

## **LEAVENWORTH CITY COUNCIL MINUTES**

**August 23, 2011**

Mayor Pro Tempore Tibor Lak called the August 23, 2011 Leavenworth City Council meeting to order at 6:00 p.m. and led the City Council in the Flag Salute.

### **ROLL CALL**

Council Present: Mayor Pro Tempore Tibor Lak, Peter DeVries, Elmer Larsen, Robert Francis, Michael Molohon, Cheri Farivar, and Larry Meyer.

Staff Present: Joel Walinski, City Attorney Thom Graafstra, Chantell Steiner, Nathan Pate, Dave Schettler, and Sue Palmer.

### **APPROVAL OF THE CONSENT AGENDA**

Mayor Pro Tem Lak asked for a motion to approve the consent agenda as follows:

#### Consent Agenda:

1. Approval of Agenda
2. Approval of August 9, 2011 Study Session Minutes
3. Approval of August 9, 2011 Regular Meeting Minutes
4. Claims \$215,081.19

Councilmember Farivar asked to make a correction to the study session minutes. It states that Cheri Farivar contacted the Sheriff's office and was told the ordinance couldn't be enforced when the complaint was in the County. She said it should state that the residents contacted the Sheriff and were told it was not enforceable.

Councilmember DeVries motioned to approve the Consent Agenda with the noted changes to the study session minutes. The motion was seconded by Councilmember Farivar and passed unanimously.

### **PUBLIC SAFETY REPORTS**

District Fire Ranger, Jeffrey Rivera presented an update in relation to the Tumwater fire. The fire started the afternoon of August 17, 2011 near the Highway 2 Bridge and is currently under investigation. He noted that the conditions were perfect for a fire that day; very windy, low humidity, high temperatures, west facing slope and dry fuels. This was a complex fire, due to a busy highway and various construction projects in process. The fire has currently burned about 546 acres with 88 of those acres being private land and is now 100% contained. Mr. Rivera stated that he made a conscious effort to inform the media of the detour in order to ensure the public is aware they are still able to travel to Leavenworth.

### **COUNCILMEMBER AND COMMITTEE REPORTS**

Councilmember Farivar stated that the Upper Valley Park and Recreation Service Area (PRSA) met this week. She added that she was elected as Vice-Chair while the previous Vice-Chair Steve Keene was appointed as Chair due to Mayor Eaton stepping down. In addition to her appointment, they are also seeking a new member to replace the longest standing member Mike McComas who represents the School District. The School District is seeking to possibly appoint Teddy Rieke. Discussions included the pool schedule and a request to extend the pool hours this year if financially viable. Councilmember

Farivar then reported on the Finance Committee Meeting and noted that the retail sales and lodging taxes continue to surpass 2010 figures. She added that the budget calendar was reviewed and will be forthcoming. She stated that they also discussed the need for debt financing in the Water/Sewer Fund.

Councilmember DeVries reported on the Chelan Douglas Health Board Meeting. He stated that they are taking a look at the budget due to the State indicating a 10% across the board budget cut. The Health District staffing has gone from 60 to 28 over the last couple years.

## **MAYOR AND ADMINISTRATIVE REPORTS**

Mayor Pro Tem Lak reported on the Economic Development Committee meeting that was intended to discuss financial support from the Port of Chelan County on the Fruit Warehouse property purchase. The Committee feels that since this property is part of economic development, and that is part of the Port's Charter, that it might be a good fit. He encouraged citizens to contact the Port Commissioners to support this project.

City Administrator Joel Walinski stated that he is working on a contract for Custodial Services with the Senior Center for the downtown restrooms. The draft contract includes 20 hours per week with work hours between Friday and Sunday to begin as early as September. Administrator Walinski also noted that the Department of Ecology and the City of Leavenworth hearing on the summary judgment for water rights will be heard in front of Judge Allan at 2:00 PM on August 25, 2011 at the Chelan County Courthouse (RESCHEDULED: September 27, 2011 1:30 PM)). He updated the Council on the status of the upcoming public hearing for an appeal to the Cascade Medical Center Utility Reimbursement Agreement. He said that the request for a hearing has been rescinded; therefore, no hearing will need to take place.

Finance Director Chantell Steiner confirmed that the budget calendar had been finalized and will be circulated to Council as well as posted on the City website. She also stated that the annual audit is scheduled to begin tomorrow and that Council should be contacted soon for the entrance interview.

Public Works Director Dave Schettler stated that the Staff has been working on some water leaks along East Leavenworth Road and Icicle Road near the Cascade Orchard Irrigation District's canal ditch. He noted that the affected City and District's residents are being notified of a planned shut-off to complete repairs early next week. He added that the crew has also been working on some sidewalk repairs including the area around Mountain Meadows.

Development Services Manager Nathan Pate updated Council regarding the need for training a staff member on noise certifications. He stated that a city staff person is interested and is currently investigating the process. Manager Pate added that he was invited to the Bavarian Village Business Association meeting where he presented on the new sign code amendments. He said he received good feedback and positive responses and will be looking at incorporating some of their recommendations.

### **Public hearing 6:15PM: Appeal for Utility Reimbursement Agreement with DNR, LLC by Albert Howie**

Prior to opening the meeting, Mayor Pro Tem Lak asked if anyone on the Council had any conflicts of interest or appearance of fairness on this issue. Councilmembers confirmed no conflicts. He then asked if there were any objections from the audience for the Mayor Pro Tem or the Council serving on this issue. Hearing none, he then opened the public hearing at 6:25 PM starting with a staff report.

Director Schettler explained that the City has worked through the Utility Reimbursement Agreement (URA) methodology that was distributed to each of the property owners conforming to the Leavenworth Municipal Code (LMC) Chapter 14.04. He said that this project exceeds the City's minimum cost requirement and complies with the City's design and construction standards. The Staff also looked to ensure the improvements for the water system were consistent with the City's comprehensive water plan, the capital facilities plan and the water system plan which is registered with the State. He stated that the City received the request from Mr. Jon Delvo of DNR, LLC, the appropriate fees were paid and that the City has the capacity to serve the improvements for fire flow and water service as identified in the benefitting area. He noted that DNR, LLC initially paid for an 8" line and that the City contributed the additional funds to upsize the line to a 12" line. Director Schettler proceeded to review the details of the changes in fire flow and how the cost allocations were determined pertaining to the benefitted properties that were distributed in the methodology. Director Schettler further explained that the benefitting property owners would need to pay the assessment if and when a redevelopment associated with the requirement for increased fire flow occurs within the next 20 years. He added that the URA is transferable if the property is sold.

Albert Howie, 917 Commercial Street, Leavenworth: Mr. Howie questioned why the property owners were not notified this was going to take place prior to implementation. He questioned who is being included in the agreement based on his analysis of the area identified. He noted that it appears there could be additional property owners that could be included. Mr. Howie also inquired as to who would receive the payment, as DNR, LLC is, according to the State of Washington, an inactive business as of April 10, 2007.

Director Schettler explained the blue and green lines on the maps provided and how overlapping areas around the fire hydrants incorporated the benefit to the property owners including Mr. Howie. He added that per the LMC, it is the developers decision to include those properties that are benefitting and staff then confirms the benefit amount on each parcel; therefore, only those identified by the developer are included. He then noted that Mr. Delvo had submitted his application prior to his arrival in 2007, and due to staff changeover the agreement and process for approval was delayed. Property owners were properly notified in accordance with LMC regulations, which occurs after a project is complete and not before.

Councilmembers questioned further the process for notification and Attorney Graafstra confirmed that this is the reason for the meeting tonight. Notice was provided allowing for the opportunity for an appeal prior to an agreement being finalized. Councilmember Larsen stated that it appears the procedures are being done in accordance with the LMC and that an appeal hearing would not have affected the original project, nor could it have happened prior to the project because the benefit could not have been figured until the work was complete. Discussion continued on how and when notification should be made

Jon Delvo, representing DNR, LLC, followed by stating that this process is a benefit to the surrounding communities and the hospital. It was unfortunately a very difficult process because of the turnover in Public Works Directors during the construction and completion of the project. He said that the issue at hand is that the water line was put in at a cost to DNR, LLC and that the surrounding properties do benefit from the infrastructure improvements. He further explained the challenges with completing the project, identifying the benefitting properties and the final steps of incorporating this agreement. He stated that it is his opinion that we should move forward and put this matter behind us. Mr. Delvo added that he does not understand Mr. Howie's statement regarding DNR, LLC not being an active entity as it is currently registered.

Mr. Howie stated that what Mr. Delvo has done has benefitted himself more than the people who are named. He added, "I realize that part of this was the increase of the lines as well as the new water lines. With that increase, maybe direction should have been to go back and look at who is involved as it includes a larger area, rather than just the people next door to the water line."

Councilmember Larsen commented on the fact that it is a 12" line now and the fire flow is much more efficient than with the 8" line. He added that every property owner in the area likely benefits from the upsize. In the future, we will strive to be more efficient about how we go about notifications and how we make assessments. Councilmember Molohon stated that the process seems to have been done correctly even though a delay in the process occurred.

Hearing no further comments, Mayor Pro Tem Lak closed the hearing at 6:55 PM.

## **RESOLUTIONS, ORDINANCES, ORDERS, AND OTHER BUSINESS**

### **1. Motion to Develop a Resolution for Findings of Fact on the URA for DNR, LLC**

Administrator Walinski identified the need to proceed with a resolution, based on the comments discussed from the public hearing.

Councilmember Larson motioned to direct staff to create a Resolution for Findings of Fact pertaining to the Utility Reimbursement Agreement for DNR, LLC. The motion was seconded by Councilmember Molohon and passed unanimously.

### **2. Motion to Approve a Utility Reimbursement Agreement for DNR, LLC**

Director Schettler reiterated the discussion from the morning study session pertaining to the process involved in approving a Utility Reimbursement Agreement.

Councilmember Farivar motioned to approve a Utility Reimbursement Agreement for DNR, LLC for final acceptance and transfer of the DNR, LLC improvements to the City of Leavenworth. The motion was seconded by Councilmember DeVries and passed unanimously.

### **3. Motion to Set Public Hearing at 6:20 PM on 9/13 for the Sign Code Amendments**

Administrator Walinski said the Planning Commission will have its public hearing for the Sign Code Amendments on September 7, 2011. After that hearing, changes that are included will be provided to Council for final discussion, modifications and approval at the September 13<sup>th</sup> Council meetings.

Councilmember Larsen asked that a red line version and final version be provided to help review the changes being incorporated. He also reiterated his request to include either in the code or a separate pamphlet illustrating various sign types for the applicants. Manager Pate noted that staff does have a pamphlet of sample signs and are working to enhance the illustrations included.

Councilmember DeVries motioned to set a public hearing to review and approve Leavenworth Municipal Code Amendments for Sign Codes on September 13, 2011 at 6:20 PM. The motion was seconded by Councilmember Francis and passed unanimously.

### **4. Discussion on Current Sign Code Amendments**

Manager Pate reviewed the additional concerns of the Planning Commission pertaining to the equitability of portable and temporary signs, administratively approved signage that does not need a permit, vehicle signage, Designated Sign Areas, and political signage. Discussion ensued on temporary signs, such as yard signs and warning signs and the differences associated with residential versus commercial requirements.

Councilmember DeVries identified concerns in regards to the sections that pertain to old world colors, deep jewel tones, and wood stain. He asked that Staff look at clarifying these to avoid future confusion by applicants. He then asked for further clarification on the process to administratively review a sign not needing a permit. Manager Pate explained that there will be an education program and that each request for a sign will be handled on a case by case basis. He noted that Administrator Walinski is identified in the code as the administrative review authority. He further explained that staff will work with business owners first to help bring them into compliance rather than incorporating penalties. Discussion continued on various minor corrections needed and size limitations for warning signs.

5. Motion to Set Public Hearing at 6:40 PM on 9/13 for Electric Vehicle Charging Station Code Amendments

Manager Pate briefly explained the current legislation on Electric Vehicle Charging Stations and the Planning Commission's review and public hearing that is set for September 7<sup>th</sup>.

Councilmember DeVries motioned to set public hearing to review and approve Leavenworth Municipal code amendments for Electric Vehicle Charging Stations on September 13, 2011 at 6:40 PM. The motion was seconded by Councilmember Farivar and passed unanimously.

6. Motion to Approve Requesting the Purchase of 2 Trolley's from Link Transit

Administrator Walinski briefed the Council on discussions for acceptance of the two trolleys for \$1. He noted that he is waiting for a response from Link on the conditions that will be required due to the trolleys being purchased by the LINK with federal funds. It is already clear that the City must maintain ownership until the trolleys are at least twelve years old. In order to move forward with this request, Administrator Walinski asked that the motion include that the Mayor Pro Tem and/or the City Attorney review any documentation before approval and acceptance. Discussion ensued on some limitations for uses and the need to support the public good.

Mayor Pro Tem Lak cautioned that this purchase should not imply that the City engage in becoming a transportation service. Storage and delivery of the trolleys is yet to be determined.

Councilmember, Elmer Larsen motioned to authorize the Mayor Pro Tem and the City Administrator to develop a memorandum of understanding on the conditions of the Link Trolleys and to bring back to Council for final approval. The motion was seconded by Councilmember Meyer and passed unanimously.

7. Icicle Station Phase II Engineering Contract Amendment

Director Schettler explained that the City has been working with Simpson Northwest on this project and the need to incorporate a better heating plan for the new station facility. The quote provided includes the design for an HVAC system.

Councilmembers voiced their concerns with the cost of this additional design element stating that a cheaper price could likely be found from a local vendor. After reviewing the concerns on the cost of this element, Council discussed the need to still secure construction funding. Administrator Walinski noted that the City still has a request for federal funds for the construction and that the City is also looking into applying for a Tiger Grant for this project.

Councilmember DeVries motioned to reject the amendment to the Icicle Station Phase II Engineering Contract with Simpson Northwest for a total increase in the contract amount of \$4,000. The motion was seconded by Councilmember Farivar and passed unanimously.

#### **INFORMATION ITEMS FOR FUTURE CONSIDERATION**

Mayor Pro Tem Lak reminded Council that an appointment for the Mayor's position will be on the September 13<sup>th</sup> agenda.

#### **COMMENTS FROM THE PUBLIC ON ITEMS NOT ON THE AGENDA.**

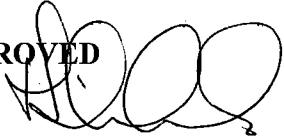
None.

#### **ADJOURNMENT**

Seeing no other business, Councilmember DeVries motioned to adjourn the August 23, 2011 meeting of the Leavenworth City Council. The motion was seconded by Councilmember Molohon and passed unanimously.

The meeting adjourned at 7:41 p.m.

**APPROVED**



**Tibor Lak**  
**Mayor Pro Tempore**

**ATTEST**



**Chantell Steiner**  
**Finance Director/City Clerk**