

**CITY OF SEQUIM
CITY COUNCIL MINUTES
SEQUIM TRANSIT CENTER
190 WEST CEDAR STREET
SEQUIM, WA**

FEBRUARY 14, 2011

6:00 P.M. REGULAR COUNCIL MEETING

Mayor Hays called the meeting to order.

PLEDGE OF ALLEGIANCE

ROLL CALL

Clerk Kuznek-Reese called roll. Council members present: Laura Dubois, Erik Erichsen, Don Hall, Ken Hays, Bill Huizinga, Susan Lorenzen, Ted Miller.

City Staff present: City Manager Steve Burkett, Clerk Karen Kuznek-Reese, Interim Planning Director Joe Irvin, Public Works Director Paul Haines, City Attorney Craig Ritchie, and Police Chief Bill Dickinson.

INTRODUCTIONS & CORRESPONDENCE

CEREMONIAL

Proclamation – February 22, 2011 National Spay Day

Mayor Hays read and presented a proclamation to John D’Urso.

REPORTS

Chamber of Commerce 2010 4th Quarter and Annual Report

COMMITTEE, BOARD AND LIAISON SUMMARY

Hall reported that he attended the Planning Commission meeting on February 1. They discussed the Comp Plan Update and the two vacancies. They voted to recommend to the City Council to reduce the Planning Commission from seven to five members. Hall would like to have that added to the agenda.

Hall attended the Park Board meeting of February 8. Senior Softballers have begun practice. Some trees have been cut down; they discussed bike racks in town. Haller Foundation gave a grant to the playfield project. They discussed Guy Cole; Jeff and Roger Fell met with the Keeler family. Keelers have agreed with the Park Board that having the whole park as a passive park

was too much. They recommend the western portion be passive and active in east end. Lavender Festival is evaluating the use of the reuse area.

Dubois attended a public meeting at Clallam Transit regarding their route reductions. The first early morning trip will be cut; a public hearing is scheduled on February 28 to discuss substantial changes to the Sequim shuttle. No changes will be made to the Sequim-Port Angeles commuter route.

Lorenzen added that she attended the evening meeting of Clallam Transit. There was one member of the public in attendance. She had comments about the Diamond Point route that will be reviewed by staff. There is a grant from the Tribe to go to Blyn. A letter was received from Holiday Inn about routes. There is a bus that goes by there 4 times each day. There is not a bus pullout. She asked if transit accommodations are included in a development checklist. There have been several bus stop requests once a development is built.

PRESIDING OFFICER REPORT

Hays reported on his attendance at the Chamber Board meeting.

CITY MANAGER REPORT

Burkett acknowledged Vickie Maples who will be leaving the area. She has done a great job working with the City and representing the Chamber. 84 people attended the daytime presentation concerning the Downtown Plan and 50-60 attended in the evening. Two permit applications have been received for the Lavender Festival. Staff is reviewing the applications.

Lorenzen requested that the traffic on Bell Bottom go from south to north for the farm tours. There is a tremendous amount of dust as they go up the hill. There is also more space for traffic to back up on the south end.

PUBLIC COMMENTS *(Please limit comments to 3 minutes)*

John D'Urso thanked Joe Irvin for his work on the Downtown Plan. He thanked Barbara Hanna for attending the Sequim Speaks meetings. Sequim Speaks has asked to have a City Council member attend their meetings. They meet the fourth Tuesday at 6:30. Their next meeting will have important issues to discuss. Ken Hays and Erik Erichsen agreed to attend.

Miller suggested appointing a Council member as a liaison as they do with other committees.

INFORMATION/COUNCIL QUESTIONS INVITED

1. Review Clallam County Hazard Mitigation Plan

Chief Dickinson reported that FEMA requires the state adopt a plan. The state then requires the counties to do the same. The county polls the cities and the cities provide hazards they feel

should be mitigated. There are 6 issues identified for Sequim. If we want to apply for FEMA grants, we are required to participate in the mitigation plan for the County. By adopting the County-wide plan, we are eligible for FEMA funding.

Hays suggested this be discussed at a study session.

2. Financial policies: Capital Improvement Planning and Equipment Acquisition & Replacement Policies

Burkett recommends postponing the Health and Human Services contracts. The contracts are for 3 of the service providers. The subcommittee will make recommendations to the United Way board. United Way will then come to Council on February 28 with its recommendations. All the contracts will be ready for that meeting and the funding amounts can be added at that time.

PUBLIC HEARINGS (Quasi-Judicial)

3. Reservoir Road Latecomer Agreement

Mayor Hays read the rules for the public hearing. He asked for any appearance of fairness issues. There were none. The public hearing was opened at 6:45 p.m.

Irvin stated this is a request by 5 property owners who installed 835' of an 8" sanitary sewer line along Reservoir Road in 2008. City Council granted preliminary approval in February 2008. The sewer line was constructed and accepted by the City in December 2008. The agreement was valid for a 2 year time period. A one-year extension was granted on February 8, 2010. The extension allowed the City to properly fulfill all the RCW requirements and determine the dollar amounts. The benefitted properties can request a hearing be held. Eric Miller has made that request.

Charles Burk stated that everything has been done in accordance with the City's resolution.

Ritchie provided information concerning latecomers agreements.

Eric Miller, 452 W. Hammond, owns property on Reservoir Road. Based on the latecomer application this agreement is governed by the City's resolution which states that upon drafting a preliminary assessment roll, that information shall be forwarded by certified mail. Since it is the intention of Burk and the City of Sequim to burden his private property should he connect, the failure to provide him with notice as spelled out in the City's resolution prior to the connection of the sewer, did not provide him with due process. He was not given notice until January 3, 2011 - 3 years after the sewer was constructed. He was not given any or proper notice by Mr. Burk. He received correspondence from Mr. Ritchie in January 2011. Conversations between neighbors in 2007 or 2008 does not constitute proper notice. He told Mr. Burk that he was probably not interested but that when he receives information to please keep him in the loop. He would have made arrangements to partake in the project. The City of Sequim knew there was a pond on his property. By not affording him due process, the City caused a total eco-system

collapse in and around his pond due to construction methods around his pond. This pond is registered in Olympia. The system failed here. He has damages and there needs to be accountability. He was precluded in exerting any of his constitutional rights. He is offering an out that the City of Sequim deny finality from Miller to Burke. In 20 years as a pipe layer, he never experienced a planned sewer without stub outs so people could hook up later. He received a letter from Joe Irvin in 2008. He believes the City is responsible for damages to his property. The City knew of the pond because Irvin was a tenant for several months. Is it not the responsibility of the Planning Department to review detail and construction plans to comprehend ponds, wetlands, etc. This has destroyed his pond and wetlands.

Miller asked that the City not approve the latecomers agreement. He is also asking that he be able to hook up to the sewer, if necessary, in the future without paying a share of the cost of the construction. He asks that the City provide for the disabled. He has difficulty getting in and out of the chair.

Miller stated he worked with Burk on this project in that they looked at it. He told Burk he needed to know the cost. Burk never sent him notice. He only heard after. His constitutional rights were violated. This document does not afford people due process. He does not want to waste money on lawyers. Mr. Burk should have known better and notified him. Burk should not receive anything from him or his successors. Sequim should have reviewed the process. Irvin lived at the property and knew there was a pond and estuary.

Burk said he has never heard of a pond until tonight. He has heard from Miller all along that he would like to join in but it was not financially viable for him. Miller had proposed they not have the sewer line built in a public right of way. Putting it on private property would give him an opportunity to work out his share of the cost. He told Burk they would be out from City control, he could hire an excavator and he could do the rest of the work. Burk called Miller several times without an answer. He then wrote Miller a letter to let him know (Sept 25, 2007). Plan B (Eric's plan) was to have the system on private land. Burk has a binder of notes on this issue.

Ritchie indicated that Council is to approve the latecomer if they believe the costs are legitimate. The pond does not involve the City because it was not the City that did the digging. Whether due process has been complied with, this is a hearing which is the process that is due. There is only one hearing. Nothing that we have done violates state statute. If someone thought the price was too high, they would come to the Council with their engineer's cost. If Miller chooses to develop his property, he would pay his fair share. If he connected an existing building before the infrastructure was installed, the latecomer agreement does not apply to him, only if he chooses to subdivide his property. The property owner doesn't have to pay to develop his property right now. If the latecomer agreement is approved, and if Miller annexes into the City, then he would have to pay.

The public hearing was closed at 7:40 p.m.

MOTION to direct the City Manager to enter into a Latecomers Agreement with the Reservoir Road sewer/storm drain project applicants with the condition that the City will waive any latecomer fees due from Mr. Miller if annexation occurs and a subdivision is built before December 4, 2023 made by Lorenzen; second by Erichsen.

Lorenzen stated we have all these resolutions saying the City shall and will do things. When it doesn't happen there is no recourse. If Mr. Miller did not receive notice, he was denied any chance for any input. Nothing will impact him unless his property is annexed and he builds.

Councilor Miller opposes the motion. Mr. Miller talks about notice and pond. That is irrelevant. The most important thing is that if he attaches to the sewer line, he should have to pay his fair share. Either he pays or the City's taxpayers pay. Huizinga agrees.

Dubois also opposes the motion. We already approved a latecomer's agreement. Tonight we are approving the costs as accurate or fair.

Hays does not think Mr. Miller's rights have been violated.

Erichsen will support the motion. He believes Miller's rights were violated by not receiving notification. He should not be required to do something for which he has not been notified.

Hays will not support the motion. If Burk wants to extend he can do so.

Vote on the motion. Aye by Erichsen and Lorenzen. Nay by Hall, Hays, Huizinga, (Councilor) Miller, Dubois. **Motion Fails.**

MOTION to enter into a Latecomers Agreement with the Reservoir Road sewer/storm drain project applicants made by Dubois; second by Hall.

Erichsen will oppose the motion. He feels we are not exercising our privilege and a governing body in that we are violating an individual's rights. By hiding behind some state statute we are being derelict in our duties.

Vote on the motion. Aye by Hall, Hays, Huizinga, (Councilor) Miller, Dubois. Nay by Erichsen and Lorenzen. **Motion carries.**

CONSENT AGENDA

4. Approve/Acknowledge
 - a. City Council Meeting Minutes – January 24, 2011
 - b. City Council Meeting Minutes – January 31, 2011
 - c. Claim Voucher Recap Dated 2/14/11 total payments \$1,304,471.49
 - d. Baritelle Lease Agreement
 - e. WRF Change Order 15
 - f. Little League Contract Extension

MOTION to approve the Consent Agenda as presented made by Hall; second by Huizinga. **Carried Unanimously.**

UNFINISHED BUSINESS

5. Health and Human Services Grants and Contracts – postponed to February 28.

NEW BUSINESS

6. Review Sign Code (“sandwich” boards)

Burkett stated some court decisions have invalidated our sign code. There are many temporary signs around the City.

Ritchie provided information on legal issues and showed pictures of signs currently in the City. There are meetings scheduled with the Chamber and Board of Realtors to get input.

Sign violations should be a civil infraction.

There was discussion concerning limiting size, quality, duration and quantity.

7. Reduction in size of Planning Commission

Hall stated that the Planning Commission recommends that the Planning Commission be reduced in size from 7 to 5 members. There was discussion as to whether we could have at least 5, no more than 7 with a majority living in the City. An ordinance will be brought back to Council.

GOOD OF THE ORDER

Dubois attended the Chamber lunch. She received a save the date postcard for Irrigation Festival kickoff March 26. The cost is \$35 until February 26 then \$45 and will be held at 7 Cedars Casino.

Hall thanked everyone for the cards.

Erichsen stated Sequim has a membership in ICLEI. This is a political organization. It seems inappropriate for a municipality to be a member of a political organization. Erichsen would like staff to investigate and provide a response.

PUBLIC COMMENTS *(Please limit comments to 3 minutes each)*

Greg Madsen fears we are to lose something in Sequim. Port Townsend is a mess with signs. There are a lot of tacky signs. He suggests look at signs for short-term effectiveness. If there's a long-term message, that should be attached to the business. Towns live on short-term events.

Directiveness is difficult unless you have temporary signs. We should do monitoring on the quality.

Vickie Maples stated February 26 is the royalty pageant. The Citizen of the Year will be announced at the February 22 luncheon and you must RSVP by February 18.

EXECUTIVE SESSION

NEXT MEETING DATE

Mayor Hays announced the next meeting dates of February 25, 2011 (City tours) and February 28, 2011 (6:00 p.m.)

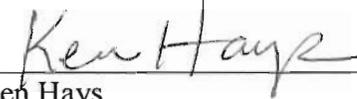
ADJOURNMENT

MOTION to adjourn at 8:55 p.m. made by Lorenzen; second by Hall. **Carried Unanimously.**

Respectfully submitted,



Karen Kuznek-Reese, MMC
City Clerk



Ken Hays
Mayor

Minutes approved at a regular Council meeting held on February 28, 2011.