CITY OF ELLENSBURG, WASHINGTON

Minutes of Council Meeting, Regular Session
Date of Meeting January 22, 2008
Time of Meeting 7:00 p.m.
Place of Meeting Council Chambers, 501 North Anderson Street

ROLL CALL was answered by Councilmembers Bassett, Bottcher, Miller, Niner, O’Brien, and Mayor Lillquist.

Mayor Lillquist stated that Councilmember Tabb will be arriving late.

Others present were City Manager Barkley; City Attorney Pidduck; City Clerk Reno; Executive Assistant Gigstead; Community Development Director Witkowski; Planning Associate Eyerly; Parks and Recreation Director Case; and approximately 25 members of the audience.

Agenda Approval

Motion to approve the agenda. Miller

Affirmed

Consent Agenda

Items listed under the Consent Agenda were distributed to Councilmembers in advance for study and were enacted by one motion with separate discussion to the extent any items were removed from the Consent Agenda at the request of a Councilmember.

Motion to approve the Consent Agenda as follows: O’Brien

A. Approve Minutes – January 7, 2008, Regular Session

B. Acknowledge Minutes of Boards and Commissions

(1) Arts Commission – December 13, 2007

(2) Cable Television Commission – November 29, 2007

(3) Downtown Task Force – December 13, 2007

(4) Environmental Commission – November 28, 2007


(6) Library Board – December 11, 2007

(8) Utility Advisory Committee – October 25, 2007

C. Accept Resignation from John McClough, Arts Commission and Authorize Mayor to Sign Letter of Appreciation

D. Approve University Way Banner Request for Disability Awareness Week from April 28- May 5, 2008

E. Approve University Way Banner Request for National Day of Prayer from April 14- 21, 2008

F. Approve Noise Waiver Application for Spirit of West Cowboy Gathering from 10:00 p.m. to 2:00 a.m. on February 15 and 16, 2008

G. Authorize the Mayor to Execute the Lease Between Kittitas Valley Fire and Rescue and the City of Ellensburg

H. Authorize the Mayor to Sign the 2008 Library Services Agreement with Kittitas County

I. Approve the final Joshua Pointe Plat and Authorize the Mayor to Sign the Plat; and Approve Resolution No. 2008-03 Containing Findings of Fact and Conclusions of Law

J. Approve January 22, 2008 Claims Fund Voucher Numbers 86450 Through 86658 in the Total Amount of $2,188,323.76; Payroll Fund Check Numbers 73042 Through 73151 in the Total Amount of $121,842.55; Direct Deposit in the Amount of $122,404.63; and Electronic Fund Transfer of $5,682.50. Affirmed

Boards and Commissions Appointments

Bruce Simpson and Michoan Spoelstra spoke regarding their interest in serving on the Planning Commission and Parks and Recreation Commission.

Mayor Lillquist recommended the following appointments: Bruce Simpson, Planning Commission and Michoan Spoelstra, Parks and Recreation Commission.

Motion to accept Mayor’s appointment. Bassett

Affirmed

Citizen Comment on Non-agenda Issues

Timothy Bishop, Executive Director of Ellensburg Downtown Association (EDA), discussed a downtown restoration and/or rehabilitation project for six buildings that EDA plans to bring before Council.
Mayor Lillquist opened the public hearing to consider an appeal of the demolition permit and SEPA decisions for Renaissance Properties LLC. On September 27, 2007, Renaissance Properties LLC Managing Partner Larry Nickel appealed the Landmarks & Design Commission’s September 25, 2007 decision which in its effect denied the issuance of a Certificate of Approval for a demolition permit for the Geddes Block/Hubbel Building. On December 31, 2007, the applicant appealed the issuance of the Determination of Significance (DS) threshold decision.

Mayor Lillquist stated that a court reporter is also transcribing this hearing.

Mayor Lillquist asked the councilmembers a series of appearance of fairness questions. In response to the question “has any councilmember engaged in communications with any opponents or proponents regarding this issue outside of the public hearing process”, the following responses were given: Councilmember O’Brien stated he had contact with about six members of the community that have come to him and commented about the project and at which point he would say that he could not comment. Councilmembers Niner and Miller indicated that Mr. Nickel has telephoned them from time to time and has brought up this matter and they haven’t really spoken of any substance. Councilmember Bottcher stated Mr. Nickel calls him from time to time and he refuses to talk to him about this. Councilmember Bassett stated he has had numerous people ask him why Mr. Nickel has done this at Farmer’s Market and people on the street but nothing of any substance. Mayor Lillquist stated people have asked her when the notice went up on the building whether or not this was for real and what the city process was.

Mayor Lillquist asked if there was anyone in the audience who objected to her participation or any Councilmember’s participation in these proceedings on appearance of fairness grounds.

William Amo, 1900 North Water, member of the Design Review Commission, stated that Councilmember Miller attended a Design Review Commission hearing on Mr. Nickel’s request for a demolition permit and Ms. Miller and Mr. Nickel arrived and departed at the same time. To his knowledge, this is the only time since he has been a Commission member that she has attended the meeting.

Councilmember Miller stated that she did not arrive with Mr. Nickel and she left when he left because the meeting ended. She was there because Historic Ellensburg, which she sits on the Board of Directors, has an interest in historic preservation in the downtown area and has attended many of these meetings prior to Mr. Amo being on the Commission. She stated she does not have an interest in this whatsoever.

City Attorney Pidduck stated that based on the information that has been provided, it would be up to the Councilmember whether or not to recuse herself. He do not hear information that would lead him
to recommend that she recuse herself.

Councilmember Miller stated that she chose not to recuse herself.

Mayor Lillquist stated the procedure will be as follows:

1) Staff will provide about a 20 minute presentation in which they will explain the procedure of the Landmarks and Design Commission, explain the criteria used by the SEPA Official, and review the framework under which the Council must make a decision.

2) The appellant will have about 20 minutes to make arguments on both appeals.

3) The staff response will be about five minutes and then Mr. Nickel will have about a five minute time for rebuttal.

Community Development Director Witkowski, 306 West 12th, representing the City of Ellensburg, presented the staff report and information as contained in the Council Agenda and record.

Mayor Lillquist entered into the record Pages 62-86 of this evening’s agenda and the Index containing 1-PP, 2-E, 3-EE, and 4-H.

Larry Nickel, 317 ½ North Pearl #1, speaking as Manager of Renaissance Properties and owner of Geddes Block/Hubbel building at 311-323 North Pearl, asked Councilmembers Bassett and O’Brien to remove themselves from the hearing. He also objected to the 20 minute time limit since there are two appeal hearings; this is a different form of hearing since the last time something was appealed; and before the public hearing, the Council has a staff recommendation including the motions to make for this item.

City Attorney Pidduck advised Council that the Mayor called upon the audience earlier and provided an opportunity for individuals to object to any councilmembers’ participation on the basis of Appearance of Fairness. As a result, one member of the public, Bill Amo spoke up. Had Mr. Nickel wanted to make such an objection, that was his opportunity. Regarding the time limit, it is up to the Mayor as chair of the meeting to set the time limit. He recommended Council proceed with the matter.

Councilmembers Bassett and O’Brien chose not to recuse themselves from the hearing.

Mr. Nickel proceeded with his presentation. He asked the Council not to make a decision tonight and to continue the public hearing if need be and consider the findings of fact and facts that will be presented both by himself and staff. Renaissance Properties, the Nickel/Hubbel families, have been leaders in historic preservation and downtown revitalization for many years, including being the stewards of a building since 1900. He was also instrumental, and in fact nominated the downtown historic district to the National Register. He stated that because he believes in historic preservation, he believes there are problems in the ordinance itself as written and he further outlined some of those situations.
Mr. Nickel then discussed the SEPA designation and the requirement for a full Environmental Impact Statement (EIS). He stated the SEPA Official had concerns of dust, hazard materials, and water containment. If those are the only concerns, he feels there should be a mitigated determination, not a full EIS. He requested Council take the time to check staff’s work. He also stated that he believes the determination by the SEPA Official is arbitrary, capricious, vindictive, and really has no standing for a full EIS.

Community Development Director Witkowski, 306 West 12th, responded to Mr. Nickel’s comments. He indicated that according to Section 1.45.380.C.1.b of the Ellensburg Municipal Code “No city permit shall be issued, nor work begun, until the landmarks and design commission has issued a COA pursuant to this chapter”. He also stated that Mr. Nickel feels he would be willing to do a demolition plan and feels aggrieved that he required an EIS. That was really all he could do. He does not issue checklists – that is the applicant’s responsibility. Mr. Witkowski stated he agrees that typically for this issue, there would be a Mitigated Determination of Non Significance (MDNS) and he does not believe an EIS would necessarily be required in this case, but it is the only option because the comments in the checklist did not have anything of substance there that could stand as a demolition plan.

Larry Nickel responded to Mr. Witkowski’s comments. The issues of dust abatement, water, city street, etc. can be mitigated. He read and discussed the second and third paragraphs on page 67 of the agenda. He stated he believes the record is pretty good in terms of what is really required. He does not see where it says that he has to show evidence of any kind. If the Landmarks and Design Commission wanted to continue negotiations, they had the right to do so, but have not done so.

Council asked questions of staff and the appellant.

There being no further testimony, Mayor Lillquist closed the public hearing.

Motion to uphold the SEPA Responsible Official’s issuance of a Determination O’Brien of Significance on October 12, 2007.

Motion to reopen the public hearing. Miller

Affirmed

Mr. Nickel spoke against the motion and asked Council to table the motion to allow more time to research the issue.

Council asked further questions of staff and the appellant.

There being no further testimony, Mayor Lillquist closed the public hearing.

Motion to table this motion to uphold the SEPA Responsible Official’s decision in Niner
order to review City processes with regard to SEPA. Affirmed

Motion to affirm the denial of the Certificate of Approval issued by the Landmarks Miller
and Design Commission. Affirmed

Council took a brief recess at 9:05 p.m. and returned at 9:10 p.m.

**Consideration of a “Buy Local” Resolution**

In response to the request that the Council consider a “Buy Local” proclamation or resolution, staff
has prepared a proposed resolution.

Darin Clark, Brian Cullinane, Beverly Heckart, Debbie Strand, and Joe Sheeran spoke regarding the
proposed resolution.

Motion to authorize the Mayor to Sign Resolution No. 2008-04 with an amendment in O’Brien

Paragraph Three to insert “American made products” after “goods”. Affirmed

Councilmember Tabb arrived at the meeting at 9:31 p.m.

**Notice of Intention to Commence Annexation, Estate of Frank Ziemba, 1903 Judge Ronald Road**

The City has received a request for annexation from the estate of Frank Ziemba for a tax parcel
located on Judge Ronald Road. At this first meeting, the City must identify that area which will be
considered for annexation by the Council in a subsequent public hearing.

1. Confirm the City’s intent to consider the Notice of Intent to Commence Miller

Annexation Proceedings from the Estate of Frank Ziemba.

2. Set the annexation area under consideration as the 6.78acre parcel legally described as Parcel 1 of
the Ziemba Short Plat in a certain survey recorded under the Kittitas County Auditor’s File No.
200710290050, with the inclusion of the 194.89 feet, more or less, of Judge Ronald Road right-of-way
abutting the south boundary of that described parcel.

3. Require the property’s use to comply with the City’s Comprehensive Plan and Zoning Code.

4. Require the assumption of the parcels’ share of City indebtedness and any LID or public utility
installation costs in which they did not originally participate.

5. Designate the land use zoning as Residential Suburban (R-S).

6. Schedule March 3, 2008 for a public hearing to hear public comment and possible first reading of
an ordinance approving the Ziemba Annexation. Affirmed

**Notice of Intention to Commence Annexation -Vistoso Properties, LLC, 604 & 510 West Bender Road**

The City has received a request for annexation from Craig Ronning of Vistoso Properties, LLC for two tax parcels located on West Bender Road. At this first meeting, the City must identify that area which will be considered for annexation by the Council in a subsequent public hearing.

1. Confirm the City’s intent to consider the Notice of Intent to Commence Miller Annexation Proceedings from Vistoso Properties, LLC.

2. Set the annexation area under consideration as the two 8.04 acre parcels legally described in Attachment 2 with the inclusion of the 449.4 feet, more or less, of West Bender Road right-of-way abutting the north boundary of those described parcels.

3. Require the property’s use to comply with the City’s Comprehensive Plan and Zoning Code.

4. Require the assumption of the parcels’ share of City indebtedness and any LID or public utility installation costs in which they did not originally participate.

5. Designate the land use zoning as Residential Suburban (R-S).

6. Schedule March 3, 2008 for a public hearing to hear public comment and possible first reading of an ordinance approving the Vistoso Properties, LLC Annexation.

Affirmed

**Ellensburg School District’s Request to use the Ellensburg Racquet & Recreation Center**

The Ellensburg School District is requesting a fee reduction for the use of the Ellensburg Racquet & Recreation Center for Discovery, their Junior High School alternative program and Excel, their High School alternative program physical education classes. The request will be referred to the Parks and Recreation Commission to make a recommendation regarding a proposed fee schedule.

Motion to authorize staff to enter into an agreement with the Ellensburg School District for use of the Ellensburg Racquet & Recreation Center for the remainder of the 2007-2008 school year. Affirmed

**Critical Areas Ordinance – Process Discussion**

Councilmember Miller submitted a memorandum regarding the Critical Areas Ordinance process. Council discussed the memorandum.
Motion that on February 4th, appoint a committee as outlined in Fennelle Miller’s memo Tabb of January 21st with the addition of public participation framework as applied by Mr. Witkowski and remove the Washington Department of Fish and Wildlife from the list of members for the proposed committee.

Affirmed (O'Brien – no)

**Regional Retail Ordinance – Process Discussion**

Councilmember Miller submitted a memorandum regarding the regional retail ordinance. Council discussed the memorandum.

Motion to direct staff to draft an ordinance that will repeal Ordinance No. 4497 – Bottcher

the regional retail ordinance.

Bassett (yes)

Bottcher (yes)

Miller (yes)

Niner (yes)

O'Brien (no)

Tabb (no)

Lillquist (no)

Motion approved.

Motion to direct staff to bring back information regarding the cost and process for a Miller legal review of the Comprehensive Plan, retail section and downtown section and the regional retail ordinance. Affirmed

**Manager’s Report**

Ellensburg Racquet and Recreation Center Operating Hours

Council requested this issue be placed on the regular agenda at a future meeting.

**Councilmembers’ Reports**

Councilmember Bassett reported on a Conference of Governments issue.
Councilmember Bottcher attended the AWC training for newly elected officials.

Councilmember Miller stated she will be gone on March 2 and 3.

Councilmember Niner stated she will be the Council representative for the Mental Health and Developmental Disabilities Board. She also reported on the Finance Committee meeting.

Councilmember O’Brien attended the HopeSource Board meeting and the Chamber after hours function.

Councilmember Tabb gave an update on Central Transit.

Mayor Lillquist requested that Council hold a special meeting for a land use seminar by Carol Morris. City Attorney Pidduck will coordinate the date with Ms. Morris. Also, Council agreed to have Mayor Lillquist serve as a member of the Kittitas County e3 Advisory Council.

Recess

Council recessed to executive session at 11:30 p.m. to discuss pending litigation for approximately five minutes and no action was anticipated. Councilmember Miller did not participate in the executive session based upon appearance of fairness grounds she previously disclosed at the January 7, 2008 regular meeting.

The executive session commenced at 11:39 p.m.

Council returned to open meeting at 11:34 p.m.

**ADJOURN** Motion to adjourn at 11:34 p.m. Bottcher

Affirmed

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Mayor

ATTEST: ____________________________________

City Clerk