CITY OF ELLENSBURG

Minutes of Council Meeting, Regular Session

Date of Meeting: March 21, 2011
Time of Meeting: 7:00 p.m.
Place of Meeting: Council Chambers, 501 North Anderson Street

Roll Call.

Present: Arango, Bottcher, Elliott, Lillquist, Miller, Tabb.

Others present were City Attorney Pidduck; Community Development Director Smith; Energy Services Director Titus; Police Chief Miller; Gas Operations Supervisor Larsen; Planner Eyerly; Executive Assistant Leader; Deputy Clerk Keno; and approximately 13 members of the audience.

Agenda Approval

Motion to approve the agenda as presented. Elliott

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: Miller

A. Approve Minutes – March 7, 2011, Regular Session

B. Acknowledge Minutes of Boards and Commissions

C. Approve Noise Waiver for Central Washington University Department of Music on July 15 and 16, 2011 from 9:00 a.m. to 5:00 p.m.

D. Approve Noise Waiver for Special Olympics Washington at Rotary Park on August 27, 2011 from 9:00 a.m. to 6:00 p.m.

E. Approve Requests from Retired and Senior Volunteer Program of Kittitas County for the Manastash Metric Bike Tour on October 1, 2011

F. Authorize the Mayor and Staff to Sign the “Restrictive Covenant” as Required by the U.S. Army Corps of Engineers permit for the Dolarway Road Improvements Project

G. Approve University Way Banner Request for Northwest Ride of Dreams from August 14-28, 2011
H. Approve March 21, 2011 Voucher Listing

Affirmed

**Boards and Commissions Appointments**

Isaac Wheeler has applied to serve on the City’s Environmental Commission.

Appoint Isaac Wheeler to the Environmental Commission. Arango

Affirmed

**City Council Applications**

With the resignation of Stan Bassett from the City Council, a city resident must be appointed to complete Mr. Bassett’s term.

The City Council interviewed the following candidates: Anthony Aronica, David Miller, and David Wheeler. Vincent Tomaso was not present.

Deputy City Clerk Keno read the written ballots as follows: Councilmembers Arango, Bottcher, Miller, and Mayor Tabb voted for David Miller. Councilmembers Elliott and Lillquist voted for Anthony Aronica.

Deputy City Clerk Keno administered the oath of office to new Councilmember David Miller.

**Letter from Alcohol Drug Dependency Service Requesting Relief from Minimum Off-Street Parking Requirements at 507 N. Nanum Street**

The City has no mechanism in place to accommodate the request at this time. Council acknowledges the value of the project; parking will be a significant issue to be addressed in the land use code update.

**Memorandum from Lodging Tax Advisory Committee Regarding Recommended Event Funding**

At its March 2, 2011 meeting the LTAC moved to request a supplemental amount of $80,000 to their 2011 budget, to allow funding of all approved applications. The current amount remaining in the Event Funding budget is $49,500. The $80,000 requested by the committee would allow $30,000 to cover the recommended funding and the remaining $50,000 would allow the committee to use for future approved funding requests submitted through the remainder of the year.

Move to notify the Lodging Tax Advisory Committee that Council is not F. Miller authorizing them to disburse funding pending discussion with the LTAC,
including their budget, at Council’s April 4, 2011 meeting.

At the April 4 meeting Council wants information on Kittitas County Lodging Tax Fund recipients and allocations, an LTAC income to expense report, pro forma projections; information on utilization of lodging tax funds, and historic allocations over time.

Vote on motion. Approved

**Citizen Comment on Non-agenda Issues**

Larry Nickel, 317 1/2 North Pearl St., spoke about the waste of money and police manpower to have security at Council meetings, the new police captain, placement of the cowboy code on the agenda for consideration and adoption by a resolution of the City Council, and pursuing funding of the Certified Local Government (CLG) survey programs.

**Public Hearing – Vista View Annexation**

Mayor Tabb opened the public hearing to consider the Vista View Annexation and read the opening statement.

In answer to Councilmember D. Miller’s inquiry referencing his participation as a Planning Commission member hearing this matter, City Attorney Pidduck advised he could participate in the hearing because it is a legislative issue.

Planner Eyerly entered the following documents into the record:

- Agenda report – pages 35-40 of the agenda
- Attachments – pages 41-68 of the agenda
- Letter from Murlin E. Varner, 1609 E. Hobert Avenue, dated March 16, 2011
- Letter (via e-mail) from Maura Zeigler, 1605 E. Hobert Avenue, dated March 18, 2011
- The petition consisting of 22 pages plus Exhibit A, legal description and Exhibit B map of the area
- Letter from Brandi Eyerly, Planner, dated January 31, 2011 submitting the petition for certification to the County Assessor’s Office
- Certification of the petition by Marsha Weyand, County Assessor dated February 2, 2011

Planner Eyerly summarized the agenda report. The Planning Commission was presented the annexation request at its March 10, 2011 meeting and moved to recommend to City Council not to annex at this time in a 5 to 2 vote.

John Bowen, 1601 E. Hobert Avenue, spoke in support of annexation, lives in the proposed
annexation area and expressed three concerns with the March 10, 2011 Planning Commission meeting. At that meeting, Mr. Lathrop, attorney for the developer Cascade View, offered four reasons against annexation. One of those was stated in the minutes on page 47 of the agenda as “Mr. Lathrop indicated that he has had discussions with the city attorney about the legality of annexing properties that have not signed the annexation petition.” When making these comments Mr. Lathrop referred to a supreme court decision Interlake Sporting Assoc. v. the State of Washington Boundary Review Board and suggested that if the consent of the intervening property owners (Bulls, Scheffelmaiers, etc.) had not been given, then according to the Supreme Court decision in Interlake the annexation could not go forward. Mr. Bowen subsequently read the Interlake case and court decision and thinks Mr. Lathrop’s statement was mistaken. Mr. Bowen is concerned Mr. Lathrop’s statement swayed the Planning Commission to vote against the annexation by creating the impression it was illegal.

Mr. Bowen cited page 48 of the agenda and the statement “the area is within the City’s UGA and the question is not whether it will be annexed but when.” He heard nothing at the Planning Commission meeting that would suggest if this neighborhood is to be annexed eventually why it should be delayed at this time.

Mr. Bowen also cited the statement on page 48 of the agenda “the residents of Vista View would end up paying an additional $200-$400 in taxes and probably not get the services they are expecting other than street plowing.” When annexation was first moved forward by people in his neighborhood some of them did probably have an unrealistic idea of how great life would be when they were annexed by the City. In the past year he feels he has a realistic understanding of what would happen if they are annexed and what it would mean. There are significant benefits, including civic benefits, that make the additional taxes worth it.

In response to Mr. Bowen, City Attorney Pidduck stated the March 10, 2011 Planning Commission minutes fail to state that he did not agree with Mr. Lathrop’s interpretation. The Interlake case cited by Mr. Bowen is a very important State Supreme Court case. What the City has done is in complete conformity with state annexation law and in complete conformity with what the State Supreme Court has said in the Interlake case.

Murlin Varner, 1609 E. Hobert Avenue, spoke in favor of the annexation Mr. Hillis obtained an additional 24 permits from the County so he will not have to pay impact fees to the City. Mr. Varner started to try and get the County to take care of the streets; the County had requirements which the residents tried to meet and Mr. Hillis would not help them. Ninety percent of the homeowners want to be in the City. Mr. Varner submitted additional comments in writing.

Jody Scheffelmaier, 1500 E. Seattle Avenue, speaking on behalf of herself and her husband, referenced her March 1, 2011 letter on pages 63-64 of the agenda. She requested Council consider the Planning Commission’s recommendation to deny the annexation.

Larry Hillis, 3191 Kilmore Road, Ellensburg is the developer of Vista View. He is opposed to the
annexation. The staff report says there is gas and electric utilities within the Seattle Avenue right-of-way. Division II has electricity through Puget Power. The City is still out to bid and he has no electricity in Division II to start a house. He has a temporary service from Puget Power to be able to get a few homes started and is waiting for the City to get its process done to get power into that area. The bottom line is annexation will add costs to the potential buyer. There will be a certain amount of people who will not qualify. The statement that he purchased 24 permits in order to be vested and to not have to pay traffic or park mitigation fees is not correct. The buyer pays the cost of the permits but that is not why he purchased them. There is an energy code now in effect that will add another $10,000 in costs to each home. The code is under review in the legislature and may be repealed because it has been found to be not as cost effective as initially thought. In order to be sure people who want to be able to buy a home in Vista View this year will be able to do so, he purchased the additional permits.

Planner Eyerly clarified for the record that staff has researched Seattle Street to determine if it has been vacated from Locust Street to the end of Vista View and found no record of it being vacated. It looks like it is a private street but it is still on the County’s road system. Mrs. Scheffelmaier is correct that she does have property there that blocks the street. It is 30 feet wide and must have been an old roadway at one time. It has been incorporated into Vista View and now is on her property too.

Council asked questions of staff.

Seattle Street is a right of way; it is a County street but does not look like one. It is still on the books of the County; staff has researched the records for a vacation ordinance and not found one. The strip could be used for access but it is not something that would kill an annexation.

Council can reduce the annexation area as long as there is connection to the City which in this case would be at Willow Street. The 24 County building permits in Division II are vested with the County and would be administered by the County. Anything beyond that would be administered by the City.

Community Development Director Smith stated the north side of the plat would line up with future streets on Oak, and an extension northwest on Seattle Avenue and Pfenning Road.

Murlin Varner, 1609 E. Hobart Avenue, stated he thought he was in the City because he had City service. When he inquired why his streets were not plowed he learned he was not in the City. The County advised him the streets were never dedicated to the County and the County has never accepted them so therefore they are private streets.

In answer to Council inquiry, the City does not have the ability to collect traffic and park impact fees once the permits have been pulled at the County level.

There being no further testimony, Mayor Tabb closed the public testimony portion of the hearing.

Approve Vista View Annexation as presented. Elliott
Motion to amend to reduce the boundary to exclude the Lafferty, Harmon Lillquist and Scheffelmaier properties from the annexation.

Vote on amendment.

Motion fails. Lillquist, Elliott, F. Miller, (yes)

Arango, D. Miller, Bottcher, Tabb (no)

Vote on main motion. Approved(F. Miller-no)

Council took a ten minute recess at 9:28 p.m. and reconvened at 9:39 p.m.

**Ordinance No. 4587 – Timed Parking Waivers for Retail Delivery Vehicles Used to Deliver Perishable Consumer Commodities**

At its March 7, 2011, regular meeting, Council gave first reading to Ordinance No. 4587 which would amend ECC 8.14.160 by extending timed parking waivers to retail delivery vehicles engaged in the delivery at retail of perishable consumer commodities.

**Move second reading and adoption of Ordinance No. 4587. Arango**


Vote on motion. Arango(yes)

D. Miller(yes)

Bottcher(yes)

Elliott(yes)

Lillquist(yes)

F. Miller (yes)

Tabb(yes)

Motion approved.

**Ordinance No. 4588 – Additional Two Year Extension for Industrial Zoned Short Plats**

At the March 14, 2011 special meeting City Council gave first reading to an ordinance that would
amend the subdivision code to allow for an additional 2-year extension option for final short plat submittal for properties zoned Light Industrial (I-L) or Industrial Heavy (I-H), subject to certain conditions. Ordinance No. 4588 is ready for consideration of second reading and adoption.

Move second reading and adoption of Ordinance No. 4588. Elliott

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON RELATING TO SHORT SUBDIVISION FINAL SHORT PLATS WITHIN THE LIGHT INDUSTRIAL (I-H) OR HEAVY INDUSTRIAL (I-H) ZONING DISTRICTS AND AMENDING SECTION 12.10.180 OF THE ELLENSBURG MUNICIPAL CODE TO PROVIDE FOR A SECOND EXTENSION OF FINAL SHORT PLAT SUBMITTAL DEADLINE FOR AN ADDITIONAL PERIOD OF TWO YEARS.

Vote on motion. Arango(yes)
D. Miller(yes)
Bottcher(yes)
Elliott(yes)
Lillquist(yes)
F. Miller(yes)
Tabb(yes)
Motion approved.

Resolution No. 2011-05 – City Surplus Equipment

The proposed resolution declares four pieces of City equipment surplus and authorizes disposal by sealed bid, public auction, trade-in, junking, or sale to any qualified nonprofit corporation at fair market value. The equipment being surplused consists of: 1) 1995 JD trim mower; 2) 1993 Chevy line truck; 3) 1995 Freightliner 2-man bucket truck; and 4) 1989 Ford Econoline Van.

Adopt Resolution No. 2011-05. Elliott

Approved

Resolution No. 2011-06 – Declaring Infinia Corporation to be the Sole Provider for Purchase of Concentrating Solar Units for the Renewables Park

The City has negotiated an agreement with Infinia Corporation to provide for the purchase of ten concentrating solar units to be added to the City’s Renewable’s Park.

Staff also requests Council declare Infinia a sole source provider for concentrating solar units.
Adopt Resolution No. 2011-06 and authorize the Mayor to sign the F. Miller Agreement with Infinia Corporation to establish the terms and conditions for the purchase of concentrating solar units. Approved

Authorize the Energy Services Director to order up to ten (10) Infinia F. Miller PowerDish concentrating solar units at a cost not to exceed $200,000. Approved

**Proposed 2011 Interlocal Agreement Between City of Ellensburg and Kittitas County for Jail Services**

A proposed jail services agreement has been received by the City from Kittitas County. In it, the County proposes to change from the flat rate type of agreement that has been in place since 2003, to compensation based upon bed days using a methodology similar to that used in 2002 and before. The proposed agreement is for one year.

Authorize the Mayor and Police Chief to sign the Interlocal Agreement F. Miller between the City and County beginning on page 102 of the agenda packet.

Council requested staff keep track of all time spent reconciling jail billings.

Vote on motion. Approved

**Local Law Bail Schedule**

At its March 7, 2011 regular meeting Council considered a petition requesting it act to lower fines for noise violations. Council directed staff to prepare a list of local law violations and respective penalty amounts.

Council requested staff provide historical data on the number of citations written for the various infractions for review and direction at the April 18 meeting.

**Manager’s Report**

**CWU Strategic Planning Underway – Public Meeting Planned**

A community open house on the draft of CWU’s new strategic plan will be held at the Hal Holmes Center on April 11, 2011 from 6-8 p.m. The public as well as Council and staff are invited to attend.

Council requested the City Manager provide the draft strategic plan in its Friday mail packet.

**Desmond Knudson Outside Utility Agreement**
Council is requested to set a public hearing for April 4, 2011 to consider an Outside Utility Agreement for Desmond Knudson.

Set public hearing on Outside Utility Agreement for Desmond Knudson for Lillquist

April 4, 2011. Affirmed

**Councilmembers’ Reports**

Councilmembers’ reports were suspended due to lateness of the hour.

- City Council Assignments to Boards and Committees

Mayor Tabb appointed Councilmember Arango to Chair the Lodging Tax Advisory Committee and requested she attend the LTAC’s special meeting on March 23, 2011 at 4:00 p.m.

Council requested staff provide a spreadsheet in grid format for the April 4 meeting showing the allocation of appointments to Boards and Committees. In the meantime, councilmembers will e-mail Mayor Tabb their “top 3 preferences” for Boards and Committees.

Councilmember F. Miller requested an excused absence from April 2-18, 2011.

Grant excused absence for Councilmember F. Miller from April 2-18, 2011. Elliott

Affirmed

**Adjourn** Motion to adjourn at 10:30 p.m. Elliott

Affirmed

Mayor

City Clerk