

REGULAR CITY COUNCIL MEETING

April 14, 2009

A. Call to Order – Pledge of Allegiance Mayor Gainer called the Regular City Council meeting to order at 6:01 p.m.

B. Roll Call – Excused Absences Councilmembers present included Councilmember Mather, Councilmember Nixon, Councilmember Overhauser, Councilmember Huff, Councilmember Stockton, Councilmember Trulove, and Councilmember McKeehan. Staff members present included Ms. Fisher, Ms. Niemeier, Mr. Schwartz, Mr. Jennings, Ms. MacDonald, Mr. Simmons, Mr. Ableman, Ms. Cooper, Mr. Noland, Ms. Rodriguez, Mr. Campbell, Mr. Mather, Ms. Davidson, Ms. Kelso, Mr. Ault, Mr. Hembach, and Ms. Showalter.

C. Minutes of the Regular City Council meeting of March 24, 2009 were approved as distributed. Minutes of the Special City Council meeting of April 2, 2009 were approved as distributed.

D. Claims and Vouchers nos. 98165, 98166, 98207, 98233, and 98234 through 98425 in the amount of \$2,174,823.48, payroll warrants nos. 53715 through 53768 in the amount of \$28,875.23; direct deposits nos. 25169 through 25330 in the amount of \$260,722.47; claims warrants nos. 98176 through 98206 in the amount of \$313,605.62; and transfers to claims clearing fund for distribution in the amount of \$7,262.07 for a total payroll of \$610,465.39 were approved as read.

E. Claims for Damages None

F. Small Contracts Ms. Niemeier stated that there are eight small contracts. They are with the Department of Licensing for access to drive records, Belfor USA Group for Police Department repairs, ABC Office Equipment for Police Department copier maintenance, North Country Electric for City Hall electrical work, Patricia Stryker for an exercise program, Julie Butler for Jazzercise, West Terrace Golf for golf classes, and Carpet One for Mayor's Office carpet and vinyl composition tile. Councilmember Overhauser stated that the carpet and tile are for the whole administrative office. Councilmember Overhauser moved for approval of the small contracts. Councilmember Stockton seconded. Carried unanimously.

G. Information Items Judge Tripp stated that the court has been very busy. He presented Ms. Cooper, Ms. Davidson, and Mr. Kelso a plaque for Probation Department of the Year. Ms. Cooper introduced Maria Christianson. She started out as a Youth Court Clerk. Ms. Cooper thanked Judge Tripp for allowing her to make changes in the department. Ms. Davidson nominated the department for Probation Department of the Year. They selected us because we have been innovative, proactive, and serve the whole person. The association also selected Ms. Davidson as Probation Officer of the Year. Ms. Cooper presented her a plaque and stated that she is very proud of her. She is very dedicated to the defendants.

H. Change Orders Mr. Ableman stated that there are two change orders for Well 8. The first was approved on March 23 for flow meters. The second was for the nonresidential energy code. We were unaware of the additional energy code. This adds extra insulation.

Mayor Gainer stated that Councilmember Mather request to be excused June 23 due to vacation. Councilmember Huff moved to approve the request. Councilmember McKeehan seconded. Carried unanimously.

I. Appointments None

J. Citizen Comments None

K. Action Items

1. 09-059 – Resolution D-620 – Choosing a Quote and Authorizing Lease with Ford Motor Credit for Police Vehicles Mr. Campbell stated that they requested two vehicles but were only budget for one. They looked into leasing. They can get two cars and stay within the current budget. At the end of the lease we can buy the cars for a dollar. Councilmember Huff stated that this was discussed at the Public Safety Committee

meeting. He thinks it is the best way to go. Councilmember Huff moved for approval of Resolution D-620. Councilmember Nixon seconded. Carried unanimously.

2. 09-060 – Resolution D-621 – Authorizing the Police Department to Apply for an Officer Under the COPS Grant Mr. Campbell stated that there is a grant opportunity for law enforcement officers under the stimulus package. The grant provides three years of wages and benefits paid by the federal government. We agree to keep the employee for one year once the three years are over. This was taken to the Public Safety Committee and they recommended applying for the grant. This will be brought back if we get the grant. Councilmember Huff moved for approval of Resolution D-621. Councilmember Stockton seconded. Carried unanimously.

3. 09-073 – Resolution D-634 – Modified Service Order Agreement with XO Communications Mr. Campbell stated that XO Communications provides our connection for the internet. This allows us to expand the pipe. We need to do this because we are bogging down in computer use. This does not extend the contract. Councilmember Overhauser stated that she thought we had fiber to town. Mr. Noland stated that we have fiber to the end of Spotted Road. From there we lease fiber into downtown. This is for bandwidth. Councilmember Huff moved for approval of Resolution D-634. Councilmember Trulove seconded. Carried unanimously.

4. 09-061 – Resolution D-622 – 2009 Wastewater Inflow & Infiltration Abatement Project Bid Award Mr. Ableman stated that this is an annual project. We will be testing 1.8 miles of sanitary sewer. Michels Pipe Service is the only contractor that does this type of work. Councilmember Huff moved for passage of Resolution D-622. Councilmember Overhauser seconded. Councilmember Trulove asked if this vendor has done this work before. Mr. Ableman stated that he has. He can grout inside the pipe and he can do a cured in place piping. Carried unanimously.

5. 09-062 – Resolution D-623 – Booster Station Two and Three Upgrade Project Bid Award Mr. Ableman stated that this is for upgrades to Salnave Booster Station Two. It upgrades the pump, communication, and provides auxiliary power. Councilmember Huff asks what the booster station does. Mr. Ableman stated that it boosts from the main zone so there is water pressure. Booster Station 3 is by the golf ball. Councilmember Huff moved for passage of Resolution D-623. Councilmember Nixon seconded. Keith Walker, 605 Irene Pl, stated that the golf ball feeds his house, but the pressure falls below the minimum during the day. He is concerned that we need to install more booster pumps as we add more houses. Mr. Ableman stated that the booster station is pumping to the high zone. The upgrade will provide more pressure to the entire zone. This is a variable speed drive. It will keep the reservoir topped off. Councilmember Overhauser asked when it will be installed. Mr. Ableman stated that they will start right away and it should be installed by June. Councilmember Overhauser stated that he should talk to Mr. Walker after it is installed. Carried unanimously.

6. 09-063 – Resolution D-624 – WWT Plant & Parks Department Mower Bid Award Mr. Ableman stated that this is for two mowers. They are Kubotas with 72 inch mow decks. The Parks mower is a little more because of the attachments. Councilmember Huff moved for passage of Resolution D-624. Councilmember Stockton seconded. Carried unanimously.

7. 09-065 – Resolution D-626 – Contract for Wastewater Division Copy Machine Lease Mr. Ableman stated that they are slowly losing their existing copier. This is a five year lease. Councilmember Huff moved for passage of Resolution D-626. Councilmember Overhauser seconded. Carried unanimously.

8. 09-066 – Resolution D-627 – General Engineering Services Contract Award Mr. Ableman stated that they received 22 responses to the RFQ. He recommended Taylor Engineering. We need to go with fee based engineering and plan review fees need to be charged to the customer. Councilmember Huff stated that this was discussed at the Council workshop. Councilmember Huff moved for passage of Resolution D-627. Councilmember Nixon seconded. Ray Coumbs, 7 Huron St, asked about the type of fee that would be passed on. Mr. Ableman stated that one example would be subdivisions that require drainage, traffic plans, and have impacts. Carried unanimously.

9. 09-072 – Resolution D-633 – Vacation of Alley Right-of-Way for Callaway Addition to Callaway – Schedule Hearing Date Councilmember Huff stated that this is just to set a hearing date of May 12. Mr. Ableman stated that this allows us to do the proper postings. Councilmember Huff moved for passage of Resolution D-633. Councilmember Trulove seconded. Carried unanimously.

10. 09-064 – Resolution D-625 – Family Medical Leave Act Ms. Showalter stated that this is an update to bring our FMLA policy into compliance with federal and state law. Councilmember Overhauser moved for approval of Resolution D-625. Councilmember Huff seconded. Councilmember Overhauser asked if this includes Washington law. Ms. Showalter stated that it does. Carried unanimously.

11. 09-067 – Resolution D-628 – Acceptance of Bid for Line Clearance from Asplundh Tree Care Mr. Noland stated that this is the annual tree trimming program. We received two bids. Asplundh was the low bidder. They have done this for approximately six years. Councilmember Huff moved for approval of Resolution D-628. Councilmember Stockton seconded. Carried unanimously.

12. 09-069 – Resolution D-630 – Membership Agreement with Northwest Intergovernmental Energy Supply Mr. Noland stated that under the new tiered rates methodology we are mandated to provide our own tier 2 power. We can purchase it from BPA, try to find someone to provide services for us, or join NIES and have some control over tier 2 resources. The benefits are to gain economics of scale and control our future. We can secure long term generation resources as a group. There is some risk as there is with any business. They have included many provisions to minimize business risks between each utility. The cost of NIES is relatively inexpensive compared to what we have to gain. He expects 75-80% of the utilities to join. Mr. Schwartz stated that he thinks this is one of the cleverest organizations he has seen to provide services. There are separate memberships for public and private. There are separate asset and liability structures. We are only responsible for our portion of the load. Our obligation is to pay for power, our percentage of administrative costs, and our cost issues limited to our percentage of power purchases plus administrative expenses. There are also off ramps. If this does not work, we can get out. Councilmember Huff asked how this is different from Enron. Councilmember Overhauser stated that that was speculative. Councilmember Trulove stated that this is public power and that was not. Councilmember Nixon asked if we will be charged a fee. Mr. Schwartz stated that we will be charged a prorated share of the administrative costs plus the cost of power. Mr. Noland stated that it costs \$2,500 to join the group. Councilmember Huff moved for approval of Resolution D-630. Councilmember Trulove seconded. Councilmember Trulove stated that this is an interesting operation. As soon as we have to buy power, this is an insurance policy against what might happen with BPA. This will be one of the ways to keep rates down in Cheney. Mr. Noland stated that it is estimated that we will need tier 2 power by 2014, but we could need it sooner than that. Keith Walker, 605 Irene Pl, asked who controls the cost of the Administrative Service Corporation. Mr. Noland stated that the executive board, which is made up of managers of the utilities, will be the overseer of the costs. Carried unanimously.

13. 09-070 – Resolution D-631 – Load Commitment Agreement with Northwest Intergovernmental Energy Supply Councilmember Huff moved for approval of Resolution D-631. Councilmember Mather seconded. Carried unanimously. Mayor Gainer commended Mr. Noland for working all the hours on this.

14. 09-071 – Resolution D-632 – Approving Contract for Comp Plan Update Mr. Jennings stated that this is a contract with Studio Cascade, Glatting-Jackson, and EcoNorthwest. Councilmember Huff stated that this was discussed at the Council workshop. Councilmember Huff moved for approval of Resolution D-632. Councilmember McKeehan seconded. Carried unanimously.

15. 09-074 – Resolution D-635 – Agreement for Moos Restroom Prepwork Mr. Simmons stated that they purchased a CXT restroom in December. There is site prep work that needs to be done. Councilmember Huff moved for approval of Resolution D-635. Councilmember Overhauser seconded. Councilmember Nixon asked if the cost is \$12,000. Mr. Simmons stated that it is. Councilmember Overhauser asked when the restrooms will be open. Mr. Simmons stated that the restroom at Salnave Park was opened last week. Centennial is open and the others will open this week. The Moos restroom will not be open until approximately June 1. Carried unanimously.

16. 09-075 – Resolution D-636 – Facility Use for Summer Day Camp Mr. Simmons stated that day camp is one of their largest programs. The United Church of Christ has offered them use of their multipurpose room to

host the day camp. It is a centralized location. The facility usage fee is \$100 which our insurance will pay. Councilmember Huff moved for passage of Resolution D-636. Councilmember Stockton seconded. Carried unanimously.

17. 09-076 – Resolution D-637 – Agreement with DOT for Mayfest Mr. Simmons stated that Pathways to Progress, which is now the Historic Downtown Partnership, will be running Mayfest this year. This is for closure of SR 904. Councilmember Huff moved for passage of Resolution D-637. Councilmember Mather seconded. Carried unanimously.

18. 09-029 – Ordinance V-06 – Adopting Business License Requirements Ms. Fisher stated that we have talked about this a lot. This is a great opportunity to know which businesses are here. It provides safety because the Police Department would know who is here. It helps with sales tax revenue. We are missing 48% of our sales tax revenue. We need UBI numbers and Washington state licensing numbers. She suggested trying this for a year and we can change it later if we need to. Councilmember Huff asked how this can fail. Ms. Fisher stated that she does not think it can. Councilmember Overhauser stated that she would like staff to return June 1 next year with a one year summary of findings. Councilmember Trulove stated that undoing this would be almost impossible. His preference would be to see modifications to make it better. He feels that rentals should not have to get a business license if they are only renting to families. He also does not know why we would ask licensed medical professionals to get a business license. Consultants outside of town that do not pay tax should also be excluded. Councilmember Nixon asked if this includes businesses outside the city. Ms. Fisher stated that it does. Councilmember Huff moved for the third reading of Ordinance V-06 in title and summary form only and placed before Council for final passage. Councilmember Nixon seconded. Councilmember Trulove moved to amend the motion to add a new exemption under section 4 that would exclude landlords with 5 or fewer units. Councilmember Huff seconded. Councilmember Nixon stated that he thinks that puts the Fire Department at a disadvantage. He thinks that everyone that has a rental should have a license. Mr. Schwartz stated that business licenses would not fix code enforcement issues. Councilmember Trulove stated that the amendment would still require people who manage property to get a license. Councilmember Nixon asked how code enforcement knows what houses are rentals if they do not apply. Mr. Jennings stated that we do not. Councilmember Huff moved for the question. Councilmember Nixon seconded. Carried unanimously. Motion to amend the original motion carried with Councilmember Overhauser, Councilmember Huff, and Councilmember McKeehan voting nay. Keith Walker, 605 Irene Pl, stated that he owns half the block behind Jarms. He thinks this should be based on units and not houses. As a private individual, he is not required by the state to have a business license or pay sales tax. He pays taxes to the federal government. He does everything privately. He feels that this penalizes private individuals. He is not required by state law to have a business license or a real estate license to manage his own properties. This penalizes the little guy. Councilmember Trulove moved to amend section 4 to excluded health care professionals that have to have a state license. He does not see what purpose it would be for a dentist, doctor, or chiropractor or get a business license. Councilmember Overhauser stated that some of them sell items in their offices that require sales tax. Motion died for lack of a second. Roy Coumbs, 7 Huron, stated that it seems that the City is going after information they already have through the utility department. Mr. Schwartz stated that utility information is protected by state law and cannot be released. Keith Walker, 605 Irene Pl, questioned why he gets late notices when a tenant does not pay. Mr. Schwartz stated that the city is sending a notice of delinquency with respect to his property. The ownership of property is public information. Councilmember Huff moved for the question. Carried unanimously. Original motion carried unanimously. Yes votes: Councilmember Mather, Councilmember Nixon, Councilmember Overhauser, Councilmember Huff, Councilmember Stockton, Councilmember McKeehan. No vote: Councilmember Trulove. Ordinance V-06 passed as amended.

19. 09-013 – Ordinance V-01 – Amending BP, Business Park Zone Text Mr. Jennings stated that this was brought up in February. Ms. Rodriguez stated that this amends the Business Park chapter. The next item rezones the Cheney Research & Industrial Park from I-1 to BP. The Cheney Research and Industrial Park is located south of town. This amends the text to limit the uses. It eliminates warehouses and ministorage. It eliminates the need to go to the Planning Commission every time. The Planning Commission recommended approval. Councilmember Trulove moved for the second reading of Ordinance V-01 in title and summary form only, that reading considered the third, and placed before Council for final passage. Councilmember Huff seconded. Carried unanimously. Yes votes: Councilmember Mather, Councilmember Nixon,

Councilmember Overhauser, Councilmember Huff, Councilmember Stockton, Councilmember Trulove, Councilmember McKeehan. Ordinance V-01 passed.

20. 09-014 – Ordinance V-02 – Rezone Cheney Research & Industrial Park, I-1 (Light Industrial) to (Business Park) Ms. Rodriguez stated that conditions have changed and a rezone is necessary. The Planning Commission recommends approval. Councilmember Huff moved for the first reading of Ordinance V-02 in title and summary form only, that reading considered the second and third, and placed before Council for final passage. Councilmember Trulove seconded. Carried unanimously. Yes votes: Councilmember Mather, Councilmember Nixon, Councilmember Overhauser, Councilmember Huff, Councilmember Stockton, Councilmember Trulove, Councilmember McKeehan. Ordinance V-02 passed.

L. Council Reports Councilmember Mather attended Park Board and got to see the new facility. It has a nice reception area. Councilmember Overhauser congratulated the Parks Department on their new location. Councilmember Huff stated that he thought the invitation from Mr. Simmons was nice. Tomorrow is the stakeholders meeting at 10:00 a.m. Councilmember Trulove thanked Mr. Jennings and the Planning staff for the extra effort on the Cheney Research & Industrial Park and comprehensive plan changes. They did a wonderful job getting the information Council asked for.

M. Staff Reports Ms. Fisher stated that we are busy. There will be a Council retreat on April 23rd to discuss facilities. Mr. Mather stated that the camera project needs to have a clear purpose. Both sides say there was a reduction in crime across the country. We need to have a clear policy in place so we know what it is used for and that it is being used correctly. It needs to be a public process. This will be brought to the next Council meeting along with a draft policy. Mr. Simmons stated that the Parks and Recreation office moved to the Tomlinson Black building next to Taco Bell. They brought home the shuttle bus yesterday and will be giving tours after the meeting. They are having an open house tomorrow. He sent out email messages for Relay for Life and encouraged people to sign up. Mr. Ableman stated that he met with the contractors for the Cheney Research and Industrial Park. They will be breaking ground at the end of the week.

N. Mayor's Report Mayor Gainer stated that we had a great Town Hall meeting. He thanked staff. We have great leaders in the city. Two new businesses had ribbon cuttings last week, Cheney Chic and Jaazz Salon. There will be a meeting tomorrow night to talk about the fate of Pathways to Progress.

O. Executive Session None

P. Adjournment Councilmember McKeehan moved to adjourn the meeting. Councilmember Huff seconded. Carried unanimously. The meeting was adjourned at 7:30 p.m.

City Clerk

Mayor