City of Cle Elum

Regular City Council Meeting

September 27th 2011

The meeting was called to order by Mayor Protem Jim Eidemiller at 7:00 p.m. Members present included Arthur Scott, Ron Spears, Warren Perry, Mickey Holz, Ken Ratliff and Jay McGowan. Also present were City Administrator Matt Morton, City Attorney Mike Kenyon, Public Works Director Jim Leonhard, Police Chief Scott Ferguson and City Clerk Toni Fields.

Approval of the Meeting Agenda

A motion was made by Jay McGowan and seconded by Ron Spears to approve the meeting agenda as presented with the exception of deletion of the Executive Session for pending litigation. Motion Carried.

Announcements Awards and Recognition

None

Consent Agenda

A motion was made by Jay McGowan and seconded by Mickey Holz to approve the Consent Agenda as presented which include the minutes of the September 13th council meeting and the September 2oth Closed Record Hearing for City Heights, vouchers and warrants #3164-31612 in the amount of $243,907.67 and payroll checks in the amount of $67,260.60. Motion Carried.

Officer Reports

Administrator Morton said the agenda is short because of the lengthy closed record hearing. Public Works Director Jim Leonhard reported the city crew has been installing water meters; cleaning the river channel by the water intake. He also noted the fall cleanup is October 4-8. Police Chief Scott Ferguson had no report.

Comments from the Public

Susan Zackovich said she had been struck by a car while riding her bicycle in the 200 block of West First Street. She asked that council for safety reasons reconsider allowing bicycles to ride on the sidewalks.

Public Appearances

Chamber of Commerce Monthly Report-no representation

Unfinished Business

None

New Business

Public Safety Building Cost Approval-***A motion was made by Ken Ratliff and seconded by Ron Spears to instruct staff to follow through with the acquisition of the public safety building for the amount not exceeding $276,494.02 and also the full specs for the building be attached before it is executed. Arthur Scott abstained from the vote. Motion Carried***

Ordinances & Resolutions

None

Committee Reports

J. Eidemiller commented on the ceremony earlier in the day honoring Douglas Munro.

Continued Closed Record Hearing-City Heights Development Agreement-Discussion of Appendixes C, D, E, & I-7:30 p.m.

Present were City Administrator M. Morton, Special Land Use Attorney Erin Anderson, Rachel Cox-Stoel Rives, City Engineer Jeff Louman; Public Works Director Jim Leonhard and Tom Hastings-Veolia Water-WWTP Operator.

E. Anderson-Appearance of Fairness Doctrine

1. ***Does any member of this council have knowledge of having conducted business with either the proponents or the opponents in the preceding? Answer-No***
2. ***Dies any member of this council have either a financial or non-financial interest in the outcome of this proceeding? Answer –No***
3. ***Does any member of this council know whether or not his/her employer has a financial interest in this matter or has an interest in the outcome of this proceeding? Answer no.***
4. ***Does any member of this council live or own property adjacent to the City Heights properties under discussion? W. Perry answered yes***
5. ***Does any member of this council have any special knowledge of the substance or merits of this proceeding which would or could cause the council member to prejudge the outcome of this proceeding? Answer-No***
6. ***Has any member of this council engaged in any conversations while out and about regarding the development under review tonight, such as after last week's hearing, at the local coffee shop or the high school football game? Answer-No***
7. ***Has any member of this council made or received any telephone calls, including in the last week, where the City Heights project came up? J. McGowan noted he had been approached twice by people and he responded it was a quasi judicial proceeding. R. Spears Ken Ratliff and J. Eidemiller also said they had similar encounters as McGowan and gave the same answers.***
8. ***Has any member of the Council sent or received, either directly or via a printed out copy, any electronic mail(email) in which the City Heights project was discussed in the last week? Answer No***
9. ***Is there any member of this council who believes that he/she cannot sit and hear this matter fairly and impartially, both as to the respective positions of the proponents and opponents in this proceeding? W. Perry indicated that a concern had been raised about his continued participation in this proceeding. E. Anderson said she had received a letter following the hearing on September 13th raising concerns about Councilman's Perry impartiality following comments he made on the record that evening. W. Perry***

asked if his notes were read into the record. He requested his sentiments be carried to the council. He then recused himself from the development deliberation. He requested a clarification of page 3 line87-101 of the September 20th hearing minutes. W. Perry left the hearing.

K Ratliff commented that the Ellensburg Daily Record had referred to the development as a "gated" community. He requested it be clarified it is not a "gated" community.

Appendix C-Storm Water

City Engineer Jeff Louman committee members had spent several hours on this and they are satisfied with its content. A. Scott asked Louman what the State Ecology Manual was. He said the manual gives a design standard analysis for runoff, how to store it, percolate it or dispose of it. As the development occurs, he said it will be determined where it is captured and where it goes. M. Morton added the manual requires a 25 year event design. This agreement has a 100 year event design.

Also discussed were the numbers mentioned in the agreement should be adjusted for inflation.

Also discussed were the concern is the capacity downstream for the storm water.

A request was made to add language at the end of no.1 - "all storm water plans, designs and reports shall be prepared by or under direct supervision of a licensed engineer.

Appendix D –Waste Water Service

Attorney Anderson said there are three options-Option 3 only occurs after a nine month period of the signing of the development agreement and the city has not succeeded in either option one or two. She said the regional sewer committee, representing the cities and Suncadia, does meet regularly and they have contracted the FCS Group to do an analysis of the Regional Wastewater Treatment Facility Agreement between the four parties. The preliminary final report was given to the committee Monday. By the end of October she said there will be a calculation for rates to implement an equity to all parties. She said the treatment is sized much larger that the ERUS that could be served. This is based on the improvements that have been made. The FCS is also working on a capacity evaluation. She said there are participants in the facility that have idle capacity. That idle capacity, she said, is responsible right now for the monthly shortfall cash flow payments for operations and management of the plant. There are also capital recovery charges for the entire amount of the facility less the benefits to the resort. That reimbursement for the facility is paid for on a hook by hookup basis.

In 1.1-Acquisition of Capacity is going to be correlated in some fashion to the capital costs associated with each of the ERU hookups created. She said the city does have other UGA areas. She noted the facility is only using only 25% of its capacity. The project has the ability to obtain 190 connections because part of the project is in the city and subject to those capital recovery charges to reimburse Suncadia for its capital outlay on a per hookup basis for what they paid up front. She said 249 ERUs are needed to acquire this additional capacity, whether that is

through a recalibration of allocation of capacity in the plant through flow; a temporary or permanent acquisition of the 249 ERUs from one of the other participants
K. Ratliff commented he did not want the sewer rates to go up for the residents from this development. J. McGowan said we need to see as many people participate in the regional system as we possibly can. Noting the capacity is there. K. Ratliff said he wants to leave the option in there because it is only if it pencils out that his is a possibility and a last resort if the others don't work out. A. Scott and J McGowan felt it should be taken out because it "puts pressure" on the parties to get things done. J. Leonhard commented he would like the city to use the existing facility.
A five minute break was taken
Appendix E-Water Rights and Service
J. Louman said their water rights are attributed from water wells. J.McGowan commented 1. Background and Context-a sentence reads "convey water rights in the full amount deemed necessary to serve the property proposed for annexation; 2. Ridge Entities Right Obligations-it reads last line of the paragraph, "nothing here in shall prevent the Ridge Entities to make payments to the City in lieu of transferring and conveying all or a portion of the Water Rights, provided that's such payment in lieu is consistent with the provisions of CEME 13.20.06.070." He objects to that sentence being in there.
A concern for irrigation of the proposed parks was discussed. E Anderson explained this is in the documents because the city policy allows it under CEMC 13.20.070-the city shall have the discretion to determine the amount of water available in the city system and to evaluate, prioritize all applications for municipal water delivery.
Water Supply Sourcing-J. McGowan questioned the 20 wells. He felt it should be changed to ten.
J. Louman pointed out two sections, where the developers designing and constructing water improvements are fine but references are also made that the pump stations, water treatment plant would be designed and developed by the developer. This would not be his recommendation because these are critical infrastructures.
E. Anderson said the developer has done all of the steps for the water right which they have acquired and they do list Cle Elum as the area of use.
There was a discussion was made of the construction of the third filter bed at the water treatment plant.
E. Anderson said for the next meeting on Tuesday Oct 4th she will bring back to council information on Appendix C for clarification to include the inflationary effect of reducing the value of the dollar figures in the future and if there is a way to work around it. Also the upfront fixed dollar initial contribution being differently that then per unit because the per unit goes out over 25 years. Storm Water-adding the language all storm water infrastructure will be designed and built pursuant to a PE stamp of approval and those standards; Appendix D-find

alternatives to option c which is the offsite treatment option –ways of strengthening the duties to try and pursue a solution inside the existing plant rather than the offsite alternative. Also to access whether there are good, effective and timely ways to eliminate the barriers to getting access to additional unused idle capacity. Also the fixed O&M and ongoing O & M obligations in the plant. Appendix E-reevaluate the sale the water provisions, city providing water for the open space and parks, a cap on 10 wells, bulk u language to ensure that any improvements to city capital facilities will only be undertaken under the preview and close watch of the city .
She gave a report on the question posed at the last session-paragraph 1.1.4 of Exhibit R-those are administrative changes the developer can make that do not trigger modification. The one read designations or changes in permitted uses authorized under Exhibit A of the Agreement. Reallocation of type of product per development area so long as the maximum densities are unchanged and the type of product remains proposed for development within the development areas on exhibit 3 and Appendix A and other relevant portions of the agreement.
Appendix I-Transportation Standards and Improvement
Questioned was paragraph 2.2-the foregoing notwithstanding , "a right of way 30 feet has been permitted along the roughly 200 foot stretch of Montgomery Ave. coincident with the portion of the collector road located outside the City Limits (North to Fourth) and no additional easement shall be required for that area ". E. Anderson said that section of road is in the county and the shoulders and adjacent shoulders are private. The applicant advised the paved width is the same. Also mentioned was 22 foot wide streets with a 50 foot right of way then on the collector road there is a roadway of 30 feet wide with a 40 foot right of way. E. Anderson said that is a mistake and it will be noted for correction. She said it should read a 30 foot wide road with a 50 foot right of way (internal roads) and collector roads should be 22 feet wide and have a 40 foot right of way. Also mentioned was the right of way was not wide enough on a slope with cuts and fills. M Morton said there are five easements immediately adjacent to internal roads. He added the collector roads are 20 feet wider than the 50 right of way because there is a 10 foot easement recorded on each side against those property lines. On internal roads the city owns 50 feet with the rights to five feet on each side. J. Louman added in the areas where there are significant cuts and slopes provisions could be added to include a wider easement. E. Anderson said language would be brought back that addresses the city's ability to get additional width to control cut and fill areas to the extent necessary to maintain road integrity and maintenance.
A concern was noted about damage done on Montgomery Ave. already. She said the developer is not responsible for damages done prior to them.
A motion was made by J.McGowan and seconded by Mickey Holz to continue on Tuesday October 4th at 7:00 p.m. Included will be discussion of Appendix C, D, E revisions and complete I, then Coal mine Trail Hazards, Police, Fire, Public Works and School Districts. Motion Carried

A motion was made by J McGowan and seconded by Art Scott to adjourn the meeting at 10:32 p.m. Motion Carried. The next regular council meeting will be Tuesday October 11th at 7:00 p.m.

Mayor

Attest