

**LEAVENWORTH CITY COUNCIL MINUTES**  
**September 27, 2011**

Mayor Larsen called the September 27, 2011 Leavenworth City Council meeting to order at 6:00 PM and led the City Council in the Flag Salute.

**ROLL CALL**

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

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

**APPROVAL OF THE CONSENT AGENDA**

Mayor Larsen asked for a motion to approve the consent agenda as follows:

Consent Agenda:

1. Approval of Agenda
2. Approval of September 13, 2011 Study Session Minutes
3. Approval of September 13, 2011 Regular Meeting Minutes
4. Claims \$234,162.77

Councilmember Meyer asked to make a correction to the minutes as it states that Bob Kelley is the president of Projekt Bayern. This is incorrect as he is on the board of Projekt Bayern.

Councilmember DeVries motioned to approve the Consent Agenda as presented with the added correction to the minutes. The motion was seconded by Councilmember Meyer and passed unanimously.

**PUBLIC SAFETY REPORTS**

None.

**COUNCILMEMBER AND COMMITTEE REPORTS**

Councilmember Meyer reported that he met with Link Transit and discussed the Trolley. He explained that the trolleys have to be sold at fair market value which is \$35,000 - \$50,000. He added that we have to guarantee that we will run them as a trolley and keep them for two years at the expense of approximately \$85,000 per year.

Councilmember Farivar briefly reported that she attended the Upper Valley Historical Society meeting at the Leavenworth Museum. She noted that they are currently looking for ongoing help, fund raising assistance and ideas of how to raise attendance. Councilmember Farivar also

reported that she attended the Finance Committee meeting. She stated that they now have a draft budget for 2012 and encouraged Council to read the critical pages pertaining to the projects that are up for consideration and possible reductions. The Finance Committee will be prioritizing this list and would welcome any comments prior to their meeting scheduled for October 4<sup>th</sup> at 4:00 PM.

Councilmember Lak reported on the Economic Development Committee meeting. The Port of Chelan was in attendance and they discussed the fruit warehouse project. This included the purchase and lease agreement, cleanup, removal of the building and the construction of a parking lot. They discussed how the Port can be involved in this project from a funding perspective. He noted that the Port is reviewing the project and will get back to us soon, although he feels they are headed in the right direction.

Councilmember DeVries reported on the Chelan Douglas Health Board meeting. He stated that due to the unknown budget cuts from Washington, they are only able to put together a preliminary budget at this time. He stated that it is a very difficult time when they are looking at services in the community and cutbacks which will either reduce or eliminate those services.

## **MAYOR AND ADMINISTRATIVE REPORTS**

City Administrator Joel Walinski reported on the fruit warehouse acquisition and stated that the City did receive the preliminary report of the environmental survey assessment with no surprises or concerns from past uses. He added that we are waiting for the lead paint and asbestos abatement costs and have asked to have them reevaluate their original estimate. Administrator Walinski further explained that they have been putting together the lease agreement for a site development plan that includes the retention of the portion of property for the Nelsons. He stated that the summary hearing for the water rights litigation was today and that the Judge now has 90 days to render a decision; although it could be less than 90 days.

Finance Director Chantell Steiner reminded Council of the Annual Regional meeting by AWC being held September 28, 2011 at 6:00 PM at the Wenatchee Convention Center.

Public Works Director Dave Schettler reported that the Chelan County Department of Natural Resources has completed their pond reconnection project by the Boat Launch. He added that they also completed an ADA accessible trail in the same area, as well as a viewing area. He noted that the Lyons Club Park sign has been reviewed by the Design Review Board and is now ready for construction. He also stated that the streetlight project, which included a considerable donation by Projekt Bayern, has been designed and will be bid next week.

Development Services Manager Nathan Pate reported that they are currently in the County's amendment cycle for their annual comprehensive plan and development regulation review. Therefore, he has submitted fourteen ordinances to the County, to request that they be adopted. He briefly added that they are currently in the education phase of the new sign ordinance and are working with the public in various ways. He noted that they are getting ready to issue a certificate of occupancy to Cascade Medical Center and briefly updated the Council on the progress of the Posthotel and Mountain Meadows projects.

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

### **1. Autumn Leaf Association Funding Request**

Ed Rutledge stated that he has some concerns in regards to the fiscal health of the Autumn Leaf Festival. He explained how the various activities, events and parades are orchestrated throughout the year. He spoke to volunteering and donations and added that they do need help in recruiting volunteers, while they also need more donations as they are lacking more and more every year. Mr. Rutledge said that it costs \$53,000 per year to complete all of the Autumn Leaf events and activities. He stated that they love to promote the City of Leavenworth and their message reaches out to 6.5 million people annually. He stated his concerns to be the rapidly rising costs of putting on all of their events, the lack of volunteers and leadership and a projected shortfall of \$6,000 for 2011. Mr. Rutledge requested from Council an annual increase from what the City currently provides, an addition of \$14,700 for a total request of \$30,000. After much discussion amongst Council and Mr. Rutledge, it was noted that this is a good time to bring this up due to currently being in the budget process and that Council will consider this as part of the budget process over the next few months.

### **2. Authorize Mayor to Finalize and Sign for the Purchase of the Recycle Property**

Administrator Walinski asked Council to authorize the Mayor to sign the closing documents for the purchase of the recycling property. He confirmed the location, size, purchase price of \$275,000 and how this price would be split amongst the Sewer, Garbage, Water and Street funds as well as the SWAC Grant Funds. He explained the two uses of this property; a long term use giving the City the ability to expand the sewer plant and reposition the public works facility. The short term use is that it allows the City a place to put in a recycling center which should be installed next spring.

Councilmember Meyer motioned to approve the purchase of Chelan County Parcel #27718 and authorizes the Mayor to sign the necessary closing documents. The motion was seconded by Councilmember Lak and passed unanimously.

### **3. Interim Contract with Chelan County Sheriff**

Councilmember Francis recused himself due to his employment with the Chelan County Sheriff Department.

Mayor Larsen explained that the City of Leavenworth has been negotiating with County Commissioners over the last six months in regards to the Sheriff's contract. He stated that the Commissioners had made an offer to Leavenworth. The City, in turn, provided a counter offer which has yet to be finalized. He added that the current contract ends as of September 30, 2011 due to the cancellation of the contract by the County.

Administrator Walinski further explained the processes taking place in regards to negotiations with the County Commissioners and the contracted services they will provide. He went over the County's offer for annual increases for the remainder of the year as well as 2012 - 2013. Staff

and Council discussed various ways to deliver services and alternative means in determining RiverCom charges. He noted that it is a basic function of City Government to provide public safety for its citizens, although that level of public safety is undefined. Through the contract with the County, the Sheriff assumes the duty of Chief Law Enforcement Officer and then defines those levels of public safety. Much of the contention in the negotiations has not been the quality of service but rather the level of service needed. The City's offer has been to reduce the annual costs by a minor reduction in level of service.

Sheriff Brian Burnett addressed population statistics, and the generation of calls per location and calls per capita amongst the contract cities. He also reviewed the confusion surrounding a FTE (Full Time Equivalency) and explained how this actually works in regards to the number of officers who would provide service to the City of Leavenworth. Sheriff Burnett stated that he didn't feel that the number of FTE's the City is requesting will support the level of service he feels is needed within Leavenworth due to the amount of tourist activity.

There was much discussion between Council in regards to having no involvement in the oversight of officers in the City. Mayor Larsen stated that the City would like to have officers dedicated to Leavenworth, as the City will be paying for three FTE's. Councilmember DeVries spoke to the 17% increase to the budget for law enforcement and the addition of RiverCom expenses, to which he added, was previously part of the contracted amount despite the County's response that it was not. There was much discussion as to how to pay for this increased cost of public safety. Councilmember Lak stated that this contract was about money and not the level of service that should be provided to the citizens as per the \$53,000 RiverCom charge. In addition, he stated that the amount of quality time that an officer spends in the City of Leavenworth should be the City's decision. He also noted that the City is not a partner in the agreement for RiverCom and he feels that the only reason the Commissioner cancelled the contract was due to the City not wanting to pay for this separate entity with whom we are not involved. It was stated that Council would like to see the officers they are paying for, actually in the City of Leavenworth and it was decided that they feel they have no control over the scheduling of these officers. It was also decided amongst Council that they don't believe they are truly "negotiating" for these services. It was added that they feel somewhat "strong armed" by the County Commissioners to sign the contract that does more to benefit the County rather than the citizens of Leavenworth.

County Commissioner Keith Goehner addressed RiverCom dispatch and how that was worked into the City's contract. He added that he wanted there to be consistency throughout the County with the contract cities. He spoke about budgets and trying to maintain twenty four hour coverage. He noted that they are committed to providing the best possible coverage throughout the County.

County Administrator Cathy Mulhall further explained that they have chosen the number of FTE's that they feel are needed by the City of Leavenworth. She added that the City of Leavenworth did not have any control over how the package was bundled, however some administrative costs were removed in the total price per FTE. She stated that the City can purchase at a minimum three FTE's, not two, because this is for the greater good of the citizens and the safety of the officers.

Councilmember DeVries motioned that we agree for the fourth quarter this year to pay \$95,878.25 for the Sheriff's contract and secondly for the fourth quarter we would pay \$13,328.25 for RiverCom and that we enter into serious negotiations with the County for the amount and coverage and number of deputies for 2012. The motion was seconded by Councilmember Farivar and passed 5-0-1 with Councilmember Francis abstaining.

#### **4. Charging Station Ground Lease Agreement with AeroVironment**

Administrator Walinski reported that the City is now entering into a finalized lease agreement with AeroVironment. He explained that the City has been selected for level two and level three vehicle charging stations. He said AeroVironment would like to finalize everything so they can get underway as their plans for completion are in mid November this year. Administrator Walinski further noted the different areas they have been working through in order to finalize the lease agreement including liability insurance, subdivision reviews, profit sharing, and signage. It was stated that there are signage requirements which will be incorporated in accordance with the City's new code at the time of installation.

#### **5. Motion to Purchase Street Sweeper**

Director Schettler explained that the City needed to purchase a new street sweeper. Bids were sent out to three different companies and two bids came back. He said that Tymco International came in as the lowest bid and was the preferred unit by the Public Works Department. He asked that Council make a motion to purchase the Tymco International Street Sweeper for the price of \$185,930 with tax included.

Councilmember Meyer motioned to approve the purchase of the Tymco International Street Sweeper. The motion was seconded by councilmember Farivar and passed unanimously.

#### **6. Reimbursement Resolution 17-2011 for the LOCAL Program Street Sweeper**

Director Steiner stated that the funding to purchase the street sweeper through the LOCAL Program would not be available until November. However, the City could choose to purchase using the City's Equipment Rental and Revolving Loan Funds. She explained that in order to do so, they would need to approve the Reimbursement Resolution for the LOCAL program which allows them to make the purchase now and will insure that they pay us back in November when the bond sells.

Councilmember Francis questioned why the purchase needed to be made right away. Director Schettler stated that there is a need to purchase now due to the failing current sweeper and that payment would not be made until delivery.

Councilmember Farivar motioned to approve the Reimbursement Resolution #17-2011 for the LOCAL program for a new Street Sweeper. The motion was seconded by Councilmember Lak and passed 5-1 with Councilmember Francis opposed.

#### **7. Motion to Set Public Hearing on Ad Valorem Tax on October 25<sup>th</sup> @ 6:15 PM**

Councilmember Molohon motioned to set a public hearing on Ad Valorem Tax on October 25, 2011 at 6:15 PM. The motion was seconded by Councilmember DeVries and passed unanimously.

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

None.

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

Steve Demarest, 321 9<sup>th</sup> Street, Leavenworth: Mr. Demarest noted that he doesn't agree with the language in the Special Use Permit (SUP) which was issued two weeks prior. He stated that he had requested to play his outdoor music longer and at the same volume as they currently do. He said that the volumes were never addressed at the last meeting as there is no means to measure them. Mr. Demarest stated that the paperwork that was sent to him by City Staff and in his opinion doesn't match the motion that was delivered at the previous Council Meeting. He further explained that he doesn't agree with the permit stating that their music should not exceed 70 decibels. He further explained some testing that had been performed during previous Oktoberfest weekends and those decibel levels were all in excess of 70 decibels. He added that during the previous week, the music at the Gazebo was at least 85 decibels on City property. He then requested Council to redirect Staff to reissue the SUP without the artificial restriction of 70 decibels. Mayor Larsen stated that he was the council member that made the motion and the SUP does clearly state the motion approved by the council.

There was much discussion by Council as to acceptable decibel levels and it was noted that if Mr. Demarest has been playing over 70 decibels, he has been in violation of the City's current noise ordinance. It was questioned as to the outcome if Mr. Demarest did not sign the Special Use Permit. City Attorney Thom Graafstra explained that Mr. Demarest would be subject to the noise ordinance as it is written, which means at 10:00 PM, the volume of his music needs to reduce to 60 decibels. After further discussion, some Councilmembers stated that Der Hinterhof and Project Bayern should be permitted to at least play their live music at 85 decibels on the same dates and times as previously specified.

Bill Lynn, 9700 East Leavenworth Road, Leavenworth: Mr. Lynn spoke to the fact that Der Hinterhof's music is very loud especially between 9:00 PM and 10:00 PM. He stated that it rattles the windows and can be heard in every room of his home, including his basement. He also added that had his neighbors known there would be a discussion on this topic tonight, that they all would have come to speak against it.

Lynn Reppas, 12620 Ranger Road, Leavenworth: Mrs. Reppas requested that if Council approves this new Special Use Permit, that Mr. Demarest must also become compliant with the sign code at the same time. Attorney Graafstra noted that the Council could not require this stipulation for this particular SUP request.

Councilmember Lak motioned to reconsider and reopen the Special Use Permit for Projekt Bayern and Der Hinterhof. Councilmember DeVries seconded the motion and passed 4-0-2 with Councilmembers Francis and Meyers abstaining.

Councilmember Lak motioned to change the decibel level in the Special Use Permit for Projekt Bayern from 70 to 85 decibels. The motion was seconded by Councilmember DeVries and passed 4-0-2 with Councilmembers Francis and Meyers abstaining.

Councilmember Lak motioned to change the decibel level in the Special Use Permit for Der Hinterhof from 70 to 85 decibels. The motion was seconded by Councilmember DeVries and passed 3-1-2 with Councilmember Farivar opposed and Councilmembers Francis and Meyers abstaining.

**EXECUTIVE SESSION**

Mayor Larsen announced that Council was going to enter into executive session at 9:17 PM under RCW 42.30.110(1) (g) to discuss the City Administrators annual review for approximately thirty minutes, with no action to be taken.

Councilmember DeVries moved to enter into executive session for approximately thirty minutes to discuss the City Administrators Annual Review, with no actions to be taken. Councilmember Lak seconded the motion, which passed unanimously.

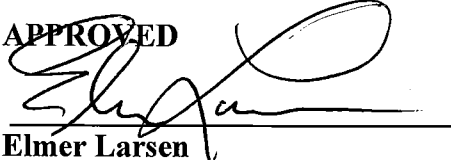
Councilmember DeVries moved to reconvene the meeting at 9:32 PM. The motion was seconded by Councilmember Lak and passed unanimously.

**ADJOURNMENT**

Seeing no other business, Councilmember Molohon motioned to adjourn the September 27, 2011 meeting of the Leavenworth City Council. The motion was seconded by Councilmember DeVries and passed unanimously.

The meeting adjourned at 9:33 PM.

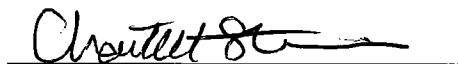
**APPROVED**



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**Elmer Larsen**  
**Mayor**

**ATTEST**



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