REGULAR COUNCIL MEETING  
October 2, 2019

Officials in Attendance: Mayor Dorothy Knauss; Councilmen Payton Norvell, John May, Evan Schalock and John Wight (late); Councilwomen Nicole Norvell, Cori Wuesthoff and Carra Nupp

Staff Present: City Attorney Mike Waters, Clerk/Treasurer Pamela McCart

The Mayor called the meeting to order at 6:30 PM.

Audience Comments: None

Approval of/Changes to Proposed Agenda:
Motion by Councilman Norvell to approve agenda as presented, seconded by Councilwoman Nupp. Roll call vote taken (Councilman Wight not in attendance at this time) with all in favor. Motion carried.

Mayor’s Youth Award: Erica Tindal

Mayor Announcements/Appointments (including):
• At the request of the Governor, I took part in a broadband discussion held in Davenport which was also sponsored by USDA, Dept. of Commerce and the National Telecommunications and Information Administration.
• Dept. of Commerce’s initial meeting for its New Approaches pilot project was held on September 26th to garner support and form a leadership group. The next community meeting will take place on November 12th at the civic center.
• In response to a request at the budget workshop, we are investigating website development with the same company that does our municipal code.
• We’ve had two collision incidents involving deer and airplanes on the airport runway in the last month. Tyrone Bryant, Airport Manager, will make a presentation at the November council meeting regarding mitigation of these types of occurrences.

Presentation:
Diane Evans, Museum Volunteer, gave an annual report on this season’s accomplishments and future plans.

Consent Agenda:
Motion by Councilman May approving Consent Agenda consisting of:
>September 4th Regular Minutes; September 10th and 24th Special Minutes
>September Payroll and Claim Vouchers
Seconded by Councilwoman Nupp. Roll call vote taken with all in favor. Motion carried.

Committee/Commission Reports:
Airport, Councilman Norvell: Dealt mostly with cleaning up leases and agreements to reflect City’s ownership of the airport.

Mayor’s Report (including):
• Mike and our engineer will be attending an IACC (Infrastructure Assistance Coordinating Council) conference to identify and obtain resources for 1) airport land development and 2) future street/sidewalk projects.
• Richard and Mike met with residents of Court and Boone Streets regarding clearance of the City’s utility easement thru those streets.
The Public Work Department's winter project is to utilize its CAD software to develop a "directory" to assist cemetery visitors.

City Attorney Report: (See New Business)

Police Chief Report:
- Provided estimated cost for purchase of Dodge Charger from Emergency Responder Services -- this price includes just about everything. Ford Explorer prices not obtained yet. Still researching laptops for vehicles/docking station, whether from this vendor or Department of Enterprises.
- Discussed issue of skunk trapping – once trapped, it is illegal to relocate the animals – instead they should be humanely put down. Perhaps the City or citizens could make a connection with nuisance trappers to address the problem. The Chief stated he would have a local trapper contact the Mayor.

Fire Chief Report: None

Old Business: None

New Business:
- Motion by Councilman May to Adopt Resolution 19-07 Authorizing Reimbursement of Purchase of Street Equipment with Proceeds of State Financing Contract, seconded by Councilman Norvell. Roll call vote taken with all in favor. Motion carried.
- Motion by Councilman Norvell to approve format for NEW Airport Hangar Leases, seconded by Councilwoman Norvell. Roll call vote taken with all in favor. Motion carried.
- The clerk presented the 2020 Preliminary Budget to Council – she stated this draft is as of today. Another budget workshop was scheduled for 6:00 PM on Wednesday October 16th.
- Mike Bellevue’s written request to City Building Official to consider an alternate method to the requirement of sidewalk bonding associated with the Lovejoy Subdivision in which he proposed tying sidewalk completion to the Certificate of Occupancy.

CITY ATTORNEY: The City is subject to a particular statute RCW 58.17.130. This is the statute that allows the City to accept a municipal bond in lieu of the completion required of improvements by the developer in return for the plat. The language in the statute allows for a 2-year bond. Initially, our answer was that it was no more than 2 years. We actually pushed back with MRSC, an organization which provides legal guidance to cities and state -- my interpretation was that the language allowed for a longer period of time. After some back and forth with MRSC, they actually agreed with us -- that it did allow for that -- so we went ahead and passed that on to him. His letter seems to be indicating that the longer period of time doesn't help him because he can't get a bond for that long. Unfortunately, the City's hands are tied. What the statute allows for is a bond or other secure method of guaranteeing financing for completing the improvements that are required. "Other secure method", according to MRSC, is something that guarantees the completion. So what Mr. Bellevue is proposing is more of an incentive structure. He says 'Look I can't complete it until I have it sold and then basically nobody's going to want to wait to get their certificate of occupancy -- so therefore you can hold us hostage and force us to do it." The problem with that is it's not a secure method as the language is interpreted. The best example I can think of is if the whole enterprise were to go belly up -- I'm not remotely saying that's what would happen or judging the job in any sort of way -- but that is a theoretical legal possibility in which case the City would be stuck with a short platted unimproved section of land with no sidewalks and no guaranteed funding for those sidewalks.
So while I think it was a well thought out and seemingly reasonable request by Mr. Bellevue, all the legal analysis would indicate that it is not lawful under the statute. To withhold a certificate of occupancy does nothing to guarantee the City the funding. The City by statute has to be guaranteed the improvements or the funding for those improvements. What he is proposing is an incentive that presumably would then lead to funding or the improvements, but legally the break there is too significant -- the attenuation between withholding the certificate and actually having the sidewalks put in or the money for the sidewalks.

COUNCILMAN NORVELL: Would that be per lot because one person might build a house in the middle of one of the blocks and if they just built their little chunk of sidewalk, you’re still missing the sidewalk on either . . .

CITY ATTORNEY: The analysis that his letter presented -- you’re right - was essentially two layered. The threshold question was ‘Is it even theoretically possible?’ What I’ve received from the state level, and from my analysis, is that it is not even theoretically possible. If for some reason it were, I do agree with that -- that the details of it would be critical - certificate of occupancy for what? matching with what sidewalks? that would have to be laid out in detail. That said, we don’t even get there.

COUNCILMAN MAY: in view of the fact that we have these rules and regulations in place prior to things being done within the City I would suggest that we refuse this request.

COUNCILWOMAN NORVELL: . . . when Mr. Bellevue states that a bond is typically written for a 2-year period -- that is correct, however, I did speak with a title insurance company and they said that they will do a bond for longer but it has to be very detailed and the way it works is you do it for two years and for every year after that the contractor has to pay another sort of penalty. So, yes and no -- his statement. Correct and incorrect. Potentially he could have a bond for longer – just throwing that out.

COUNCILMAN SCHALOCK: . . . It would be great to have more housing built in Chewelah but from what counsel is saying -- what Mr. Bellevue is asking of us -- is not even possible.

CITY ATTORNEY: Not under the current code. The Hearing Examiner, based on our code, found that sidewalks were required. Once it’s required then the state law of how that happens kicks in. That’s just the fact of the current code -- that sidewalks are required in order to issue the plat.

COUNCILWOMAN NORVELL: And it was agreed upon and signed by Mr. Bellevue a year or more ago . . .

COUNCILMAN NORVELL: The only way to get around it would be to change the code and not require sidewalks . . .

MAYOR: And then he would have to go through the whole process again which would be costly to him.

CITY ATTORNEY: It’s important for the Council to realize that this is an economic request and not a possible request. The solution that makes it cheaper for him is not legally possible. That doesn’t mean that there aren’t other solutions available that are perhaps not as expensive. I don’t know what those are. Completely understandably, and I don’t say this with any judgement, this is clearly a request to minimize expenses -- which is what all developers do – I don’t have a problem with that but the Council should understand it as such.

COUNCILMAN MAY: That’s the reason we have these things in these codes -- so they don’t have too many opportunities to take too many shortcuts. If you’re going to put a fireplace in, it has to be put in according to code. If you’re going to
subdivide a piece of property within the City limits, one of the things you have to do is continue the sidewalk situation. This has been a blown-up contention ever since day one.

COUNCILWOMAN WUESTHOFF: And it won’t be a popular comment but is there a way to revisit the code that we currently have because if we have other – let’s put Mr. Bellevue aside—if we have other developers who want to improve our town, bring in more tax base – is there a way to take a look at that and possibly amend it?

COUNCILMAN MAY: I would not like to revisit this. If a developer’s going to put in something, and he does it, and then there are no sidewalks, and the sidewalks have to be put in, then you and I are going to have to pay for it. The developer should do that and that should be part of the cost of the development, and hopefully he’s going to redeem that cost when he sells the property. That’s what I think about it. I don’t want to pay to build a sidewalk on Mr. Bellevue’s property.

COUNCILMAN NORVELL: What if another golf course were to be built in the City limits—would you require that developer to build 10 miles of sidewalks in that development? There are a lot of nuances...

COUNCILMAN MAY: That’s true and the time that golf course was built the developer did have to put in the streets and all the other stuff because the City required it. They didn’t require sidewalks back then.

MAYOR: I think that the thing that is pertinent here is that there are sidewalks on the north and south sides of that property and to connect the two makes sense.

COUNCILWOMAN WUESTHOFF: I’m just looking for solutions to make it easier to do business with the City. We need to work cohesively with people in order to do that. So how can we make that easier? Is it possible or are we just not going to budge on it?

MAYOR: In answer to your question you’d have to amend the code because when the code is there you do not have the authority to not follow it, nor do I.

COUNCILWOMAN WUESTHOFF: That’s why I’m asking if we can revisit the code to find out a different way to invite people into our town.

CITY ATTORNEY: One recommendation I would have for the Council is if it chooses to do that, this is essentially an economic decision that should not be made anecdotally. This will require numbers -- this is a market question. Mr. Bellevue appears to be claiming that he can't make the money he needs to make while also putting sidewalks in. The City is saying it needs sidewalks and it doesn’t want to spend the money on sidewalks. I would caution the Council about altering the code based on a single anecdote/ a single persons’ complaint. This should be analyzed based upon the numbers of what the market will bear for development. Just making it easier for one person, in my recommendation, is not basis for modifying code but that will be a decision for the Council to make.

COUNCILWOMAN WUESTHOFF: I agree and that’s why I wanted to put his situation aside because he’s stuck where he’s at today. But going forward I think we need to revisit it to find out is this really what we want. Do we want to hold people down to where they can’t develop in our area?

COUNCILMAN NORVELL: The one thing a lot of developers do is they get commitments before they short plat their land. They should get commitments so they aren’t obligated to this until they actually have customers which is what a lot of people do so they’re not out this – they don’t short plat and then hope that people are going to move in.

COUNCILWOMAN WUESTHOFF: So if one person built a house on... let's just use his piece of property -- would they also have to put in a sidewalk or is it just
because its been...

MAYOR: He can’t get final plat approval to sell anything until he solves his problem.

CITY ATTORNEY: Councilwoman Wuesthoff wanted it on the agenda and it’s really a question of what issue she wanted the council to address.

COUNCILWOMAN WUESTHOFF: I wanted to just bring it out in the open, get the answers which you provided for us and I appreciate that. Thank you.

COUNCILWOMAN NORVELL: From the standpoint of my profession as an engineer, I read it and our code is basically no different from any other town or city in the entire United States. We are not out of line in requesting these things at all. I will try to come up with something as far as making the sidewalks a little bit clearer -- maybe it will be helpful in the long run for other developers.

COUNCILMAN MAY: I would suggest that we do what the code says.

COUNCILWOMAN NORVELL: We have to.

MAYOR: Okay then, we will let him know that.

Adjournment:
At 7:25 PM, motion by Councilwoman Nupp to adjourn, seconded by Councilman May. Roll call vote taken with Councilman May voting against, remaining votes in favor. Motion carried.

Mayor Dorothy L. Knauss

Clerk/Treasurer Pamela McCart