

**CITY OF RUSTON
REGULAR COUNCIL MEETING
TUESDAY, March 7, 2017**

MEETING CALLED TO ORDER

At 7:02PM Mayor Hopkins called the Regular Council Meeting to order. Councilmembers present were: Jim Hedrick, Jane Hunt and Deb Kristovich. Councilmember Hardin and Councilmember Syler were excused. Following the flag salute, Mayor Hopkins called for approval of the agenda. Councilmember Hedrick moved to approve the Agenda of March 7, 2017, with a second from Councilmember Hunt, passed 3-0.

MINUTES

Councilmember Hedrick moved to approve the minutes for the Regular Council meeting minutes of February 21, 2017, with a second from Councilmember Hunt, passed 3-0.

STAFF REPORT –

Ruston City Engineer – Jerry Morrisette and Steve Willie presented overviews on two items, 51st Street Retaining Wall and Ruston Tunnel.

GENERAL PUBLIC COMMENTS – No Public Comment at this time.

BUSINESS-

RES 648 – Update Indigent Defense Agreement. - The City is required to provide indigent defense attorney services to defendants charged by the City with a crime that carries the penalty of incarceration. The City has contracted with Pierce County Department of Assigned Counsel for many years to provide these indigent defense services to the City. The current contract was for 2017 and was approved by the City Council by passage of Resolution No. 642 on December 20, 2016. After passage of the Agreement provided by the Department of Defense Service, the Department asked the City to make addition minor revisions The revised contract is largely the same as the last agreement that was authorized in December 2016 with the exception of the following:

- The Agreement contains a new Section 13(C) which allows the Department to terminate the Agreement if the City fails to appropriate funding for the Agreement.
- There are slight language revisions to the Agreement which do not change the terms.

The Agreement expires at the end of 2017, but may be extended for additional one year periods by agreement of the parties. However, the City can terminate for any reason on 60-days' notice. The agreement also provides indemnification of the City by the County. The financial details of the Agreement are outlined below. The City is obligated to pay the County \$25,689 for calendar year 2017, paid in 50% installments on June 30th and December 31st. The Agreement also establishes that the rate of compensation is based upon the projected case-weighted number of cases currently anticipated for 2017, which is 0.25 of a full-time attorney.

Because the City of Ruston is growing faster than many other parts of the County that this office services, the compensation has changed. In addition to the “set fees”, if an “outside attorney” is needed due to a conflict of interest by the Department of Assigned Counsel (i.e. indigent co-defendants), the City will be required to reimburse the costs of that outside counsel. There is one annual \$1,000 credit for outside counsel already built into the Agreement which will be applied by the County prior to any over-charge being made to the City. Additionally, if a judge rules that an indigent defendant can hire expert witnesses or other professional service provider, then the City will be responsible for paying those expenses as well. Councilmember Hedrick moved to approve Resolution 648, with a second from Councilmember Hunt, passed 3-0.

Public Hearing – Surplus and Disposal of Real Property. City Planner White presented an overview. Public Hearing opened and Public Testimony given.

Dan Albertson at 5332 N Commercial – Wanted to acknowledge two things, the first was his self interest in the decision the City would make. This resolution, if passed, would affect his view and would harm his property. The second was the City knows the impacts and for some on council may be a reason to pass this resolution. Mr. Albertson also presented factual reasons why passing Resolution 649 was not a good decision financially. Mr. Albertson was not in favor of disposing City property.

Ken Brown at 5318 N Commercial – Wanted to confirm with City Planner White that property on Commercial Street could not have garages in the back on Commercial Street. City Planner White confirmed that garages are not allowed in the alley. Mr. Brown asked about setbacks and wetlands related to the surplus and disposable property with comments from City Planner White.

Councilmember Hedrick moved to close Public Hearing on Resolution 649, with a second from Councilmember Hunt, passed 3-0.

RES 649 – Declaration of Surplus Property – The City of Ruston owns two parcels of undeveloped real property within its borders which are currently not in use. These two parcels are:

1. Address: 5114 N. 49th Street, Ruston WA 98407
Parcel No.: 2365000700
Zoning: Residential (RES Zone)
Improvement: Vacant land – undeveloped

2. Address: 5405 N. Commercial Street, Ruston WA 98407
Parcel No.:4002050050
Zoning: Residential (RES Zone)
Improvement: Vacant land – undeveloped

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The Mayor and Planning Director do not anticipate any city use for either of these parcels and recommend that the Council consider declaring both of these properties “surplus” and directing their sale on the open market for fair market value.

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Under Washington law, the City has the right to sell surplus property. The process for sale of surplus real property is as follows:

1. Hold a public hearing.

The Council is required to hold a public hearing on whether the property should be declared surplus. This is required for property valued at \$50,000 or more and for any property of any value that was purchased by a city utilities department.

While not utility properties, both parcels of real estate are each valued at more than \$50,000, therefore a public hearing is required. The City has complied with the State law requirements for noticing the public hearing by publishing notice of the public hearing a minimum of 10 days (and no more than 25 days) prior to the hearing in the City’s Official Newspaper. Such notice included the information required by State statute. A copy of the Public Hearing Notice is attached to this Agenda Bill. In addition to publishing notice, the City also sent press releases about the public hearing to the Tacoma News Tribune and Tacoma Weekly and posted copies of the Notice on the Announcement Board at City Hall, at the Mary Joyce Community Center and on the City of Ruston Website.

2. Consider whether the properties should be declared “surplus”.

After the public hearing, the Council should consider whether the property is no longer needed by the City for governmental purposes and may be sold. If the City Council determines that the property is not needed, passage of Resolution No. 649 declaring it surplus would be the next step.

3. Consider how the property, and under what conditions, the property may be sold.

Resolution No. 649 also outlines how these properties will be sold. The Council has authority to direct the method of sale (i.e. auction, take bids, listed for sale, post on website of its availability, etc.) as well as the person whom is delegated to oversee and implement the sale. *However*, the property must be sold for “fair market value” to ensure that the price accepted does not amount to a prohibited "gift of public funds."

Resolution No. 649 directs the Mayor to (1) obtain an appraisal of the properties; (2) place the properties on the open market (including hiring a listing agent if desired); and (3) bring any offers to Council for consideration for discussion prior to acceptance.

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In addition, the City Council can add provisions to the Resolution to have additional land use control over the development and that term can be part of the offering. However, any additional requirements on the property may affect its value and will need to be considered by the appraiser in informing the City as to the fair market value of the property.

The Planning Director recommends that the City put the following conditions on the sales of these parcels which will make the development more consistent with the City's vision for residential areas:

Parcel 1: 5114 N. 49th Street, Ruston WA 98407

The City should require that any home developed on this lot have a front porch of a minimum depth of 8-feet which is at least as half as wide as the overall width of the main structure.

Parcel 2: 5405 N. Commercial Street, Ruston WA 98407

The City should require that any home developed on this lot have a front porch of a minimum depth of 8-feet which is at least as half as wide as the overall width of the main structure.

This property should also not be permitted to develop a garage in the front of the lot. Although this parcel is not a corner lot and doesn't have alley access, due to the topography and width of the lot (the lot is approximately 65' wide which is 20' wider than the code minimum of 45'), there is ample room to provide a driveway along one side of the home to a rear yard detached or attached front, or side-loaded, garage. Due to the lot sloping down from the street, it is well suited to a daylight basement level flat-roof side-loaded garage with patio space above at the main floor level.

In addition, the Council could require that the lot or lots be developed within a certain timeline, i.e. the lots shall be developed within 24 months of closing.

The Council should give direction if it desires to place these requirements onto the lots are part of the sale.

Declaring these properties surplus and selling them will take unproductive property in the City, allow it be sold and developed, and will bring revenue into the City based on both the sale, the Real Estate Excise Tax, and any tax or other revenue that is generated by the development of these parcels.

After discussion, Councilmember Hedrick moved to table Resolution 649 and place it to the first council meeting on April 4, 2017, with a second from Councilmember Hunt passed 3-0.

RES 650 – Ecology IAA for Ruston Way Tunnel - The City has an easement for the Ruston Way Tunnel which is had utilized for a city street right-of-way since 1915, however, this street was closed to the public in 2012.

The United States Environmental Protection Agency's (EPA's) Record of Decision for the Asarco Tacoma Smelter Superfund Site requires that the Ruston Way Tunnel be abandoned and either removed or filled to the extent practicable with suitable materials (such as residential soils), and that the ground surface over the tunnel be capped. Point Ruston, LLC, is a potentially responsible party under EPA's Record of Decision, and has already completed a portion of the filling but has stalled in completing the remainder of the work. Point Ruston has asserted contribution and cost recovery claims against the City for costs incurred and to be incurred for the Ruston Way Tunnel remediation.

In 2013, the Washington State Legislature appropriated \$400,000 to the Department of Ecology for the purpose of contracting for the cleanup and remediation of the former Ruston Way Tunnel. This appropriation was renewed in 2015.

The Department of Ecology and the City agree that the \$400,000 appropriation may be transferred from Ecology to the City, so that the City may, if it chooses to do so, remediate the Ruston Way Tunnel and areas related thereto. The Interagency Agreement (IAA) attached to Resolution No. 650 establishes procedures between Ecology and Ruston for obtaining these funds for the remediation of the tunnel and the surrounding area.

There are still a couple of blanks that Ecology will fill in, such as their internal agreement number and the contacts that the City will use in providing notice and sending invoices. These will be filled in by Ecology shortly.

If the City undertakes this remediation work, Ecology will reimburse the City for the costs up to \$400,000 provided that the work is done before the appropriation expires. The appropriation expires on June 30, 2017. Therefore, the City will need to work with the deadlines in order to ensure that the funding will not disappear prior to full cost recovery being made.

After discussion, Councilmember Hedrick moved to approve Resolution 650, with a second from Councilmember Hunt passed 3-0.

CLAIMS/PAYROLL – Councilmember Hedrick moved to approve Claims and Payroll, with a second from Councilmember Hunt, passed 3-0.

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MAYOR'S TIME – One of the first items of business, when becoming Mayor, was to work out an agreement with Burlington Northern on a land swap. Some of the City's right of way is on Burlington Northern's railroad track and Burlington Northern owns parcels within the City. City of Ruston has expressed interest in an exchange of property. City Planner White has contacted Burlington Northern to reopen discussions. Councilmember Hedrick and Councilmember Hardin attended Coles grand opening. Coles owner is very happy to be in Ruston and has been extremely busy. Farrelli's Pizza will open soon with Fish Tale to follow later part of summer 2017.

COUNCIL TIME –
Councilmember Hedrick – Nothing at this time.

Councilmember Hunt – Nothing at this time.

Councilmember Hardin – Excused.

Councilmember Kristovich – Burt Joyce is now at Narrows Glen and is enjoying being there. Mr. Joyce would love company so feel free to go by and visit.

Councilmember Syler – Excused.

MEETING AJOURNED -

At 8:09PM Councilmember Hedrick moved to adjourn, with a second from Councilmember Hunt, passed 3-0.

Mayor Bruce Hopkins

ATTEST:

Judy Grams