City of Selah
Council Minutes
February 23, 2021

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

A. Call to Order — Mayor Raymond called the meeting to order at 5:30 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; Gary Hanna, Fire Chief; James Lange, Deputy Fire Chief; Ty Jones, Public Works Utility Supervisor; Zack Schab, Recreation Manager; 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

Council Member Wickenhagen gave the prayer.

R. Executive Session ****RELOCATED****

1. 15 Minute Session – Litigation RCW 42.30.110 (1)(i)

Council went into Executive Session at 5:33pm. At 5:48pm, Council went back on the record. Mayor Raymond stated that no action was taken during the Executive Session.

Council Member Matson requested an additional fifteen minutes of Executive Session.

Council went back into Executive Session at 5:55pm. At 6:10pm, Council went back on the record.

F. Agenda Changes **None**

G. Public Appearances/Introductions/Presentations

1. Katrina Henkle, Selah Downtown Association – Update

Katrina Henkle, Selah Downtown Association (SDA) Executive Director, addressed the Council. She reminded everyone that façade grant applications were due by Friday, and they could be dropped off or emailed. She said that they were getting ready to plant spring arrangements in the planters around town, and that the Easter egg hunt would run from the beginning of March through the beginning of April.

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 was one comment submitted, which would not be read aloud.

Mayor Raymond closed the Meeting.

2. Written **None**

J. Proclamations/Announcements **None**

K. Consent Agenda

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: February 9, 2021 Study Session & Council Meeting

* 2. Approval of Claims and Payroll:

Payroll Checks Nos. 84085 – 84097 for a total of $208,658.78
Claim Checks Nos. 76132 – 76194 for a total of $153,545.97

Council Member Wickenhagen moved, and Council Member Bell seconded, approval of the Consent Agenda as read. By a show of hands, approval was unanimous.

L. Public Hearings **None**

M. General Business

1. New Business **None**

2. Old Business **None**

N. Resolutions

1. Resolution Authorizing the Mayor to Sign and Enter Into, on Behalf of the City, a "Settlement and Release Agreement" with Regard to the Currently-Pending PRA Litigation, a Related PRA Request, and the Currently-Pending OPMA Litigation

City Attorney Case addressed N – 1. He said that before them was a proposed Resolution with attached proposed Settlement and Release Agreement that pertains to both currently pending lawsuits that the City is party to and most Council Members are part of one or both, adding that the City would pay out forty-five thousand dollars with no admission of liability or admission of fault, and that the language of the agreement was carefully drafted by him on behalf of the City and each Council Member. He went on to say that the opposing council, who is the same on both cases, has made no changes, and he and his client have already signed the agreement. He opined that this was the best they could achieve in this scenario, and they were trying to solve this and move forward rather than deal with other matters. He hoped Council would approve it unanimously, as they need each Council Member to sign the agreement, and stated that his recommendation was to approve.

Council Member Carlson moved, and Council Member Bell seconded, to Approve the Resolution Authorizing the Mayor to Sign and Enter Into, on Behalf of the City, a "Settlement and Release Agreement" with Regard to the Currently-Pending PRA Litigation, a Related PRA Request, and the Currently-Pending OPMA Litigation. 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 – yes. By voice vote, approval was unanimous.

O. Ordinances **None**

P. Public Appearances **None**

Q. Reports/Announcements

1. Departments

Chief Christman said that the week had been busy with legislative action in Olympia with regard to law enforcement, and he has been tracking bills directly related to law enforcement, which are starting to whittle down. He remarked that they had an all staff meeting last Friday and covered a lot of ground setting course for the future. He commented that they have extended offers to two new entry level officers, and it looks like they will get them into an academy class in April, then they will come back for up to six months of field training. He added that they were also looking for a lateral officer right now, and have targeted specific agencies in Washington, Oregon and Idaho to see if they can coax someone in. He noted that the process for a lateral is a shorter timeframe, as one can get through the equivalence academy in a couple weeks, and finished by saying he was looking forward to having new faces in the department.

Deputy Chief Lange had no report.

Recreation Manager Schab had no report.

City Administrator Wayman wanted to remind Council that they were still short one person in the Parks & Recreation Department, but when things get to Phase 3 they would be hiring another person to get going with sports. He went on to say that they've had a lot of inquiries but they need to get to Phase 3, and until that happens they're asking for everyone's patience on that. He thanked Recreation Manager Schab for communicating with those folks anxious to get back into their recreation activities.

City Attorney Case said that the Yakima Herald-Republic announced today that it was downsizing its presence in the Yakima Valley, and that while for the immediate future he didn't see that changing the newspaper the City is obligated to use when posting legal notices, depending on future operations that could impact which paper the City uses for their legal notices. He added that, if a change becomes necessary, they would publicly announce it.

2. Council Members

Council Member Costello had no report.

Council Member Wickenhagen had no report.

Council Member Matson said that she attended the Selah Chamber meeting two weeks ago via Zoom, their topics of discussion being the failed school levy; the hybrid model classes at the high school starting February 16; Yakima Training Center's eightieth anniversary this year and their new housing manager specialist; and the SDA Easter egg hunt, virtual tours of empty spaces, and façade grants. She remarked that she also attended the YVCOG meeting last week, although she only caught the last part of the meeting where they discussed the COVID relief bill, what amount of potential funds would be released, and where those funds would be going.

Council Member Vargas had no report.

Council Member Bell said that the new Facilities Committee appointed last meeting has met twice, and are preparing to put out a bid of interest from architects to develop plans for a new law and justice center. He remarked that the SPRSA board met last night via Zoom and are discussing different things they could do in preparation for a potential levy presentation to continue the operation of the pool, noting that once they pay the annual insurance premium there won't be enough funds to operate the facility for any length of time.

City Administrator Wayman commented that he and the Mayor met with Yakima County Commissioner Amanda McKinney to discuss the interlocal agreement, and are waiting on the County's attorney to give the City their opinion on the draft with the hope of having the board filled with County and City appointees.

Council Member Bell remarked that currently it appears that he would be the only City appointed person, saying that he felt it extremely important to have a full board when discussing a levy. He requested that they relay the urgency to the County regarding the need for a full board, listing the name of the three people currently serving as County appointees.

Mayor Raymond asked if they had any idea when the County would get back to them.

City Administrator Wayman replied that their attorneys were working on the agreement and he would do a follow up with them this week.

Council Member Peterson amended the committee report, saying the committee actually met three times in total. He said that the Selah School Board would be meeting this Thursday via Zoom, with agenda items including a Resolution about the operations levy and a report on construction and reopening.

Council Member Carlson said that they had the annual SDA retreat last week, with a lot of refocusing and goals. He remarked that Ms. Henkle deserves kudos for her work on the façade grant, with the SDA board, and on the B&O tax that goes to the SDA.

3. City Administrator

City Administrator Wayman said that he had a meeting with the Facilities committee on the construction of a potential new police department slash courthouse, and was given the task of putting out an RFP to architectural design firms to come in and provide them a study as to the requirements for the potential facility and what the cost would be so they could properly articulate that to the Council and public to move forward. He thanked the City staff for doing great work, especially the Public Works guys who pushed the snow during the early and late hours, saying that they are the best in the valley in dealing with clearing snow.

4. Boards **None**

5. Mayor

Mayor Raymond gave a shout out to Ms. Henkle for her weekly meetings with the Health Department, adding that Commissioner McKinney has joined them the last three times.

Ms. Henkle commented that they've set a trend, as both Commissioner McKinney and the Health Department do their own now.

Mayor Raymond remarked that it was also great that people could catch it later on Facebook and still get the information they needed.

Ms. Henkle noted that they want to see businesses open and functioning.

R. Executive Session ****RELOCATED****

R/S. Resolutions

1. Resolution authorizing the Mayor to extend a contractual offer to D. R. (Rob) Case to become the City's full-time, directly-employed City Attorney and, if he accepts such offer, further authorizing the Mayor to sign and enter into an "Employment Contract" with him

City Administrator Wayman addressed R/S – 1. He said that before them was an almost identical SIA from the previous meeting, and that not much has changed since then other than the settlement for the OPMA and PRA cases. He opined that City Attorney Case had justified their initial request to bring him to full-time status, and referred Council to the contract to review the changes made. He started with paragraph 1.2, which had minor changes to who he reports to, then moved onto paragraph 3.1 where it now specifies that any raises would be COLA only, not step raises. He outlined the major changes done to paragraph 6 with regard to termination, where they negotiated for a three-month termination without cause in the first four years, which would roll over to six months for year five, and then beyond that the matter would be settled each year by a vote of the Council to decide whether to extend it beyond that year, which puts the Council in the driver's seat with regard to termination without cause. He reminded Council that in a case of termination without or with cause, the attorney must be discharged by both the Mayor and the Council, and that in that case Council could ratchet down the termination without cause. He explained that City Attorney Case is coming to them vibrant practice, but those professional connections would diminish over time, which was why by the fifth year he felt it prudent on the City's side to expand that window if he's let go without cause, as it gives him breathing space to let him get back into private practice. He lastly talked about paragraph 8.7, which addressed the subject of moonlighting, saying that they bifurcated it so that the open pending litigation does not require him to have a time limit, although he must report back every year by May 15 so the City Administrator and Mayor have an understanding of where he is with discharging those cases, and with regard to his transitional business he would have a year and a half to offload his clients and put them in a situation where there's a satisfactory split and breathing space to find a new attorney. He noted that they discussed these with Judge Federspiel and there were no legal impediments to the pen changes made.

Council Member Carlson requested clarification on paragraph six with regard to the termination without cause, asking if they come back in June of a certain year and vote not to extend the severance would they need to do that every year or would it be eliminated.

City Administrator Wayman replied that the way the contract reads it would need to be done each year.

Council Member Carlson asked if they come back in 2026 and say they aren't doing that do they then have to come back again in 2027 and 2028.

City Administrator Wayman answered in the affirmative.

Council Member Carlson clarified that if they vote to eliminate, they would have to vote on it again the next year.

City Administrator Wayman commented that they aren't presuming he'll be let go, but are presuming that Council would continue to have a say in whether this was extended or not.

Council Member Carlson wondered if it got eliminated for that year if not approved at six months.

City Administrator Wayman responded that it would eliminate it completely for that year, and if Council chooses not to accept it in June 2022 then it's not extended.

Council Member Carlson pointed out that each year Council has to come back to vote on it.

Council Member Bell commented that he thought it was saying that if they vote next year to not approve then the following year when they come back he would have lost a year on the extension.

City Administrator Wayman replied that if it fails to be extended in 2022 and then a new Council wishes to extend it then it would be good through 2026.

Council Member Peterson remarked that he was trying to say the same thing as Council Member Bell, that they would have to vote each year to extend it by another year.

Council Member Carlson pointed out that he wasn't seeing anything pertaining to the requirement for eighty hours in a two week pay period, as was discussed at the last meeting.

Mayor Raymond responded that when City Attorney Case does his work he makes up his time, and he would have to keep his hours and report them. She stated that she has full confidence that he will work his forty hours per week.

Council Member Carlson reiterated that they had talked about it as a requirement but he didn't see it addressed in the contract.

Council Member Bell referred him to paragraph 1.4, where it requires forty hours.

Council Member Carlson said that maybe he was reading it wrong, as he was trying to find where there would be a minimum of eighty hours worked every two weeks.

Mayor Raymond pointed out that when a person works forty hours per week that is eighty hours in two weeks, and a pay period is every two weeks.

City Administrator Wayman commented that what they were talking about was management and accountability of employees, which falls under the purview of the Mayor and himself. He stated that the minimum is forty hours a week, which is the expectation from the City Attorney, himself, or any other employee.

Council Member Carlson thanked him for verifying that, as he didn't see it in the contract.

Council Member Wickenhagen moved, and Council Member Bell seconded, to Approve the Resolution authorizing the Mayor to extend a contractual offer to D. R. (Rob) Case to become the City's full-time, directly-employed City Attorney and, if he accepts such offer, further authorizing the Mayor to sign and enter into an "Employment Contract" with him. Roll was called: Council Member Wickenhagen – yes; Council Member Matson – yes; Council Member Vargas – no; Council Member Peterson – yes; Council Member Bell – yes; Council Member Costello – yes; Council Member Carlson – no. Motion passed with five yes votes and two no votes.

S. Adjournment

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

The meeting adjourned at 6:54pm.

Sherry Raymond, Mayor

Roger Bell, Council Member

Russell Carlson, Council Member

Jacquie Matson, Council Member

Kevin Wickenhagen, Council Member

Clifford Peterson, Council Member

Suzanne Vargas, Council Member

Michael Costello, Council Member

ATTEST:

Dale E. Novobielski, Clerk/Treasurer