



BUCKLEY CITY COUNCIL MEETING AGENDA

June 18, 2009

Multi-Purpose Center, 811 Main Street

City Council Meeting

Opening 7:00 P.M.

Call to Order
Pledge of Allegiance
Roll Call of Council Members

Next Ordinance #08-09
Next Resolution #09-10
Next Agenda Bill #AB09-54

Committee Reports

1. Admin & Finance
2. Public Safety
3. Building & Zoning
4. Utilities
5. Streets, Sidewalks & Storm Drains
6. Parks & Rec & Cemetery
7. Community Services
8. Mayor's Report:
9. Staff Reports:

Ramsey
Barrett
Twardoski
McNally
Patson
Montgomery
Reed
Johnson

Citizen Participation

Time Limit of Five Minutes (Must sign up at City Hall by Wednesday prior to the Council Meeting)

Main Agenda

10. Van Sickle Landing Preliminary Subdivision
11. **Executive Session: Real Estate Acquisition**

Consent Agenda

12. A. Approve Minutes of June 10, 2009
- B. Claims

Special City Council
June 18, 2009

Mayor Johnson called the Special City Council meeting to order at 7:01 PM.

Upon roll call the following members were present: Reed, Patson, Twardoski, Ramsey, and Boyle Barrett. Council members McNally and Montgomery were absent and excused. Also in attendance were City Administrator Dave Schmidt and Attorney Zach Lell.

Admin & Finance: Council member Ramsey stated that Admin & Finance had a meeting on June 15, at 6:30 PM. The City is negotiating the sub-lease with Dave Baker of the farm land and certain buildings, and the Committee is going to recommend a two-year lease with a one year option. That will be presented at the next Council meeting. Topic number two was discussion with the Buckley Municipal Court. We want an updated report from the Municipal Court Clerk. Right now \$874,000+ is owed to the City, which could be ten, fifteen or twenty years old, we're not sure yet. We will get a report on July 6 from the Municipal Court Clerk; she will be at our meeting. In the first week of July we are going to start looking at the budget to make sure we are on track, and we are not over spending or under spending. Our next meeting will be July 6 at 6:30 PM. Council member Reed asked, regarding the amounts owed the City, is there a standard write off policy, or if once it's owed the City it's there forever? City Administrator Schmidt stated that we had City Attorney Sampson do some research on that last year and there is a statute that allows the City to write off debts beyond ten years, but we have to do it through an ordinance.

Public Safety: Council member Boyle Barrett stated that they have not had a meeting. Their next meeting is July 1st at 5 PM, at City Hall.

Building & Zoning: Council member Twardoski stated they have not had a meeting. Their next meeting is July 6 at 6 PM, here at MPC.

Utilities: City Administrator Schmidt stated that there has not been a meeting.

Streets, Sidewalks & Storm Drains: Council member Patson stated they had a meeting on Tuesday but the minutes are not ready yet.

Parks, Recreation & Cemetery: Council member Reed stated they have not had a meeting since the last Council meeting.

Community Services: Council member Reed stated they had a meeting and the topic of discussion was the Census 2010. A representative from the Census came out and asked us to form a complete count committee. We discussed it at Council previously and will simply have the Community Services Committee as our core group, and then bring in various participants from the community, such as businesses, churches and the school

district, just to get the word out about when the Census is, what it is, and why it is important to our community. There are several billion dollars distributed from the Federal Government every year based on the Census numbers, and if our community is not properly counted then those dollars don't come back to our community. This will be a continuing theme for Community Services through March of next year. March 20th of 2010 is when we should start seeing Census forms. The last Census was in 2000, and I believe we had a mail in completion rate of about 54%, which was not the lowest, but it was lower than what the Census wants to see. We have talked about doing some sort of promotional get together here where people can come in and get help filling out the Census forms, and we will have a representative from the Post Office to collect all the forms. There are a lot of things we can do, and there are some monies available to help offset the cost of these types of activities. Suggestions to the committee would be greatly appreciated. Mayor Johnson stated that Associate Planner Rashid will act as the staff liaison. She and Building Official Mundy have both been working on this for over a year, attending classes, etc., and we need to get the word out.

Mayor's Report:

Mayor Johnson stated she is on the Tacoma Pierce County Board of Health and they are going through some major budget cutting, to the point where they are going to start cutting programs, and one of the things they are trying to save is programs that are in the outlying areas. We get so few services now from the Board of Health that they don't want to cut anything more. They have to cut \$2M more out of this year's budget, and they have not even started on 2010 yet.

Mayor Johnson said that on Monday the free lunch program at the Youth Center starts.

Staff Reports:

City Administrator Schmidt stated that the conveyance line project has started construction. They started two days ago, working on River Avenue, to make the sewer connection there, and then they will proceed east through the old White River High School sports fields and then go on out Fieldcrest. We will have an inspector on all day tomorrow, so there will be some overtime costs involved with that, but after they are actually out into the fields it is not such a critical item and they will be handling inspections over the phone with the engineers so we won't have to pay overtime costs.

City Administrator Schmidt said he wanted to call the Council's attention to the memo regarding the storm water issues on Spiketon. It was thrown together very quickly late this afternoon, and the attorney is hoping to have an Executive Session at the next regular scheduled Council meeting to go over some of the legal issues involved in this process.

Citizen Participation:

Zachary Guill with Congressman Reichert's office. He wanted to let everyone know that they are here for their constituents whether it is casework, grants, etc. He will leave some

cards out. You can give anything to me and I can pass it on to wherever it belongs. I deal with military affairs, vet issues, social security and some HUD, and medical. Any other legislative issues, you can give them to me and I can pass them on to the DC office. Mayor Johnson stated that Zach is one of our returning vets. City Administrator Schmidt said that Congressman Reichert supported our booster station project and it actually made it into the legislative bill that is being considered right now, which will be a great help in getting that emergency backup for our water system. Mayor Johnson said if we have a legislative office here in Buckley, it will probably be Zach that is manning it. So Zach might possibly be in town one day a week.

MAIN AGENDA

Van Sickle Landing Preliminary Subdivision: Mayor Johnson said she really needs to compliment Millie Judge; this was one of the easiest reports I have ever read.

City Administrator Schmidt stated that the City Attorney can probably advise the Council on which direction the Council needs to go. City Attorney Zach Lell with Ogden Murphy Wallace introduced himself and stated that he is filling in for Phil Olbrechts tonight. City Attorney Lell stated that the proposal in front of you is the consideration of approval or rejection of the Van Sickle preliminary plat application, a 260 lot subdivision proposal in the City. As the Council is aware from reading the Hearing Examiner's Findings, Conclusions and Recommendations, the Hearing Examiner has actually recommended the remand of this proceeding to address some open space concerns that have to do with the cottage housing that has been proposed for this site. The Council does actually have that as one of their options, a remand. After discussing this at length with City Administrator Schmidt, although it is truly the Council's decision and I don't want to interject myself into the process too much; in my experience remanding for what is essentially a fact finding purpose and modification of the proposal does present some practical and legal concerns. My recommendation as City Attorney, if the Council is inclined to approve this proposal, would be instead of remanding it, to condition the approval the Council gives on the satisfaction of the open space issues that were called out by the Hearing Examiner. In addition to saving time and being much more efficient, this eliminates the potential for a second public hearing or introduction of additional factual information at the Hearing Examiner level. For that reason, if the Council is inclined to approve this proposal, my recommendation would be to do that with an additional condition of approval rather than through a remand. Mayor Johnson asked so that is just to look at that specific section, open space for the cottage housing. City Attorney Lell said that is the recommendation that the Hearing Examiner has given. The Hearing Examiner found that the remainder of the proposal did comply with the City's development standards. The one area that the Hearing Examiner called out as being non-compliant was the issue of the cottage open space, and again that is an issue that in my opinion the Council can easily address by modifying the Hearing Examiner's decision by calling out that issue as an item that the applicant must address on its own in a code compliant manner before the project will receive final plat approval by the City. City Administrator Schmidt asked if that should include something along the lines of "as long as there are no major changes" because based on code requirements if there are

significant changes to the plat then all of a sudden it would have to be remanded. City Attorney Lell said I agree with City Administrator Schmidt that if the proposal were to change so substantially that for all intents and purposes it would become a new proposal, then in that situation the applicant's proper recourse would be to file a new subdivision application, but I don't believe that is what is occurring here. The open space that has been identified as being non-compliant has to do with the configuration of the abutting cottage housing, and insuring that per the code and the Hearing Examiner's interpretation of the code that cottage open space is abutted on two sides by the cottage housing. If the Council is amenable to this approach, one appropriate means of addressing that again would be to simply modify the Hearing Examiner's decision to require the applicant to redesign that portion of the sub-division proposal, and that modification must occur prior to final plat approval. There would be no remand required under that scenario. City Attorney Lell stated that this is a relatively minor issue of non-compliance considering it is against the backdrop of a 260 lot subdivision proposal. This open space issue is really specific to just a few of the cottage housing units that have been proposed, and I believe that staff has determined that the applicant could probably reconfigure those cottage housing units in a manner that would not add any additional density. Maybe under a worst case scenario they might lose a unit, but it would not fundamentally change the nature of the subdivision that was proposed. So I would characterize that, for legal purposes, as a relatively minor change. Mayor Johnson asked if the Council understands what the options are, and requested a motion to continue.

Council member Reed moved for approval of the preliminary plat subdivision for Van Sickle Landing by the applicants Elkhorn LLC and Investco Financial Corporation with the modification the applicant shall be required to modify the common open space areas for lots 61-70, lots 191-193, lots 250-259 to conform to the Buckley Municipal Code 19.24.020 (7)(c) as interpreted in pages 9-11 of the Hearing Examiner's Findings of Fact. Council member Twardoski seconded the motion. A discussion ensued. Motion carried.

City Attorney Lell told the Mayor that it might be appropriate to direct staff to return to a subsequent meeting with a final decision which effectuates the Council's vote this evening. City Administrator Schmidt stated that means that the City Attorney will draft legal Facts and Findings for the Council's decision and we will bring it back to the Council for approval. City Attorney Lell said that the Council's decision will become formally effective as of the time that those Findings of Fact and Conclusions of Law have been entered into the record.

CONSENT AGENDA

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

Approve the Minutes of the June 10, 2009 City Council Meeting.

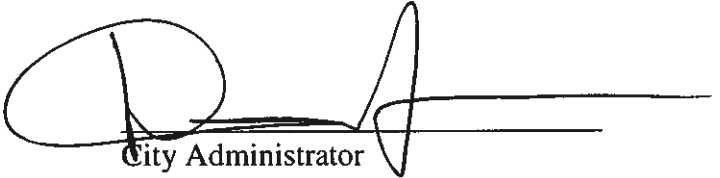
Council convened into Executive Session at 7:40 PM to discussion real estate acquisition for approximately 15 minutes with no action to be taken.

Council returned from Executive Session at 8:04 PM.

With nothing further the meeting was adjourned at 8:04 PM.



Mayor



City Administrator