

City Council
April 22, 2008

Mayor Johnson called the regularly scheduled meeting to order at 7:00 PM.

Upon roll call the following members were present: Reed, Boyle Barrett, Montgomery, Ramsey, McNally, Twardoski and Weigelt. Also in attendance were City Administrator Dave Schmidt and City Attorney Sue Sampson.

Admin & Finance: Council member Ramsey stated they had their meeting tonight, one hour ago. Council member Ramsey stated that the committee has agreed to approve entering into an agreement with the Lake Tapps Community Council, providing our portion is \$6,000, and we need to pay that now because they need it before April 30th. The final agreement will be presented to Council at the May 13 Council meeting. Mayor Johnson stated that the Lake Tapps Community Council is acting as the lead agency in hiring the lobbying firm, Strategies 360, for moving head with lobbying the legislature to get the law changed on water rights. City Administrator Schmidt stated that the Mayor is asking for authorization to expend \$6,000 for us to join the consortium, to get in for the first 6 months. **Council member Twardoski moved that we spend the \$6,000. Council member Boyle Barrett seconded the motion.** Council member Boyle Barrett stated that there probably will be some additional costs, and there is also a chance that this will go on longer than September 1st, so we may be looking at spending more money. City Administrator Schmidt said he is sure it will go on to the legislative session and then probably through the session, so it is entirely possible that figure will double before we have a bill before the legislature. A lengthy discussion ensued. **Motion carried.**

Public Safety: Council member Boyle Barrett stated they have not had a meeting and they need to reschedule. If they are not successful in rescheduling, they will have a meeting on May 7 at 5 PM. Council member Boyle Barrett said she did give everyone a copy of the quarterly report from the Police Department.

Building & Zoning: Council member Twardoski stated they had a meeting last Monday and discussed the City of Buckley Guidelines for Redevelopment. Instead of accepting this whole thing all at once, they want to accept just the 410 part of it so Interwest can get going. City Administrator Schmidt stated it is in an ordinance; it is all in one piece, but he said they can always go back and revise. Council member Reed said that the game plan even at the committee meeting was that we need to revisit this in more detail, but because we had already basically approved the project we need to get the ordinance to match the project and then we will revise the complete ordinance. The Council decided to wait to move on this when it comes up as item #11 on the agenda.

Utilities: Council member McNally stated that Utilities has not had a meeting. Their next meeting is May 6 at 6 PM.

Streets, Sidewalks & Storm Drains: Council member Weigelt stated they had a meeting on the 15th. They discussed Steve Bergerson's request for temporary closing of Collins Court for a block party. The committee didn't have a problem with that; they reviewed the map and asked him to check with the Police Department and the Fire Department, and he saw communication where neither the Police or Fire Department had any problem with it. **Council member Weigelt moved to approve the temporary closing as outlined in Steve Bergerson's proposal since it was approved after review by the Police and Fire. Council member Reed seconded the motion.** Council member Weigelt invited Mr. Bergerson to speak.

Steve Bergerson: 228 Collins Court. He proposes to have a block party on August 9 and he proposes to close the street down from noon until 9 PM. To go along with that he is going to have a car show and some entertainment, and it's going to be catered. For safety reasons, the party is going to be on their property, but he's going to have cars parked on the street, cars and tractors and all kinds of different things, and so he got the okay from all the neighbors, and they have no problem with it, so he went to the committee meeting to see if they had any parameters that he needed to follow, and he also met with the Fire Chief and Police Chief and they said they didn't have a problem with it. Also, as far as barricades, if he needs to rent some type 2 barricades he will take care of that too.

Motion carried. Mr. Bergerson asked if he needs to get something in writing, and he was advised to get a copy of the Minutes from this meeting. Mayor Johnson said that he might want to stop in at the police station a few days before hand to remind them that he is having a block party.

Council member Weigelt said that their next item was the Esser request. They got a variance for a green house and there was a question about the dissipation of water, some of which is related to the concrete pad. There was a drainage system there and they looked at running a bit through the pipe to clear it out but it was a fragile pipe, and they don't think it is actually a City installed pipe, and it had some roots in it. Then they thought they might have to dig a ditch but it would kill the apple trees of the property owner next door and they would probably destroy the fence. So, they are trying to work something out which would be better for the next door neighbor regarding their fence and apple trees but would also do something to drain the water. City Administrator Schmidt said that he and Dominic came up with a couple ideas and Dominic is actually addressing it in a letter to the Essers, and if it is acceptable to them I think that it will resolve the problem.

Council member Weigelt said that the next item they discussed was the Interwest request. The conditions by which we would agree how they could move forward had to do with maintaining the frontage improvements on 410 and some other items. They came back and said they basically didn't have a problem with that except for the LID. We thought we should leave it the way it is, so the committee recommends that we take no action on their request to amend our original motion.

Chuck's Drugs would like a bench in front of the drugstore. Placement of the benches was up to staff so we put the benches and pots in whatever spot seemed to make the most

sense based on the original diagram. Our feeling is that we probably don't want to get in the situation where we are doing benches based on people coming in and making requests. Our suggestion was that we don't do that, but that we do offer that people who want to purchase a bench could make an arrangement to do that.

The last item discussed was the Stormwater Plan. We've been working on it a very long time and we need to push this forward and get it to a place where we've got a plan on the books. We can always go back and make a tweak to it if it's got a fatal flaw, but we need to move forward with it. We agreed that we would have comments forwarded to City Administrator Schmidt by the 30th so we could get them incorporated into the Plan and move this thing forward.

Parks, Recreation & Cemetery: Council member Montgomery stated they had a meeting on the 16th. The highlight was meeting our new cemetery employee, Scott de Carteret who came in and addressed the committee with lots of really good ideas for improvements in operations, maintenance and development of the cemetery. There are some things that we can implement right away, and he was going to look at the cemetery regulations and see what updates need to be made. Basically the City is losing out on a lot of revenue right now that it could be getting.

We got our first draft of the Park Plan from Planner Rashid and we got more survey results compiled (136 surveys to date), so that is pretty encouraging. Council member Reed stated that they spoke with Traci Williams about the condition of the ball fields by Glacier Middle School. He has since had an opportunity to talk with the Scout Master of Troop 577 and he has a couple of young men that are looking for Eagle Scout projects which would fall into this kind of a redesign and repair of those fields. They will probably be getting in touch with City Administrator Schmidt to see what they can work out, and I'm sure Traci would be more than happy to sit down with them as she is intimately familiar with some of the conditions out there.

Council member Weigelt asked if we have ever talked about banking wet lands; he would like to know more about that. Mayor Johnson said it is only certain kinds of wetlands you can bank. City Administrator Schmidt said that when we adopted the new Critical Areas Regulations in 2005 we put provisions in there to develop a wetlands bank, the only thing is you have to have property to be able to move it to. That is why we have been negotiating with PSE down along the river because it is ideal ground to create this banking system.

Community Services: Council member Reed stated they have not had a meeting since their last meeting, but one is scheduled tomorrow night at 6:30 at City Hall.

Mayor's Report:

Mayor Johnson discussed a project that started out as a grant from the National Parks Service to encourage tourism in the cities surrounding the National Park. This was a joint effort between Orting, Buckley, Wilkeson and South Prairie, and it was the development

of local walking maps. I have 3,000 of these in my office, plus we have 600 of Wilkeson and 600 of South Prairie also. There will be some at City Hall and also at the Museum. The Museum actually did all the legwork on the historical aspects of this and provided the pictures.

The AWC convention is coming up. There has always been an early registration, but to encourage people to sign up there is a substantial difference in cost if you sign up now. May 16 is the closing of the early registration. Early registration is \$175, and late registration is \$350. I urge you to sign up now if you can go.

Mayor Johnson said that she met today with a person from United Way and a low income dental clinic in Spanaway. Our goal is to open up the DSHS dental clinic at Rainier School because we have no dental clinic for low income. We want to open that up to children in this area and also to the DSHS developmentally disabled that live in the community. DSHS is already paying a staff to service 400 residents when an average dental practice can have 800 to 900 patients and serve them with the number of chairs they have. It is going to take legislation. One of our goals is to make sure that Rainier School is so viable to this community that they can't close it.

Saturday night was the White River Senior Housing auction and it looks like after all the bills are paid they are going to exceed \$20,000.

Staff Reports:

Chief Predmore asked if there was any possibility to move agenda item #17 up and Council agreed. Chief Predmore said that every year the Kiwanis Club of Buckley comes before the Council seeking approval for a retail fireworks sales stand. Nothing is different in their proposal this year. The location would be the same as it has been the last two years, on the City property at 165 between the trail and River Avenue. The dates that they want to have their sale are from noon on June 29th I believe, and they will actually close on the 4th of July at some point in time even though the ordinance allows them to sell through noon on July 5th. The ordinance also calls for a cash deposit or performance bond to guarantee the clean up and take down of their stand afterwards. Typically the Kiwanis, as a non-profit community group, has always asked the Council to waive that requirement and the Council has always done so, without there ever being a problem of them removing their stand or cleaning up their area afterwards. You should have a staff report as well as the insurance listing the City as an additional insured. **Council member Reed moved to approve the authorization of the permit for the Kiwanis fireworks stand and waiving the cleanup deposit. Council member Twardoski seconded the motion. Motion carried.**

Council member Ramsey announced that the Kiwanis fishing derby is Saturday morning at 7 AM at the pond at Rainier School.

MAIN AGENDA

ORD No. 10-08: Amending BMC 6.04 (Seasonal Vendors): City Administrator Schmidt stated that this is amending our business license provision to accommodate the farmers market. What we have had in the past is a seasonal vendor's license for sports concessions, the ice cream truck that runs around town, and for people that sell just perishables. But with the farmers market we are including a lot of other things under that so we are creating a category under the seasonal license for people that actually have a stand at the farmers market. Then after we develop that we have to deal with the Fall Festival and the Logger's Rodeo and the Chamber has asked for what they've done in the past is just carry everything under one festival permit, and under that festival permit each vendor that participates in that festival would be allowed to be there without having to purchase a separate license. So, we have added a second category which is a special event festival license that covers vendors. **Council member Weigelt moved to approve Ordinance No. 10-08, an ordinance of the City of Buckley, Washington, amending Chapter 6.04.070 of the Buckley Municipal Code to include temporary Saturday market stands under a seasonal license use; however, striking any reference to social security number. Council member McNally seconded the motion.** Council member Twardoski asked if we are going to require each vendor to have their own City license. City Administrator Schmidt stated that in the Saturday market, yes. A lengthy discussion ensued. Council member Twardoski said she doesn't think this market is going to be profitable this year and the Chamber was only going to charge \$10 per space because they figure until we get this think going, it's not going to be a huge profit making thing. Some people just show up and for them to have to buy a license, I know some people won't stay or won't come if they have to pay for a \$25.00 City license. It's been under the Chamber so far and the Chamber has provided the business license for the event for the summer. City Administrator Schmidt said that part of the problem is that the Chamber never has paid a fee; they never have come in and got a business license to cover everybody. The City requires a business license for everybody to conduct a business in the City, and for temporary businesses we charge a half fee. For the City to grant people at the Saturday market an exemption it becomes another situation, and I think one of the things that the committee looked at was trying to be consistent throughout the City and how to be fair to everybody. **Motion carried.**

ORD No. 11-08 Amending Guidelines for Redevelopment: Council member Twardoski said they discussed at their meeting just to accept the 410 part. Council member Reed stated that we have to approve the whole package as an ordinance. City Administrator Schmidt said that the ordinance goes through the guidelines and really doesn't change any of the design features; it changes references to the Architectural Review Board to the Design Review Committee, which the Council actually adopted through a separate ordinance last year. It also adds things like it allows energy efficient windows and it clarifies some of the colors that can be used downtown in the 410 corridor; it talks about earth tones and staying away from bright colors. Also I believe there were some corrections to conflicts between building sizes. Along the 410 district one paragraph said that buildings over 80 feet in length have to have modulations of a 4 foot variation in height, and now it says that buildings over 80 feet long are prohibited. I believe the committee cleared that up and they also took out the provision that limited bid structures on 410 to a 20,000 square foot footprint. **Council member Reed moved to**

approve Ordinance No. 11-08 Amending Guidelines for Redevelopment. Council member Twardoski seconded the motion. Council member McNally distributed language changes he would like to see made. Mayor Johnson said that what she heard earlier in this discussion tonight was that we would be passing this and returning it to committee and the committee is going to re-look at this in its entirety and then bring it back. Council member Reed stated that the recommendation that Council member McNally handed out is simply providing a way to produce a waiver for a square footage size, but the problem the City Administrator pointed out is that in the previous paragraph we allow a longer than 80 foot frontage but we have to break it up, and then in the next paragraph we say okay we cannot have an 80 foot frontage. So, I think we do have to get rid of the reference to length of frontage in the second paragraph, but if we kept the 20,000 gross square feet in area I think that still gives us that trigger point where a company that wants to build a larger building can basically sell us on the idea of why this fits our community. A long discussion ensued regarding waiver and appeal procedures. Council member Boyle Barrett asked are we doing this because we have already approved Interwest. City Administrator Schmidt stated that the committee approved an application before we had the legal means to do so. Council member Boyle Barrett stated that the purpose of revisiting this was to resolve that situation. There is no doubt in anyone's mind sitting here tonight that this document needs a thorough working over; there is no way you were going to come back tonight with something to change it and make it perfect, but we have to resolve the issue with Interwest. And, it comes down to do we simply remove this until your committee has time to look at it again at the end of June, can we legally change it and say 30,000 square feet which will encompass the approval of Interwest. Can we do that, legally I guess, change this to 30,000 until you have a chance to look at it at the end of June. Council member Boyle Barrett said her only question about that is should we limit it to 30,000. City Administrator Schmidt said you just have to be careful that you are not doing it site specific. By eliminating it you're saying okay, this is an arbitrary standard that we really haven't had a chance to study so we are going to eliminate it for now and we are going to go back and take a look at it and we're going to develop a new recommendation. Council member Reed said that he thinks the only concern is what happens during the two months that this is in effect. Mayor Johnson said we have done moratoriums before, but it doesn't look like we are going to have any applications before the 1st of July. Council member Montgomery said that he likes Council member Boyle Barrett's idea of going up to 30,000. He doesn't think that is site specific. That encompasses the entire 410 corridor and it still gives us a ceiling; it gives us the protection that Council member Reed is talking about. City Attorney Sampson stated that she thinks this is acceptable. It is not site specific, it is not related solely to a single parcel, and it does effect at least a temporary correction to the conflict in the ordinance until you can come back with further study. **Council member Montgomery made a motion to amend the original motion. Council member Reed seconded the amended motion. The amended motion carried.** Following a short discussion the **main motion carried.** Mayor Johnson told Council member Twardoski that her committee has its walking orders; we need this by July 1st, sooner if possible. Council member Twardoski said they will probably have meetings every other week, probably every other Monday.

RES No. 08-04: Setting Public Hearing Cassinicos Street Vacation: City Administrator Schmidt stated this establishes the hearing on May 13th. **Council member Weigelt moved to approve Resolution No. 08-04 Setting Public Hearing for Cassinicos Street Vacation. Council member Twardoski seconded the motion.** City Administrator Schmidt stated that under the new standards the City adopted you have to set a hearing for a street vacation ahead of time by resolution. **Motion carried.**

Bid Award: Main Street Water Main Replacement: Council member McNally moved to approve the bid for the Main Street Water Main Replacement to Northwest Cascade for \$57,121.38. Council member Ramsey seconded the motion. **Motion carried.**

WB Properties (Frank Berte) Frontage Improvements Deferral: Council member Weigelt moved to grant WB Properties a two (2) year deferral of frontage improvements subject to satisfactory compliance with recommended conditions. Council member Twardoski seconded the motion. After a brief discussion, **motion carried.**

Purchase & Sale Agreement: Taylor Property: Council member Ramsey moved to approve Purchase & Sale Agreement for the Taylor property. Council member Boyle Barrett seconded the motion. City Administrator Schmidt stated that this is the first draft that the attorney and I completed and we sent it to Lorraine Taylor and she does have some comments, so there are going to be a couple minor alterations to this. The price and fees are not going to change; it is just other terms of the agreement. So you are basically just approving it in concept right now. Council member Twardowski asked don't we want this property because it is adjacent to the sewer plant? City Administrator Schmidt said that is the intent; it is for future sewer plant expansion. Mayor Johnson said it guarantees that we won't have to go through a condemnation if we ever expand. City Administrator Schmidt stated right now our sewer plant only has the ability to expand another 50% above what our current capacity is, after that we are done. There will be no further expansion unless we move the plant to another location, unless we can get this property and expand onto it. City Administrator Schmidt said that this is a Purchase & Sale Agreement that basically grants us the time to do a feasibility study. For an actual purchase, Council still has to authorize the expenditure of funds to make that purchase. **Motion carried.**

Natural Gas Contract: City Administrator Schmidt stated that this authorizes the Mayor and City Administrator to lock up gas if we get an entry point. **Council member Boyle Barrett moved to grant the Mayor and City Administrator the authority to secure up to a five (5) year supply of natural gas when and if we can gain a reasonable entry point similar to where we are at now; or if the market refuses to come down, at a point that at least ensures our supply through next winter. Council member Twardoski seconded the motion.** City Administrator Schmidt said that Houston sent us a proposal this week that is based on what the current market is and on the new low discount program that they have. They give us a price break as long as the price of natural gas stays under \$9/mmbtu. If it goes over \$9 then we have to pay some

variable of that \$9 based on whatever discount they give us. Right now we get gas from two different locations, we get it from Canada and we get it from the Rockies, and based on the percentage of mixture, our price right now if we had bought gas off the market yesterday it would have been \$8.13 with those two prices mixed. They would give us a five year contract for \$7.27, so they would be giving us that much of a discount by locking up long term with them. Then if the price goes over \$9, for whatever month it goes over \$9 we might have to pay a premium. So what we are looking for in the next few weeks is an entry point, and our goal is to try to get down in the \$7 range where we are right now. After a lengthy discussion regarding the price of gas and the percentage we hope to lock up, **motion carried.**

City Employee Dental Co-Pay Policy: City Administrator Schmidt said that in 2002 the City had its dental plan for all of the employees through the Operating Engineers. That dental plan paid 100% of everything and nobody ever had an out of pocket expense for anything. They went broke and gave us about 30 days notice that they were going broke and we had been contractually obligated to provide this benefit to all the employees. We had to scramble to come up with another plan, and the Association of Washington Cities graciously allowed us to come in mid-year and covered all the employees. The difference between their benefit premium and the premium we were paying saved the City about \$20,000 per year, but their plan didn't come anywhere near covering the employees with what the 100% plan did before. What the Mayor and Council decided to do, since we had a contractual obligation with past practice, they decided for that contract period they would continue to cover them at the level they had previously been at by developing this supplemental policy, and that is what has been in effect since 2002. The City Council has looked at this every year and has continued to maintain it every year up until 2007 and last year the committee made a recommendation, and the Council adopted it, that said effective January 1, 2008 they were going to reduce the 100% City reimbursement plan to 75%, plus the maximum amount they could collect each year went from \$2,000 down to \$1,000. None of the employees in the City had used the plan, or tried to get reimbursed, until a couple weeks ago when we had a couple of employees come in and they found out that their benefits had been reduced, even though we posted this a year ago. They got the Guild involved and the Guild attorney is screaming past practice and saying we are taking away benefits, and it looks like we are headed for grievance or arbitration, so we brought City Attorney Sampson in on it. City Attorney Sampson stated that she thought it was more probable than not that the Guild would win the grievance if it were pursued, for a couple of reasons. When the City gives a benefit, whether or not it is written up in a contract, that is a benefit for the employee and you cannot take away a benefit without negotiating or giving something in return that you negotiate for. From the paperwork that we looked at, specifically because at one time carrying over the benefit for the members of the Operating Engineers was not reflected to the same degree in the two Guild contracts, one covering dispatch and the other police officers, it creates a history that the City was aware of negotiation over this benefit that makes it obvious that it is a mandatory topic of bargaining. And, even though we didn't write up this particular detail in the last two contracts, the Guild is entitled to say this is a topic you knew about and if you wanted to do something different we are not required to follow City policy letters, we are not required to follow City Council minutes,

we are not required to follow budget negotiations, we are entitled to rely upon what you bring to the table at bargaining time because we are aware that this is a benefit, because we didn't bring it up specifically in those two negotiations, but a different bargaining history indicates that we are aware of it as a benefit. I thought that it was not a good prospect at all that the City would prevail in the grievance. City Administrator Schmidt stated that based on that we are looking at a couple of possible solutions. One is to go ahead and continue keeping the policy as it is, anticipating a grievance and going to arbitration, or we can continue to offer this policy to the employees at the 2006 thresholds through 2008. Then January 1, 2009, when we go into negotiations with the Operating Engineers, and also through a separate memorandum of understanding with the Guild that we will agree to negotiate this and arrive at some type of settlement that allows us to get out of this policy altogether in exchange for something somewhere, we will hopefully be able to extricate ourselves from this. The recommendation at this point, unless the Council wants us to go ahead and just continue to maintain, is to go back to the 2006 thresholds for the 2008 calendar year. **Council member McNally moved to return to the 2006 City dental co-pay policy and maintain that through the rest of the year until the next negotiation period. Council member Weigelt seconded the motion. Motion carried.**

Council member Reed moved to approve the Consent Agenda. Council member Twardoski seconded the motion and the motion carried.

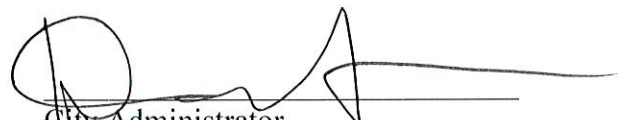
Council member McNally stated that on page 3 of the Minutes there is one word he would like to omit under his report. Change "waste water treatment" to "water treatment."

Approve the minutes of the April 8, 2008 Council meeting.

Claim check numbers 41176 through 41229, in the amount of \$603,092.92, for the period of April 9 through April 22, 2008, are hereby approved and ordered paid this 22nd day of April 2008.

With nothing further the meeting was adjourned at 8:56 PM.

For; 
Mayor


City Administrator