

MINUTES OF THE CITY COUNCIL
OF THE CITY OF PULLMAN
DECEMBER 9, 2008

Roll Call

A regular meeting of the City Council of the City of Pullman was held on December 9, 2008, at 7:30 p.m. in Council Chambers, City Hall, Pullman, Washington with the following present:

Glenn A. Johnson	Mayor
Troy Woo	Finance Director
Francis Benjamin	Councilmember
Keith Bloom	Councilmember
Ann Heath	Councilmember
Bill Paul	Councilmember
Barney Waldrop	Councilmember
Pat Wright	Councilmember

Call to Order

Mayor Johnson called the regular meeting to order at 7:30 p.m. Councilmember Paul moved, Councilmember Benjamin seconded to excuse Councilmember Weller from the meeting.

Motion Carried.

Mayor Johnson adjourned the regular meeting at 7:31 p.m. to conduct the special meeting of the Metropolitan Park District.

Mayor Johnson reconvened the regular meeting of the City Council at 7:32 p.m.

Announcements

Mayor Johnson made one announcement.

**Confirmation of
Appointments**

Mayor Johnson reviewed the following reappointments:

Kathleen Bodley to the Arts Commission expiring December 31, 2011; Mark Yrazabal to the Board of Adjustment expiring December 31, 2011; Keith Lincoln to the Cemetery Committee expiring December 31, 2011; Matthew Carey and Mitch Chandler to the Lawson Gardens Committee expiring December 31, 2011; Jennifer Davis to the Parks and Recreation Commission expiring December 31, 2011; and John Anderson to the Planning Commission expiring on December 31, 2014.

Councilmember Waldrop moved, Councilmember Wright seconded to confirm these appointments. Councilmember Heath expressed her appreciation for the volunteers that have volunteered to serve on the various commissions. The motion carried unanimously.

Employee Recognition

Mayor Johnson and Human Resources Manager Karen Sires recognized Rich Dragoo for 35 years of service; Jerry Cork for 20 years of service; Gregory Johnson for 10 years of service; Bradley Blum for 5 years of service; and Kathleen Ahern for 5 years of service.

ORDER OF BUSINESS

Approval of Recommendations of Consent Agenda Items

CONSENT AGENDA

Mayor Johnson reviewed the items on the Consent Agenda with the Council and audience. He stated

that items listed on the Consent Agenda are considered to be routine in nature and will be enacted by a single motion of the Council without separate discussion. If separate discussion is desired, that item may be removed from the Consent Agenda and placed on the Regular Agenda by Council request. Councilmember Bloom moved, Councilmember Paul seconded to read the items on the Consent Agenda by title only.

Motion Carried.

City Attorney McAloon read the items on the Consent Agenda by title only. Mayor Johnson asked if there were any requests for removal of items from the Consent Agenda from either the Council or audience. Councilmember Paul requested that item No. 8 be removed for separate discussion and Councilmember Wright requested that item No. 15 be removed for separate discussion. Mayor Johnson so ordered. Councilmember Waldrop moved, Councilmember Benjamin seconded to adopt items 1 through 7 and 9 through 14 on the Consent Agenda.

Motion Carried.

Motions

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| Minutes - November 18, 2008 | 1. | The Council dispensed with the reading of the minutes of the regular meeting of November 18, 2008, and approved them as submitted. |
| Accounts Payable, Payroll, and Electronic Transfers - December | 2. | The Council approved disbursements represented by accounts payable checks numbered _____ through _____ totaling \$ _____ inclusive, payroll checks numbered _____ through _____ totaling \$ _____ inclusive, and electronic transfers totaling _____ and directed that they be paid upon approval of the Auditing Officer and Audit Committee. |
| Claim for Damages - Tarcea | 3. | The Council referred a Claim for Damages submitted by Robert Tarcea for an undetermined amount to the Washington Cities Insurance Authority (WCIA). |
| Claim for Damages - Ross | 4. | The Council referred a Claim for Damages submitted by Tanner Ross for the sum of \$11.50 to the Washington Cities Insurance Authority (WCIA). |
| Palouse River Counseling Agreement | 5. | The Council authorized an agreement with Palouse River Counseling Center for alcohol and drug addiction programs. |
| Digester Change Order | 6. | The Council ratified Change Order No. 4 to Contract NO. 05-13, Digester System Improvements Project. |
| Water System Telemetry Change Orders | 7. | The Council ratified Change Orders 1, 2, and 3 to Contract No. 08-16, Water System Telemetry Upgrades. |
| 2009 Fuel | 9. | The Council accepted the bid of Busch Distributors, Inc. for 2009 fuel. |
| Administrative Services Contract with Airport | 10. | The Council authorized an Administrative Services Contract with the Pullman-Moscow Regional Airport for 2009. |

Chamber of 11. The Council authorized an agreement with the
Commerce Agreement Pullman Chamber of Commerce for services related
to tourist and convention promotion for 2009.

Resolution

Resolution No. 12. Resolution No. R-94-08
R-94-08 - Agreement
with Pullman Senior
Citizens' Assoc. A RESOLUTION AUTHORIZING THE EXECUTION OF AN
AGREEMENT BETWEEN THE CITY OF PULLMAN AND THE
PULLMAN SENIOR CITIZENS' ASSOCIATION, FOR THE
PURPOSE OF PROVIDING TRANSPORTATION SERVICES TO
SENIOR CITIZENS.

Resolution No. R-94-08 was adopted unanimously.

Resolution No. 13. Resolution No. R-95-08
R-95-08 - Surplus
Property A RESOLUTION DECLARING CERTAIN PROPERTY SURPLUS
TO THE NEEDS OF THE CITY OF PULLMAN AND
AUTHORIZING THE DONATION OF SAID SURPLUS
PROPERTY, TO-WIT: BICYCLES TO INTERNATIONAL
FRIENDSHIP ASSOCIATION, A NON-PROFIT CHARITABLE
ORGANIZATION.

Resolution No. R-95-08 was adopted unanimously.

Resolution No. 14. Resolution No. R-96-08
R-96-08 - Tank 10
Construction A RESOLUTION ACCEPTING THE BASE BID OF T BAILEY,
INC. FOR TANK 10 CONSTRUCTION AND AUTHORIZING
EXECUTION AND DELIVERY OF THE CONTRACT FOR SAID
PROJECT.

Resolution No. R-96-08 was adopted unanimously.

REGULAR AGENDA

Motion

Transit Grant 8. Mayor Johnson announced that this item had been
Applications removed from the Consent Agenda at the request of
Councilmember Paul. Councilmember Paul expressed
his appreciation for the good work that the
Transit system performs and acknowledged the
grant applications and the importance of the
grants for the operation of the Transit system.
Councilmember Paul moved, Councilmember Bloom
seconded to authorize the submittals of four
grant applications to the Washington state
Department of Transportation, Public
Transportation's Consolidated Grant Program. The
motion carried unanimously.

Resolution

Resolution No. 15. Mayor Johnson announced that this item had been
R-97-08 - Fire and removed from the Consent Agenda at the request of
Emergency Medical Councilmember Wright. Councilmember Wright noted
Protection Services that the portion of the WSU contributions were
Agreement contingent on the State budget and expressed
concerns about the State's challenging economic
situation and asked how the contributions would
be made up if the State is not able to
appropriate those funds. City Supervisor Sherman
responded.

Resolution No. R-97-08 by title only reads as
follows:

A RESOLUTION AUTHORIZING THE EXECUTION OF AN
INTERLOCAL AGREEMENT BETWEEN THE CITY OF PULLMAN

AND WASHINGTON STATE UNIVERSITY FOR FIRE AND EMERGENCY MEDICAL PROTECTION SERVICES TO WASHINGTON STATE UNIVERSITY.

Councilmember Wright moved, Councilmember Benjamin seconded to adopt Resolution No. R-97-08. The motion carried unanimously.

Ordinances

Ordinance No. 16. Mayor Johnson announced that an ordinance had
08-22 - Budget been prepared amending the 2008 budget. Finance
Amendment Director Woo presented the staff report. There
were no questions.

Ordinance No. 08-22 by title only reads as follows:

AN ORDINANCE AMENDING ORDINANCE NO. 07-32 ADOPTED DECEMBER 4, 2007, AND ENTITLED "AN ORDINANCE ADOPTING A BUDGET FOR THE CITY OF PULLMAN FOR THE YEAR 2008".

Councilmember Bloom moved, Councilmember Benjamin seconded to adopt Ordinance No. 08-22. The motion carried unanimously.

Ordinance No. 17. Mayor Johnson announced that an ordinance had
08-23 - 2009 Budget been prepared adopting the 2009 budget. Finance
Adoption Director Woo presented the staff report. Councilmember Heath asked for comments regarding the status of labor contracts and their impact to the budget. Finance Director Woo responded. Councilmember Waldrop asked for comments regarding General Funds reserves. Finance Director Woo responded. Councilmember Waldrop suggested that quarterly reports be presented to the City Council to keep updated on the City's financial condition. Finance Director Woo responded. Councilmember Benjamin asked when the Council was required to take action regarding the 13-percent reserve not being met. Finance Director Woo and City Supervisor Sherman responded. Councilmember Bloom asked how the stormwater utility was addressed in the proposed budget. Finance Director Woo responded.

Ordinance No. 08-23 by title only reads as follows:

AN ORDINANCE ADOPTING A BUDGET FOR THE CITY OF PULLMAN FOR THE YEAR 2009.

Councilmember Bloom moved, Councilmember Benjamin seconded to adopt Ordinance No. 08-23. The motion carried unanimously.

Ordinance and Resolution

Ordinance No. 18. Mayor Johnson announced that an ordinance and
08-24 and Resolution resolution had been prepared adopting a
No. R-98-08 - Storm- stormwater utility and setting the fees. Public
water Works Director Workman presented the staff report. John Knutson, consultant from Otak, Inc., made comments about staff efforts and meetings with major stakeholders, third-party lawsuits, and the status of other local cities that are dealing with stormwater. Mike Leonas, WSU Project Manager with Capital Planning and Development, thanked the City for its

cooperation, and expressed WSU's commitment to preserving water quality, and to be good stewards of public and student funding. Mr. Leonas expressed concern with the proposed ordinance and described sections within Washington State law that allow municipalities to use a variety of different bases for charging for stormwater services. Mr. Leonas stated that the Pullman/WSU situation is unique and that the proposed WSU stormwater fees do not result in a direct benefit for WSU. Mr. Leonas presented an area map of WSU that showed the areas that don't drain to the City system. Mr. Leonas described the area as large and described the stormwater activities that would be formed by WSU in those areas.

Dwight Hagihara, director of Environmental Health at WSU, described WSU's compliance requirements under their permit and that they are similar to those in the City's permit. Mr. Hagihara stated that he thought WSU and the City can continue to help lower the costs of the permit requirements and described WSU compliance activities and estimated costs of doing so. Mr. Hagihara stated that the law provides for different factors to determine rates and that the proposed 20 percent credit for WSU is not fair or reflective of the services that would be provided. Mr. Hagihara thought the 20-percent credit was arbitrarily determined by the City and that he appreciated the opportunity and hoped that continued dialogue and consideration on the stormwater issue would continue.

Councilmember Bloom stated that customers or citizens that pay the fee expect that services will be received and asked if WSU expects the same. Mr. Leonas responded. Councilmember Bloom asked how the fee is represented and what services would be provided by the City. John Knutson responded. Councilmember Bloom stated that WSU is under its own permit and has the same requirements as the City and that the City should acknowledge that fact because WSU activities are more than what industrial stormwater permit holders provide and that the fee could be considered taxation without representation. Councilmember Bloom expressed concern about the escalating stormwater fee proposal and that he has fundamental problems with the ordinance. Councilmember Bloom stated if clean water is a benefit to everyone then everyone should be paying for that benefit and asked staff to reevaluate the fee structure to be more fair. Public Works Director Workman responded.

Councilmember Bloom expressed concern for the citizens and the escalating fees without receiving any benefits. Councilmember Heath thanked WSU for their efforts on the issue and stated that she thought the stormwater work would be an ongoing issue because it is too complicated. Councilmember Heath expressed concern within City Supervisor Sherman's memo that stated the City was relying on Otak for legal advice. City Supervisor Sherman and City Attorney McAloon responded. Councilmember Heath asked which City staff has been conducting negotiations with WSU. City Attorney McAloon and City Supervisor Sherman responded. City Supervisor Sherman stated that City staff has been trying to address the stormwater issues and

asked that City Attorney McAloon share two applicable court cases. City Attorney McAloon presented two court cases that relate to the City of Pullman and WSU's stormwater issues and made comments about fees versus taxes. Councilmember Heath stated that this is the first time that she will be voting in favor on an issue but does not agree with it in principal. Councilmember Heath stated the reason she will vote in favor is because within her oath-of-office she swore to support the laws of Washington state and the United States. Councilmember Paul asked why a district could not be formed and let the citizens vote to approve it. City Attorney McAloon responded. Councilmember Waldrop stated that he agreed with Councilmember Bloom's comments fully and stated that the costs should be shared. Councilmember Waldrop described letters sent by the Mayor to the Governor appealing for relief from stormwater and read into the record a draft resolution that he thought should be passed by the Council that would further appeal to Olympia for relief. Councilmember Bloom and Mayor Johnson stated they liked the language of the draft resolution. Mayor Johnson further described the two letters that he had sent to the Governor and described the response that he had received. Councilmember Benjamin asked if stormwater is a closed or an open system and how the regulations deal with open systems such as rivers and streams. John Knutson responded.

Councilmember Benjamin asked for clarification that if there is no discharge to a stream there are no stormwater requirements. John Knutson responded. Councilmember Benjamin asked if it was possible for the City to remove stormwater from draining into its streams. Public Works Director Workman responded. Councilmember Benjamin, Public Works Director Workman, and John Knutson discussed stormwater that has collected in the stormwater system that drains into streams, the differentiation between undeveloped property that have streams that run through it and those that do not, and turbidity requirements in Pullman's streams. Councilmember Benjamin asked if the 20-percent proposed credit has been factored into the rate or if the credits are granted the rates will have to be adjusted to make up for that shortfall. Public Works Director Workman responded. Councilmember Benjamin asked if the three-year rate plan was realistic because the program was so new and there are many unknowns and suggested that the rate be looked at annually. Public Works Director Workman responded. Councilmember Benjamin noted that the fee is currently basic and asked if the rate could become more complex in the future. Public Works Director Workman responded. Councilmember Benjamin asked when does it become fair to look at the use of property within the rate structure and stated that the rate structure should be defensible and fair. Public Works Director Workman responded. Sid Houpt, 103 Parkwest Drive, stated that he had submitted comments in the past and had not until very recently received written response, described different soil classifications, and stated that Resolution 8-08 has not been properly followed. Stormwater Services Program Manager Buchert responded.

Dave Gibney, 760 Reaney Way, said that he agreed with nearly all the comments made tonight and asked if a citizen can obtain a stormwater permit. Mr. Gibney made comments regarding the impervious definition and how it relates to undeveloped property that has no stormwater runoff. Mr. Gibney asked where the Gladish Center falls into the fee structure because he has concerns for how this will impact nonprofits.

Stormwater Services Program Manager Buchert responded. City Attorney McAloon stated that the WSU stormwater permit does not relieve the City of any responsibility for liability for WSU stormwater activities. Councilmember Bloom asked if the ordinance is not adopted does the City become subject to litigation. City Attorney McAloon responded. Councilmember Bloom stated that a fee is not necessary to comply.

Mayor Johnson asked for comments relating to the budget and where the stormwater services are being currently funded from. Finance Director Woo and Public Works Director Workman responded.

Ordinance No. 08-24 by title only reads as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PULLMAN, WHITMAN COUNTY, WASHINGTON, RELATING TO STORMWATER SERVICES, RATES, FEES AND CHARGES, ADDING A NEW CHAPTER, 10.30 STORM DRAINAGE AND SURFACE WATER MANAGEMENT UTILITY TO TITLE 10, PUBLIC SERVICES AND UTILITIES OF THE PULLMAN CITY CODE, AND AMENDING PCC 1.18.040 AND ORDINANCE NOS. 99-22 §1, 1999; 85-19 §1, 1985; AND 81-10 §3(2), 1981 AND OTHER MATTERS PROPERLY RELATED THERETO.

Councilmember Heath moved, Councilmember Wright seconded to adopt Ordinance No. 08-24. Councilmember Waldrop stated that his support or opposition would be determined by the fee structure and that the funding that has come from the street fund should be reimbursed by the stormwater utility. City Attorney McAloon, Finance Director Woo, and Public Works Director Workman responded. Councilmember Benjamin asked Councilmember Waldrop if the fee structure should charge undeveloped properties or continue with an impervious basis. Councilmember Waldrop responded stating that the utility fee should be the same for each utility account.

Councilmembers Heath, Paul, and Wright voted aye.

Councilmembers Bloom, Benjamin, and Waldrop voted nay. City Attorney McAloon requested a ten-minute recess to research whether the Mayor could cast a tie-breaking vote in this situation.

Mayor Johnson adjourned the meeting at 9:30 p.m. and announced that the meeting would reconvene in ten minutes. Mayor Johnson reconvened the meeting at 9:40 p.m.

City Attorney McAloon stated the Mayor is prohibited from casting a tie-breaker vote on ordinances so the motion fails.

Mayor Johnson asked the City Council to direct staff to make changes to the ordinance. Councilmember Bloom suggested that the impervious area definition include criteria that includes

properties that can be developed and that the escalation of the fees be capped.

Councilmember Waldrop provided the following language from his statements at the June 3, 2008, Council meeting:

"Councilmember Waldrop suggested that the total costs be spread out evenly among each utility account. The justification for this recommendation was stated that businesses maintain large impervious areas as a service to the community and/or their employees who also live in the community. Pullman Regional Hospital and the Pullman Public Schools are two examples that have to maintain large impervious surfaces to serve their customers. Most taxpayers do not have children in public school but all property taxpayers still share the cost of maintaining and operating the school system. Not to do so would create a crushing financial burden on the families with school children. Likewise, storm water fees based only on impervious surface area will have a chilling affect on Pullman businesses. The profit margin for many Pullman businesses is already very slim and more business friendly tax environments are only a few miles distant. The community burden of a storm water fee/tax/assessment should be distributed equally to all utility accounts. The cost to each utility rate payer in such case is approximately \$15.00 per month."

Councilmember Waldrop suggested that the rate be leveled out among the utility accounts. Mayor Johnson suggested that the ordinance be brought back for Council consideration in January.

Councilmember Heath stated that businesses will pass on the stormwater cost to their customers whereas homeowners cannot. Public Works Director Workman noted that the flat fee across accounts would be higher than Councilmember Waldrop's estimate of \$15.00 per account. Councilmember Benjamin stated that all properties should pay stormwater fees whether they are developed or not. Councilmember Wright noted that if all properties in Pullman are subject to the stormwater fees it would lower the overall fee.

Councilmember Bloom and Public Works Director Workman discussed the fee escalation issue. Mayor Johnson stated the ordinance would be brought back to Council in January. Councilmember Heath stated that the ordinance should be brought back on January 6.

Resolution

Resolution No. 19.
R-99-08 - Parks and
Recreation Fees

Mayor Johnson announced that a resolution has been prepared setting fees for Parks and Recreation. Recreation Superintendent Dahmen presented the staff report. Councilmember Benjamin asked for clarification about the removal of the softball practice fee. Recreation Superintendent Dahmen responded.

Resolution No. R-99-08 by title only reads as follows:

A RESOLUTION ADOPTING FEES FOR PARKS AND RECREATION PROGRAMS AND FACILITY USE EFFECTIVE JANUARY 1, 2009.

Councilmember Wright moved, Councilmember Benjamin seconded to adopt Resolution No. R-99-08. The motion carried unanimously.

Discussions

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| Request from
Recreational
Gaming Association | 20. | Mayor Johnson announced that the Council will now hear a request from the Recreational Gaming Association. Max Faulkner described upcoming legislation relating to card rooms. Mr. Faulkner asked the City for its support of the bill by sending a letter to Representative Frank Chopp or to contact AWC and express the City's support of the bill.

Councilmember Heath thanked Mr. Faulkner for his report and stated she was uncomfortable supporting a bill that she has never seen and noted that AWC has prioritized the issue in its legislative priorities. Mr. Faulkner handed out a copy of the bill for the Council to review. |
| Annual Town
Hall Meeting | 21. | Mayor Johnson announced that a discussion is scheduled on topics for discussion at the upcoming town hall meeting. City Supervisor Sherman presented the staff report and asked for other issues that should be discussed with the legislators. Councilmember Waldrop asked that the fiscal issues include discussion about the state deficit and the state's economy. Councilmember Benjamin suggested that the hospital's certification of need requirements be a discussion item. Councilmember Paul requested that the discussion include the taping of executive sessions. Mayor Johnson suggested that the stormwater ordinance be brought back to Council on the 20 th of January because of time constraints on the town hall meeting. Councilmember Bloom and City Supervisor Sherman commented on litigation and stormwater compliance. Councilmember Heath suggested that the town hall meeting be conducted first and then conduct business related to the stormwater issue. |
| Electronic
Payment Options | 22. | Mayor Johnson announced that a discussion is scheduled on electronic payment options. Finance Director Woo presented the staff report. Councilmember Benjamin asked if the automated clearing house or ACH would transfer money immediately or if there would be a delay to payment receipts such as the banker online payment options. Finance Director Woo responded. Councilmember Paul spoke in favor of the voluntary donation fund. Mayor Johnson thanked Finance Director Woo for his work on this issue. Council concurred to work towards implementation of ACH and to further research credit card acceptance. |
| Current Econ-
omic Conditions | 23. | Mayor Johnson announced that a discussion is scheduled on current economic conditions. City Supervisor Sherman and Finance Director Woo presented staff reports. City Supervisor Sherman stated it is important that the City show leadership through these tough times to help keep the fears down. Councilmember Benjamin asked how the streamlined sales tax changes have affected the City's sales tax collections. Finance Director Woo responded. |

NEW BUSINESS

There were no items of new business.

EXECUTIVE SESSION

Mayor Johnson announced that the City Council would adjourn to conduct an Executive Sessions for:

To consider the selection of a site or the acquisition of real estate by lease or purchase.

To discuss the strategy or position to be taken by the City during the course of collective bargaining or grievance proceedings.

Mayor Johnson adjourned the meeting at 10:38 p.m.
He announced that Council would take a two minute recess and return in 30 minutes.

Mayor Johnson reconvened the meeting at 11:30 p.m.

ADJOURNMENT

Councilmember Wright moved, Councilmember Waldrop seconded to adjourn the regular meeting of the City Council.

Motion Carried.

Mayor Johnson adjourned the regular meeting of the City Council at 11:31 p.m.