minutes: September 22, 2020 Study Session & Council Meeting

* 2. Approval of Claims and Payroll:

Payroll Checks Nos. 83780 – 83797 for a total of $278,515.22
Claim Checks Nos. 75428 – 75505 for a total of $245,084.23

Council Member Carlson moved, and Council Member Bell seconded, approval of the Consent Agenda with the afore-mentioned adjustment to the Minutes. By a show of hands, approval was unanimous.

L. Public Hearings

1.

Clerk/Treasurer Novobielski addressed the Council. He said that State law requires the City to conduct a public hearing on revenue sources for the ensuing year's budget, of which the City has two. He started with property taxes, which the City is allowed to increase annually by one percent, which they have done for the past several years. He gave a breakdown of the increase for both property taxes and new construction as outlined in the Council packet, noting that Yakima County provided him with estimated assessed values at a five percent increase.

Council Member Carlson asked if he was saying that even opting to increase the taxes by one percent would still drop the rate per thousand being charged.

Clerk/Treasurer Novobielski replied in the affirmative, adding that the rate per thousand would be decreasing by six cents, although actual taxes may be higher based on property value.

Council Member Carlson inquired as to the motivation for increasing taxes by one percent if they're getting a higher taxed value, if there was a specific project, or if it was to have a better budget.

Clerk/Treasurer Novobielski answered that it was something they were opting to do to add to their revenue stream, and that not doing so would result in twenty-one thousand less for the General Fund.

Council Member Carlson clarified that was if Council opts for the one percent increase.

Clerk/Treasurer Novobielski agreed that he was correct, and that it would be discussed during the budget process, going on to say that at this time he was giving them an early indication as to what revenue changes he would be proposing in the budget presented in November. He addressed utility rates next, saying that for water and sewer rates the Public Works Department has comprehensive plans projecting twenty years into the future for different needs and what would be required to satisfy those improvements and increase in costs, and because of those they are requesting a three percent increase on both. He said that Basin Disposal, their contractor for garbage services, submitted a letter September 25 notifying them that the County would be increasing landfill costs by five and a half percent, and the State has increased B&O taxes, so they were requesting a two point sixty-six percent increase, which he rounded to three percent for consistency. He referred Council to the information provided in their packet, noting that as of the September billing they had removed the fifteen percent bond utility tax, which resulted in a decrease in utility charges for their customers.

Council Member Carlson remarked that he didn't necessarily oppose an increase, but he wanted to be careful about imposing increases for the sake of imposing increases, especially after the decrease from the Marudo property, and that to quote former Council Member Tierney, he believed that the low-income seniors and low-income disabled deserve maintaining their rate as their income is pretty fixed.

Clerk/Treasurer Novobielski responded that they do have a different rate schedule for low-income and only impose the six percent basic rate tax on those customers. He noted that, even with a three percent increase, they would end next year with less of a fund balance than they began with.

Council Member Costello inquired if the decrease on the utility tax for the Marudo property would be released so everyone was made aware of it.

Clerk/Treasurer Novobielski replied that they would be placing a message for all customers on the October billing to notify them that the fifteen percent bond tax had been removed.

City Administrator Wayman noted that he had reached out to Adam Smith, and he should be doing a story on that soon.

Mayor Raymond opened the public hearing.

Council Member Carlson clarified that anyone wishing to speak wasn't required to submit a request to speak as long as they were speaking on this public hearing only.

Seeing no one wish to speak, Mayor Raymond closed the meeting.

M. General Business

1. New Business **None**

2. Old Business **None**

N. Resolutions

1. Resolution Authorizing the Mayor to Distribute Coronavirus Relief Funds

City Administrator Wayman addressed N – 1. He said that this Resolution authorizes the Mayor to distribute coronavirus relief funds, the funding source being the General Fund with expenditures replenished through an indirect Federal grant through the Department of Commerce. He remarked that they were allocating money out to grant recipients as well as City operations to deal with COVID related issues for both businesses and City operations, taking care to ensure that the fund requests for City operations and the CARES grant applications selected for grants fall within the requirements before submitting a fund request to the Department of Commerce. He reviewed the list of City applications along with the Cares grant recipients as listed on the AIS and its attachments, adding that the committee put together at the Mayor's request distributed funds as widely as they could, to seventy-five businesses for a total of two hundred sixty thousand dollars. He noted that Clerk/Treasurer Novobielski was waiting on word from the IRS and Department of Commerce as to whether they would be requiring 1099s from recipients, and that they City would be distributing the checks a quickly as possible. He commented that he was very reluctant to bring the item to Council today because of long term delays in getting back funding, but he had a conversation with his contact at the Department of Commerce, who assured him that they could get reimbursement expedited, which means there is a good chance they would get funds back quicker than expected. He asked that Council pass the Resolution.

Council Member Matson moved, and Council Member Costello seconded, to Approve the Resolution authorizing the Mayor to expend up to $358,425 from General Fund 001 for Corona Virus relief to City operations and business grant awards. Roll was called: Council Member Wickenhagen – yes; Council Member Matson – yes; Council Member Vargas – yes; Council Member Peterson – yes; Council Member Bell – yes; Council Member Costello – yes; Council Member Carlson – abstain. Motion passed with six yes votes and one abstention.

Mayor Raymond remarked that the reluctance City Administrator Wayman spoke about had to do with the amount of time and paperwork involved, as just this morning she had signed additional paperwork for the Commerce grant. She thanked Council Member Matson for coming in that morning to ask questions so they could get answers to bring the item to Council tonight.

O. Ordinances **None**

P. Public Appearances **None**

Q. Reports/Announcements

1. Departments

Public Works Director Henne said that they have substantially completed the Taylor Ditch project, had a preconstruction conference for the Well No. 7 project for putting in new turbine pump, well casing and shaft, and were getting equipment ready for snow.

Council Member Peterson commented that the tennis courts look essentially done, with the nets up on the north courts, and asked if they were on schedule to be done within a week or two.

Public Works Director Henne replied that the resurfacing was complete, but they had to order new poles with a winch mechanism for the south courts, which arrived today and should be up by the end of the week.

Clerk/Treasurer Novobielski said that he would be providing Council with Binders containing the preliminary 2021 Budget at the next Council Meeting, and that Budget meetings with Department Heads were scheduled for November 18, 19 and 20, from 1:30pm to 4:30pm. He noted that the fifteen percent bond utility tax had been removed from the system.

Council Member Carlson commended staff, especially Clerk/Treasurer Novobielski, the Council, and the Mayor in their efforts to pay the bonds off quickly and early, adding that it would be a huge relief for the citizens.

Mayor Raymond told Council that they were all invited to the budget meetings in November, and she would like to see more Council Members than usual in attendance.

Deputy Police Chief Steen said they were eagerly awaiting Chief Christman's arrival, and that he was proud of staff getting things done for his arrival. He noted that there were several collisions in the community at the moment that Fire was out on.

City Attorney Case had no report.

2. Council Members

Council Member Matson thanked Ms. Henkle for spearheading the application process and CARES grant committee, and thanked the Mayor and City Administrator for meeting with her that morning.

Council Member Costello had no report but apologized to those scared that the situation with CARES Act money wasn't going to be addressed that night.

Council Member Wickenhagen said that Yakima Valley Tourism still had a large stock of pamphlets and wouldn't be doing a new one for next year because of that. He added that they gave the board a virtual tour of the convention center remodel, which will have a lot more space.

Council Member Bell said that the City did issue a permanent occupancy permit to SPRSA for the aquatic center, they are looking to have a great season next year. He remarked that they closed out this year with some training for lifeguards around the valley, and gained a little bit of revenue by training lifeguards from other areas that would need certification prior to next season opening up. He challenged the City and the community at large to make contact with at least three people in the next couple weeks they haven't heard from since COVID started, saying that it's great mental health for yourself and protecting those other people.

City Administrator Wayman informed Council that he just received an email from Department of Commerce with more information on sub-recipient monitoring, and they would be trying to comply with what they want in the hope that it won't interfere with distributing money this week. He stated that the would be doing everything they could to follow through and get funds distributed.

Council Member Carlson questioned the hiring of a Recreation Coordinator right then, expressing curiosity as to what the individual would be doing.

City Administrator Wayman replied that they would be holding off on hiring until June 2021.

Council Member Carlson asked if there had been anything put out yet for the HR position.

City Administrator Wayman answered in the negative.

Council Member Carlson inquired if there was a plan for that.

City Administrator Wayman responded in the affirmative.

Council Member Carlson requested a report on that.

City Administrator Wayman declined, saying they would discuss it later.

Council Member Peterson had no report, but wanted to echo Council Member Matson's appreciation for the Selah Downtown Association and all the people who worked sorting out grant applications.

Council Member Vargas echoed the thank you to everyone for their action on the CARES Fund grants and getting it out as soon as possible. She addressed the removal of signs, saying that she wanted to open it up for discussion to provide clarification and transparency, and that the primary concern she brought to the Mayor was equal enforcement, as every time she drives downtown she sees signs that seemingly don't fit the exemption for being allowed but she has never seen the SAFE signs. She said that the Mayor informed her that she and City Administrator Wayman personally removed those signs, and she was concerned about removal of signs being limited to the roads they drive on and unequal enforcement when there are other signs seemingly allowed to stay. She went on to say that if Council is setting the policy, the expectation is that enforcement would be equal when it doesn't appear to be currently, and that she also fears the risk of lawsuits and further division within the City.

Mayor Raymond responded that after their conversation the other day she drove down Wenas and First Street, and only saw political signs. She commented that, if there are signs somewhere else they don't see and people don't tell them where they are, they can't spend the day driving the city looking for signs.

Council Member Vargas opined that having those whose job it is enforcing it would eliminate a lot of the issue. She added that a lot of the signs she's seeing are right on main street for days in a row, and that removal of certain signs is adding to a pattern they have of applying resources to removing certain things when it's a certain message.

Mayor Raymond answered that all she saw were political signs on the ballot this year.

Council Member Vargas remarked that hadn't been her experience when driving downtown the vast majority of times, and she feels that a discussion on how there could be equal enforcement is needed. She opined that the Mayor and City Administrator removing signs is a set-up for it being unequal, and that they need to allow city employees to do their job in taking the lead on this and ensuring that they have policies that are equal, as that isn't the appearance right now.

City Administrator Wayman commented that there are layers of issues that Council Member Vargas has brought up, such as who should and shouldn't be removing signs, opining that whether the city staff doing so are Public Works, Code Enforcement or himself, it doesn't matter because they are illegal signs. He stated that he had directed Public Works personnel not to remove them, and has instead taken that on as an extra duty early in the mornings, although sometimes citizens have picked signs up and walked away with them, or Public Works employees have moved them when mowing. He said that they are following Selah Municipal Code, and although there's a statute they haven't adopted these aren't political signs and are equivalent to picking up litter. He told her that her presumption was incorrect, as yard sale signs and other illegal signs are removed every day. He went on to say that enforcing illegal signs is generally something hard to do, and they have relaxed some sign enforcement regarding flag signs and easel signs but would be cracking down on them soon. He added that fifteen days after the election no signs would be allowed on public right of way, and that the proper thing for her to do would be to call himself, Mayor Raymond or City Attorney Case to discuss it rather than in a public forum.

Council Member Vargas disagreed with his assertion that her opinion was false, saying they clearly have different opinions on equal or unequal, and that she was having it in open forum because she discussed it with the Mayor earlier this week. She pointed out that she wasn't the only one with those questions, and that she sent an email stating to the Mayor that they needed to discuss this tonight at the meeting. She felt that in a political climate where people disagree so much there's a desire for transparency from government, and that the desire to push this behind closed doors doesn't serve the City well.

City Administrator Wayman responded that if her assertion was they were afraid to discuss it in the open that wasn't the case. He opined that it sounded like she was having a problem communicating with either himself or the City Attorney, and that it would be helpful if she would call and talk to either of them about her concerns one time.

Council Member Vargas reiterated that she had discussed the matter with Mayor Raymond and asked if he had anything he would like to add to put the matter to bed.

City Administrator Wayman answered that, with regard to equal enforcement, he would be glad to get it taken care of if she could point out where it hasn't been enforced equally, to get beyond the discussion of unequal enforcement. He went on to say that with regard to who is appropriate to be picking up these signs, he's the senior unelected official in the city who gives out tasks to department heads, who then give out tasks to their subordinates, and he has given direction to Public Works personnel to not get involved in this, as there is a group of folks out there who are filming them, taking down their names, and perhaps vilifying them on the internet. He added that he's getting that already, but he doesn't want good Public Works personnel attacked for doing their jobs, and if she had called him before he would have given her the explanation. He stated that Council doesn't decide what staff does; the Mayor does.

Council Member Vargas responded that having him put it to rest wasn't her only intention. She wanted transparency and clarification, and to have questions answered for the entire community.

City Administrator Wayman expressed hope that he had answered her questions, as what they were doing was legal and transparent, and they weren't hiding what they do.

Council Member Vargas remarked that she appreciated the input given and that she hoped to see it for herself next time she drove downtown.

City Administrator Wayman said they would try to ensure she doesn't see unauthorized signs, but there may be some that crop up that they just don't catch.

Council Member Carlson commented that he shared some similar concerns, as he has seen signs up for months that don't fall under political signage, listing a few of those he could recall. He shared similar concerns with Council Member Vargas that enforcement had only begun recently with signs contrary to what the City Administrator wanted, and thought it erroneous to claim they have been doing it constantly.

Mayor Raymond said that this whole year has brought new things to everyone's lives, and there are things they've had to deal with that they've never had to before, like signs against another person regardless of what another feels. She added that signs that are illegal are taken down, and she's been taking down yard sale signs for years. She inquired how he would like it if people put signs up all over town with your name on it, and if he would leave them up.

Council Member Carlson responded that he wouldn't love it but he would expect people to have a right to say what they want. He admitted that he has seen good enforcement on clearing up yard sale signs, but he's seen signs out for months that fit the same qualifications. He agreed that 2020 has elevated tensions and they are in a different political world.

Mayor Raymond asked if that gave people the right to slander.

Council Member Carlson replied that there are signs that aren't slandering.

Mayor Raymond told him that they pull them down if they see them.

Council Member Carlson didn't feel they had been pulled down equally.

Mayor Raymond pointed out that this was new to the community.

Council Member Carlson commented that as of the first time that SAFE signs and BLM signs had gone up that's when they started enforcing it, and that whether he agrees politically has no bearing in his desire for equal enforcement. He went on to say that, while he agrees that he would not appreciate it, it doesn't change the fact that those signs are being removed and they have changed the level of enforcement as of when the signs had gone up.

City Administrator Wayman replied that was his opinion, and it was an incorrect opinion, as some of the signs he was referring to may be in the county and those that are directional for real estate are permitted. He respectfully disagreed with Council Members Carlson and Vargas and said that he would be happy to address their concerns regarding uneven enforcement on a person to person level because he thought they were incorrect in how they apply themselves. He went on to say that neither Council Member had a better understanding of what happened on a day to day basis than he did, but he would be willing to listen to them and help them get to where they need to get.

Council Member Carlson responded that he had passed him on the road when seeing signs for propane that had been there for months in the City, so for them to change their policy or enforcement level based on signs that are against himself personally was concerning.

City Administrator Wayman said that he could keep saying the same lie over and over but it still wouldn't be the truth.

Council Member Carlson replied that it wasn't a lie, and he could tell him where it was and how long it's been there.

Mayor Raymond stated that they were stopping the conversation, saying that the signs are illegal and they would continue to take down those and any other signs that aren't a political sign. She added that if they wished to continue discussion they could make an appointment.

3. City Administrator

City Administrator Wayman stated that they would post who received CARES grant awards and how much the City's website the next morning.

4. Boards **None**

5. Mayor

Mayor Raymond thanked everyone for their hard work on the CARES act. She said that moving into Phase Two is good news for everyone in town.

R. Executive Session **None**

S. Adjournment

Council Member Peterson moved, and Council Member Bell seconded, that the meeting be adjourned. By a show of hands, approval was unanimous.

The meeting adjourned at 6:42pm.

Sherry Raymond

Sherry Raymond, Mayor

Roger Bell, Council Member

Jacquie Matson, Council Member

Clifford Peterson, Council Member

Michael Costello, Council Member

Russell Carlson, Council Member

Kevin Wickenhagen, Council Member

Suzanne Vargas, Council Member

ATTEST:

Dale E. Novobielski, Clerk/Treasurer