

City Council
September 28, 2010

Mayor Johnson called the regularly scheduled meeting to order at 7:02 P.M.

Upon roll call the following members were present: Harple, McNally, Montgomery, Patson, and Twardoski. Council member Reed and Council member Boyle Barrett were late. Also in attendance were City Administrator David Schmidt and City Attorney Phil Olbrechts.

Finance and Public Safety:

Council member Reed stated they had a meeting last evening primarily to discuss the budget. There was one item that was brought to their attention by a citizen; it seems our current noise ordinance is a bit restrictive so they are sending the ordinance off to the City Attorney and the will revisit this. Regarding the budget, if our revenue projections for next year are even close, we have some major financial issues in the General Fund to the tune of about \$190,000. They don't know where we are going to find the money, without causing a serious hurt in the services we provide. Anything we cut at this point has ramifications

Streets and Utilities:

Council member Montgomery stated they had a budget meeting and between the gas and water department there is approximately \$8,000 left in the annual budget for miscellaneous tool purchases. Between the two budgets they are requesting to spend \$5,000 to purchase a whole hog tool that bores underground so you don't have to dig up the streets. **Council member Montgomery moved to authorize the expenditure of not to exceed \$5,000 for the purchase of a whole hog. Council member Twardoski seconded the motion.** Administrator Schmidt stated they have an older version that actually sometimes causes more problems. **The motion then carried.** Council member Montgomery stated they have another meeting tomorrow night at 6:30 PM at City Hall.

Community and Economic Development:

Council member Patson stated they had a meeting scheduled for last Wednesday but they did not proceed due to a lack of a quorum. They tentatively have scheduled October 6, 2010 or October 13, 2010 to be determined at a later date.

Community Services and Recreation:

Council member McNally stated they had a meeting on September 23, 2010. They discussed the White Horse Tavern, that has been remodeled and the name will be changed to Bootlegger's Bar and Grill. They approved the signage; there were some questions about the square footage for signage. Administrator Schmidt looked up the code and with the wall sign, they approved it for a box and they would like to change it back to a triangle which will give the applicant more flexibility. They discussed the parking on Main Street again and the parking lot behind the Hometown Restaurant. They

feel the parking lot is being used as a car pool lot. Their next budget meeting will be October 7, 2010 at 9:30 AM at City Hall.

Mayor's Report:

Mayor Johnson stated there is still a vacancy for a position on the Community Development Block Grant Board. It would behoove us to have someone on this board because they are the board that distributes all the Community Development Block Grant funding. We have had in the past up to three Council members on this board and that is when we were annually getting grants up to \$72,000. If anyone could spare a Wednesday night once a month, it would be well worth our time to have someone there.

Mayor Johnson stated she had the opportunity to go to the Police Department's new office; the officers have done all the work themselves. This will make their jobs much more efficient and they are able to get so much more work done. It really has turned out to be a nice facility.

Mayor Johnson stated Pam Roach set up a tour of Rainier School. She has put together her task force to save Rainier School and to see what else they can put out there that is acceptable to the community.

Staff Reports

Administrator Schmidt stated he has nothing to report other than budget, budget, budget.

CITIZEN PARTICIPATION

Marvin Sundstrom of 881 Sheets Road, Buckley stated there is tons of information on the following items he is going to talk about but he is only going to highlight some of them. Farmers Markets, Health Departments and Eating Healthy. The State of Washington has 34 licensed artisan cheese makers, they vary from premium to not so, are generally family owned and vary in size from the operation that makes ½ million pounds per year to the operations that make about 5,000 pounds per year. Of that group there are six premium cheese makers. The field is very competitive, strictly graded and the products that come from them as winners are generally very good. Of the six premium cheese makers only three of them are farmstead. Only two do multiple sizes of animals and have won awards with both, his sons' operation is one of the two. Having one of these cheese makers in a Farmer's Market is a huge plus. The American Cheese Society lists nine different types of cheese on their promo page. Last year he participated in and promoted the Buckley Farmer's Market for a couple of reasons. He felt it would be good publicity for the city and the market itself. He personally feels a functioning Farmer's Market is a huge plus to any city and the produces in most cases as fresh and you get from your own garden. This was not without a sizable out of pocket expense to himself. At the end of the season he asked that they get together and discuss how the Market could be made better. That never happened and one does not need to be too observant to see the reason why a functioning Farmer's Market has costs and some do not want to pay those costs. But there was a pre-market meeting and he was informed that in order for his product to

be in the Market, he would have to pay \$150.00 fee to Tacoma Pierce County Health Department. There was also a Market fee that he was told later by the Health Department that was not related to his product. As the treasure was short, he pre-paid his stall fee until he could protest to the Health Department and eventually his County Councilman. What should have taken more than one week is still work in progress. There was quite an article on the editorial page of the TNT talking about food safety; those who have an interest should read. Equate the products highlighted with what is used in the preparation of food he will shortly be talking about. As our products are well regulated by RCW 15.36, which includes a monthly four hour inspection, quarterly sampling and running the inspector through the steps required for any new product plus dated timed/temperature charts for records, he asked Councilman Bunney why he was being singled out for this treatment. This question was never answered but he did find the Health Department to be unwilling to share the information they do have. What information they did share shows they are regulating the wrong enterprise. The retail code put out by the Office of Code revisers. There are four things that talk about milk products, each one of them relates to raw milk products. The Health Department is suffering mission creep and the Mayor should make that point when she attends Health Department meetings. He would also notice during his foraging through RCW references which they have on each of these WAC's he ran across several interesting RCW's. Small business impact statements would be a good example. Anyone here aware of that RCW and the requirement for it? He has made a point of not discussing other products during any exchange of the Health Department; he is only interested in what they are doing with his product. But he does observe what happens at Farmer's Markets and he does observe how they regulate them. When the Council woman made the irresponsible statement that cheese is potentially hazardous, she is talking without knowing what she is talking about. She makes a point in each conversation that she has been exempt from paying these fees as her products are classified as low risk, but they are not no risk. The TNT article emphasizes that, our products are briefly mentioned in the WAC but hers are mentioned several times and she is not meeting those requirements. He has observed what other bakers have to do in other Market's and he has also asked them about their requirements for permits and they are not insignificant. In the pamphlet released by the Pierce County Health Department states fruits and vegetables are considered potentially hazardous when cooked, on the line below, fruit pies are considered non hazardous, what is the difference. During his course of meeting with the Health Department, Katie Lot volunteered the information that she had personally observed pie making being done at the Buckley Senior Center. As he believes the only commercial pie making set ups to be at the Old Sweet Shoppe and Panini's, he asked why she would be doing that. Apparently Council member Twardoski is using City facilities to operate a commercial enterprise and doing so with some would consider a sweetheart deal. In his opinion the City is being placed at great risk with minimal safe guards. Do any of the Council members find that objectionable? If you don't maybe you would like to rent the side mower for some work he would like to do, and he is sure there are some that would make good use of the unused city trucks on the weekends, to run their own little businesses and as city residents, we should all get that sweetheart deal. He asked if there were any questions.

Ron Callis, President of the Chamber of Commerce, and he lives in Enumclaw. First off the Saturday Market is not a function of the City Council; it is a function of the Chamber of Commerce. They sponsor it and do everything for it, they pay the insurance, they schedule their Saturdays through them, so why Mr. Sundstrom is here, he doesn't know. This is the first he has heard of a problem with the Saturday Market. The Saturday Market needs to be addressed to him. As President of the Chamber the buck stops here. He is the person that needs to address his problems. His problems he really doesn't understand, it seems that the problems he has is with Tacoma Pierce County Health Department, not with the Saturday Market. If Tacoma Pierce County wants to charge a \$150.00 fee to sell his cheese that is between him and Tacoma, not the Chamber or the City. The fee that is charged for the Saturday Market is charged to everybody. He thinks what he and Mr. Sundstrom need to do is sit down, talk about the problems he has with the Farmer's Market and let's get it solved there. While he is up here, he would like to straighten out another thing. He has called Marvin a couple times and they just can't seem to get their schedule together to talk. Flower Baskets, the city has nothing to do with the baskets, the Chamber paid for the baskets. They asked for donations for the baskets and received donations for the baskets. The fact that there were 39 names listed as people who donated and there were 40 baskets has no correlation what so ever. We had people who donated one basket; we had a family from Puyallup who donated ten baskets so we actually have a reserve in the fund for next year. He has searched every record he has, Linda who is a CPA has searched every record they have, he has a photocopy of every check they received for the baskets, and he has a copy of every form that was ever sent in for the baskets and no where does he have anything from Mr. Sundstrom or his son's company for the baskets. Mr. Sundstrom stated he has a cancelled check. In that Mr. Sundstrom should have talked to him because the Chamber is responsible for that, not the Council. Mr. Sundstrom stated he didn't publish it in the City newsletter. Mr. Callis stated the list was given to the city by him.

MAIN AGENDA

Ordinance No. 16-10 – Amending BMC 19.33 & BMC 20.01

Administrator Schmidt stated before making a motion the City Attorney has looked through the code based on staff's recommendation because we found conflicts in here when dealing with the site plan issues and he found some other items in there that needed to be corrected so they were consistent with one another. Attorney Olbrechts has some modifications and he went over those modifications with the Council. **Council member McNally moved to have this sent back to the City Attorney so the changes can be made with page numbers added. Council member Harple seconded the motion.** Administrator Schmidt stated the reason this is coming before the Council as an interim ordinance is because we are in the middle of processing this site plan application for a fire station that needs bonds to be sold and we had conflicts and inconsistencies in the code so we can't continue to process that application until we get these corrections made. From here it goes to the Planning Commission and then comes back to you for the permanent changes. **Council member McNally rescinded his motion. Council**

member Harple rescinded his second. Council member Boyle Barrett moved to approve Ordinance No. 16-10 amending Titles 19 and 20 to correct inconsistency's in the Site Plan Review and Approval process based on the City Attorney's recommendations. Council member Patson seconded the motion.

G & O Engineering Proposal – Sewer Rate Study

Council member Boyle Barrett moved to approve the Scope of Work to have G & O conduct a Sewer Rate Study. Council member Montgomery seconded the motion.

Administrator Schmidt stated this is to conduct the study to recommend a re-structure of the sewer rates based on fixed and volumetric charge. Council member McNally stated he knows we discussed this before the economy took a dive and all felt it was a very good idea. With economy the way it is and with what has happened to development, he doesn't know that this will really do us any good. Council member Boyle Barrett stated part of the purpose of the study is to tell us if we can make enough money by changing to a user based fee, she feels there have been enough complaints from senior citizens and two people households that it is time to take a look. Discussion ensued. Mayor Johnson stated this is basically a citizen request from several years ago but we had to wait until the treatment plant was on line. Council member McNally asked if Gray & Osborne will be looking at the water consumptions for DSHS. Administrator Schmidt stated no. DSHS has already bought and paid for 679 connections. Right now the rate in their plan is a fixed rate but if the entire city goes to a volumetric rate, we may need to take a look at this. **The motion then carried.** Council member Reed stated again this is ample of where we could be confusing our citizens as to having money and not having money at the same time. This money is coming out of dedicated utilities fund which by state law has to be self supporting and doesn't impact the general fund which is where our major short fall is.

Realignment Project: Buckley Foothills Trails De minimis

Council member Montgomery moved to approve the Memo of Concurrence and Request for de minimis Exemption. Council member Boyle Barrett seconded the motion. Administrator Schmidt stated because there are federal dollars involved in this re-alignment project everything that we put forward on this project to WSDOT, when you relocate a recreational facility under the 4F rule, you have to demonstrate that it is basically de minimis, that the impact is minimal to that recreational facility. Because the trail is not connected, because it terminates at each end, they are considering it to be recreational facility and that is why we have to apply for the exemption under the 4F rule. **The motion then carried.**

Fire Hydrant Fire Flow Testing

Council member Boyle Barrett moved to approve a Temporary Part-time Position and Expenditure of \$1,500 for Fire Hydrant Flow Testing. Council member McNally seconded the motion and the motion carried.

Final Project Acceptance – FEMA Transmission Main Repair

Council member Montgomery moved to approve Final Acceptance of the FEMA Water Transmission Main Access Road Repair Project. Council member Boyle Barrett seconded the motion. Administrator Schmidt stated it is his understanding that Hoffman did an exemplary job. **The motion then carried.**

DOE Agreement – Municipal Stormwater Capacity Grant

Council member Montgomery moved to approve the Funding Agreement between the City and DOE for the Municipal Stormwater Capacity Grant. Council member Patson seconded the motion and the motion carried.

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

Approve the minutes of the September 14, 2010 City Council meeting.

Claims check numbers 45788 through 45830, in the amount of \$ 108,931.71, for the period of September 15 through September 28, 2010, are hereby approved and ordered paid this 28th day of September 2010.

The Council convened into Executive Session at 8:10 PM to discuss potential Litigation and Litigation on Spiketon Ditch for approximately 15 minutes with possible action.

The Council reconvened into the regular meeting at 8:30 PM. Council member Reed moved to direct staff to redirect the reservoir overflow from Spiketon to Levesque for the winter months beginning November 1, 2010. Council member Twardoski seconded the motion. Council member Montgomery stated he would like to see the water stay in South Prairie Creek. Council member Harple stated he agrees. **The motion carried with a 4-2 vote with Council member McNally recusing himself from the vote.**

With nothing further the meeting was adjourned at 8:32 PM.



Mayor



City Administrator