

City of Cle Elum
City Heights Continued Closed Record Hearing
October 04, 2011

Mayor Glondo called the closed record hearing to order at 7:00 p.m. Members present included Ron Spears, Jay McGowan, Jim Eidemiller, Mickey Holz and Ken Ratliff. Arthur Scott was absent.

Attorney Anderson arrived at 7:20 p.m.

Review of Appendixes C, D, E revisions complete I and additional if desired by council

Present were City Administrator Matt Morton, Special Land Use Attorney Erin Anderson, Jeff Louman City Engineer Scott Ferguson Police Chief and Dave Campbell Fire Chief.

She said she had prepared revised text to each of the sections that council discussed at the last session. She continued after the last session the applicant was approached by someone in the audience that asked if they had knowledge about a written comment that had been sent to the city and that staff somehow failed to read that comment into the record. Let the record reflect that when the hearing was opened on annexation comments on Sept 13th city hall had received an email communication that had comments about the annexation. Those were not found in the inbox until the next morning. She (Anderson) said she had contacted the author of the comments and thanked her for her letter; your comments were timely and now we have continued the annexation hearing till sometime later in the fall. We will open the annexation hearing her comment will be read to the record. Also the city administrator was approached by the same individual after last week's hearing and told him Stoel, Rives Law firm represents JELD-WEN on unrelated matters. But because of that she has an apparent conflict with representing the City of Cle Elum. She confirmed they (Stoel Rives) do not represent Suncadia but do patent work for them in Oregon-JELD-WEN. She asked if anyone had concerns for her counsel representation to the city bring them up. Answer-no concerns

She said for the record. It was pointed out to her that the applicant last year made several presentations to the UGA Committee and those presentations even though they occurred before the city opened these hearings still constitutes some kind of communication with the representatives of the UGA Committee. She asked "If you are on the UGA Committee that includes Jay McGowan, Ken Ratliff and Mickey Holz keep that in mind while answering the questions.

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 this proceeding? Answer-No
2. Does 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? Answer-No

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 Agreement 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? Answer-No

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 a member of this Council who believes that he or she cannot sit and hear this matter fairly and impartially, both as to the respective positions of the proponents and opponents in this proceeding? Answer No.

Ken Ratliff said for discussion would be Appendixes C, D, and E & I. He brought attention to the fact the Daily Record referred to the development as a "gated" community. He said it has never been proposed as a gated community.

10. Is there any member of the audience who, because of the 'Appearance of Fairness Doctrine' wishes to disqualify any member of this council from hearing this matter? If so please state the name of the council member and the reason or reasons you believe that member should be disqualified because of the 'Appearance of Fairness Doctrine' Answer-No.

The hearing was turned over to Chairman Ken Ratliff.

Review of concerns of the last meeting:

Appendix C-Storm Water- All storm water designed for construction related to city heights is done with a professional engineers seal. The revised sentence in Appendix C paragraph 1- All storm water infrastructure designed for construction by the Ridge Entities related to City Heights shall be done under the supervision and shall bear the seal of a Professional Engineer licensed in the state of Washington

Appendix D-Waste water:

There was a typo error in section 2.2.14. - Correction being CHWA not CHCPA

Section 3 Onsite Treatment Facility-2.3 proposed it be revised to read If, Despite good faith efforts, within twelve months of the date of this Agreement or upon receipt of written documentation from each of the parties to the RWWTFA that they are unwilling to sell and permanently transfer to the City a portion of Capacity Share for serving City Heights as contemplated by Paragraph 2.1 of this Appendix D (whichever occurs earlier)

Appendix E-Water Rights and Water Service -Section 2 change to *read The Ridge Entities affected the transfer of water right with a priority date of before 1905, and of a type consistent with CH 13.20 CEMC, to place a use of within the City of Cle Elum under Washington State Department of Ecology Water Right NumberXXXX. A copy of Water Right Number XXX. (XXX to be filled in later) is attached hereto as Exhibit X. From this water right, the Ridge Entities shall convey to the City sufficient water by certificate or permit, sufficient to serve all ERUs platted within those portions of City Heights proposed for annexation at a rate of 0.285 acre feet per ERU per year(equal to 0.138 acre feet per ERU consumptive per year) (Water Rights) The city and Ridge Entities agree that this quantity of water completely and adequately mitigates the usage of water by the project and that these quantities do not impose or create a maximum usage limitation on ERUs within the project. Such water may be either seasonal irrigation water rights or year round irrigation water rights or some combination of each, provided, however, the water right benefit from a priority date of 1905 or earlier. The foregoing notwithstanding, if events beyond the parties control result in the need for additional water rights beyond those that will be provided to the City by the Ridge Entities as described above, then nothing herein shall prevent or limit the ability of the Ridge Entities to make payments to the City for additional water rights, provided that such payment in lieu is consistent with the provisions of CEMC 13.20.060.070. By way of illustration and not limitation, events beyond the parties' control include changes in statutory or regulatory water laws of the State of Washington.* The foregoing notwithstanding, the City acknowledges that City Heights contains approximately 28 acres of City Property within the City limits for which no transfer rights is necessary, and agrees that the City shall provide, from the City's existing water rights portfolio, such as to serve the first 140 ERUs constructed within City Heights. R Spears question-"Make payments for additional water rights clause " E. Anderson said they would be buying access or ERUs. She said what could be added is "nothing herein shall prevent or limit the ability to have Ridge Entities to make payments to the City for additional water". She noted a change to paragraph 4 Appendix E Quantity and Timing of Water Rights Contributions- First line-The conveyances of Water Rights from the Ridge Entities to the City *under Water Right NumberXXX* (to be filled in later).

MA. Morton reviewed the changes to the wells section. Section 5-Number of wells. In the middle of section a changes was discussed to read *"every effort will be made by the Ridge Entity to develop 10 or fewer wells to serve the City Heights Project, however in the event geology or hydrogeology or system wide pressure concerns are substantiated to the satisfaction of the Cle Elum public works director; Ridge Entities may develop more than 10 but no more than 20 wells"*. Jay McGowan asked if the water right was for year round water. E. Anderson said it is seasonal. During the heavy irrigation period there will be water. That is the season when it is needed. M Morton commented there is advantage for the city to have that water during the irrigation season. Also noted it is seasonal and uninterrupted. J.

Louman said they are bringing water for the entire year for their development so during the seasonal part of the time the city is technically using that water right for the city. They are accounting for their entire use. M Morton said water that is not needed to be processed through the treatment plant would not be subject to the capital reimbursement charge to Suncadia. J. Eidemiller had a concern if their system failed. J. Louman- regardless where the wells are they will be a part of the city system. They may be integrated but in a different elevation zone but they are all in the city system.

E. Anderson reported on the inflator mechanism discussed last week. She said the city is getting a lot of upfront funds to spend. The inflationary pressure may be offset by this upfront voluntary payment.

Appendix I-Transportation Standards and Improvements-

K Ratliff would like to meet with staff to discuss collector street widths, local streets width, right of way widths, surface/ thickness or structural design necessary for the streets, Montgomery Ave ,(existing portion) pedestrian traffic to and from the development. J. Louman said the city does have city roadway standards. The asphalt and base course depths are consistent with that. Jay McGowan added a question about roads already up there. M Morton said the collector roads would have to conform to the existing standard as defined in the development agreement.

Appendix I will be deferred to the October 18th continued hearing.

R Spears questioned alternative one, two and three of road routes. E. Anderson they will have to address the road standards.

Appendix F- Coal Mine Hazards

E. Anderson said the gentleman that wrote the EIS on this is in the hospital.

M. Morton said the EIS had a lot of information in it. J. Eidemiller asked if staff was comfortable with Appendix F as it is written. J. McGowan asked about where health hazards concerns are addressed. M Morton said they had agreed to do environmental soil testing's on prior to those areas where there should be/could be overlap. Staff will bring back clarifications.

Appendix G-Earth Soils and Critical Areas

E. Anderson said the developer will be doing geotechnical engineering on slopes, critical areas etc No changes to the standard s will be allowed.

Appendix H-Wildlife and Habitat

E. Anderson said 35% of the project is open space. Staff will be checking on recognizing if they are driven to have a schedule different than the city requires and make allowance for that.

Appendix J-Law Enforcement

J Eidemiller asked Police Chief Ferguson if the police departments' needs are addressed in the Appendix. S. Ferguson said they are reasonable met. R. Spears asked if additional officers will be needed and he responded eventually.

Appendix K-Fire and Medical Services-

J. Eidemiller asked Fire Chief Dave Campbell if the provisions set forth in the appendix satisfy the needs of the fire department. He said yes. M. Holz asked about including an additional vehicle as stated in the appendix. He suggested adding an "s" on vehicle (to include more than one).

Appendix O-Schools

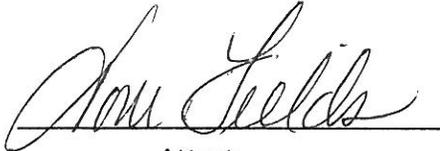
M. Morton said the schools are happy. The school has executed its agreement with Sapphire Skies.

Appendix P Municipal Court-

E. Anderson said Judge Darrel Ellis has no issues with the appendix.

There was no further discussion. On October 18th transportation will be discussed and Parks and Recreation.

A motion was made by Ken Ratliff and seconded by Mickey Holz to extend the Closed Record Public Hearing to October 18th-7:00 p.m. Motion Carried


Attest


Mayor