

REGULAR CITY COUNCIL MEETING
February 13, 2007

A. Call to Order – Pledge of Allegiance Mayor Pro Tem Huff called the Regular City Council meeting to order at 6:00 p.m.

B. Roll Call – Excused Absences Councilmembers present included Councilmember Harris, Councilmember Rast, Councilmember Stockton, Councilmember Trulove, and Councilmember McKeehan. Staff members present included Ms. Niemeier, Mr. Conklin, Mr. McClure, Mr. Richardson, Mr. Montague, Mr. MacDonald, Ms. MacDonald, Mr. Sale, Mr. Simmons, Mr. R. Campbell, Ms. Donner, Mr. Anderson, Mr. Winters, Mr. Z. Campbell, Ms. Cooper, Ms. Bridges, and Ms. Showalter. Councilmember Overhauser was excused. Mayor Pro Tem Huff stated that Councilmember McKeehan requested to be gone March 27 and April 10 for vacation. Councilmember Harris moved to approve the request. Councilmember Rast seconded. Carried unanimously. Councilmember Rast moved to excuse Mayor Gainer. Councilmember McKeehan seconded. Carried unanimously.

C. Minutes of the Regular City Council meeting of January 23, 2007 were approved as distributed.

D. Claims and Vouchers nos. 88865, 88866, 88993 through 88998, and 89051 through 89213 in the amount of \$402,203.86; payroll warrants nos. 52217 through 52248 in the amount of \$28,307.16; direct deposits nos. 21079 through 21222 in the amount of \$215,854.72; claims warrants nos. 88998 through 89031 in the amount of \$274,522.27; and transfers to claims clearing fund for distribution in the amount of -\$14,940.09 for a total payroll of \$503,744.06 were approved as read.

E. Claims for Damages Ms. Niemeier stated that there is a claim from Holly Bowen for \$5 million. Councilmember Harris moved to deny the claim. Councilmember McKeehan seconded. Carried unanimously.

F. Small Contracts Ms. Niemeier stated that the small contracts are with IKON for a court copier, Pacific Software Associates for a software upgrade, and David Meyer and David Ellis with proceeds being donated back to the City to purchase equipment. Councilmember Harris moved to approve the small contracts. Councilmember McKeehan seconded. Carried unanimously.

G. Information Items Mr. Sale introduced Zeb Campbell, our newest police officer, and Stephanie Widhalm, reserve police officer. Ms. Widhalm spent a lot of her own time helping with victims. She has gone above and beyond as a reserve. Mr. Sale presented Ms. Widhalm with a commendation plaque. He stated that Pastor Terry Cummings could not be here. He has spent a lot of time as a Police Chaplain providing support to officers both personally and professionally. John Berdis also is leaving the City as a reserve. He has been with us for 18 years. Mr. Simmons stated that Katie DeBroeck stepped in for Jeremy McCulloch after he left in October. He presented her with a plaque thanking her for her dedication to the City. Jim Huttenmaier, Spokane Economic Development Council, presented a report for the fourth quarter of 2006. He congratulated everyone at the City for being business friendly to Allpak. He thanked Mr. Montague for his cooperation. Greater Spokane Incorporated is the new name of the entity created by the merger of the EDC and the Spokane Regional Chamber. Councilmember Trulove stated that he would like this to be a little more regionally done. There do not seem to be people from the West Plains on the new Board of Trustees. That concerns him. It will be a reason to look carefully at whether or not we continue to be a member. Mr. Huttenmaier stated that this is not a complete list of the Board of Trustees. There will be seven ex-officio members added. Mayor Pro Tem Huff stated that we need the help of the EDC on the McFarlane Road closure. The closure will affect Cheney negatively as far as businesses are concerned. Mayor Pro Tem Huff read a proclamation encouraging citizens and other cities to contact the Airport Board requesting reconsideration of the closure of McFarlane Road. Mayor Pro Tem Huff proclaimed February 26th as Wear Red for Heart day in the city of Cheney.

H. Appointments Mayor Pro Tem Huff stated that Commissioner Ron Aerne was appointed to the Park Board on January 1, 2005. He was a good commissioner when he attended the meetings, but he has missed over six months. Councilmember McKeehan moved to remove Commissioner Ron Aerne from the Park Board. Councilmember Rast seconded. Carried unanimously.

I. Citizen Comments Janet Prendergast stated that she is on the Board of Directors of The Orchards. They heard that the Council was considering making absentee homeowners get a license for rentals. She questioned if that was still going on. She also asked about giving consideration to allowing EWU police to have authority in Cheney. There are parties every weekend. There are homes that have more than three unrelated individuals living in them. They have a letter on file with the board concerning Mort Construction not completing the sidewalks in Phase 3. Discussion followed. She stated that she cannot prove who lives in the homes, so it is difficult for the City to enforce having only three unrelated people.

Mayor Pro Tem Huff stated that we will have two executive sessions tonight.

J. Action Items

1. 07-001 – Resolution D-236 – Resolution Amending Conservation Rebates Under BPA’s Conservation Rebate Credit Program Mr. Richardson stated that the contract terms changed and we need to have a new resolution with the new fee schedule. Councilmember Stockton moved to approve Resolution D-236. Councilmember Trulove seconded. Discussion followed. Carried unanimously.

2. 07-010 – Resolution D-239 – Well Three Electrical Upgrade Mr. MacDonald stated that this is for wiring work at Well Three. Degerstrom submitted the only written quote. The cost is \$10,400 plus tax. Councilmember Rast moved to approve Resolution D-239. Councilmember Harris seconded. Carried unanimously.

3. 07-015 – Resolution D-240 – Well Two Pump Repair Project – Appropriation Increase Mr. MacDonald stated that this is to approve an appropriation increase with Specialty Pump. It will replace the columns at Well Two. The cost is \$12,750. Discussion followed. Councilmember Trulove moved for approval of Resolution D-240. Councilmember Stockton seconded. Carried unanimously.

4. 07-016 – Resolution D-241 – Acceptance of WASPC Traffic Safety Grant for Purchase of Radar and Portable Breath Test Mr. Sale stated that this is to accept a \$1,500 grant to purchase a radar and a portable breath tester. Councilmember Rast moved to approve Resolution D-241. Councilmember Harris seconded. Carried unanimously.

5. 07-019 – Resolution D-242 – Land Use Appeal Mr. Montague stated that we have had an appeal filed to the Council on a decision that was made by the Planning Commission on a rezone. It was appealed to the Planning Commission and they denied it. The options are to hear the appeal or to send it to a hearing examiner. Councilmember Trulove stated that it is based on policy issues and we should deal with it. Councilmember Trulove moved to approved Resolution D-242 to have the appeal heard by the City Council on March 13, 2007. Councilmember Stockton seconded. Carried unanimously.

6. 07-020 – Resolution D-243 – Spokane County Grant – Project “Hoop It Up” Mr. Simmons stated that this is part of an overall vision. We are looking at an alternative location for Cheney Hangout. They were pushed out of Brewster Hall at the beginning of this year. We are looking at temporarily letting them use the upstairs meeting room at Wren Pierson. This would compliment that use. The goal is to turn the area into a full size basketball court. It would be considered a city park. The cost is just over \$50,000. They will do a fundraiser with an EWU fraternity to raise some of the funds. Mitigation funds would be used for the remainder. Councilmember Trulove stated that he thinks that the Council was clear that we are not going to remodel the downstairs at the Wren Pierson Building. Mr. Simmons stated that the meeting room is somewhere we can put the youth that is already set up. The Police Department has Dare funding that will be used to put the initial facility together. Councilmember Rast moved to approve Resolution D-242. Councilmember Trulove seconded. Carried unanimously.

7. 07-021 – Resolution D-244 – EWU Fire Protection Contract Mr. Montague stated that this has been signed by EWU. It is a two year contract for 2006 and 2007. They will pay the back payment within three days after the agreement is signed. The amount is more than we budgeted. Councilmember McKeehan moved to approve Resolution D-244. Councilmember Stockton seconded. Carried unanimously.

8. 07-022 – Resolution D-245 – EWU Dispatch Services Mr. Montague stated that this is a five year contract. It is more than what was budgeted. Mr. Sale got them to a more acceptable figure. Councilmember

Trulove questioned if this is reasonable. Mr. Montague stated that this is reasonable for now but will probably need to be looked at in the future. Councilmember McKeehan moved for the approval of Resolution D-245. Councilmember Harris seconded. Mr. Sale stated that he would like this reopened when the new City Administrator is settled. Carried unanimously.

9. 07-007 – Ordinance U-41 – Carryout Solid Waste Service Mr. MacDonald stated that we currently provide carryout service. The charge is based on the length of the walk. This is for people that are low income and disabled. Cheney Outreach has agreed to be the screening agency. Councilmember McKeehan moved for the second reading of Ordinance U- 41 in title and summary form only. Councilmember Trulove seconded. Carried unanimously. Councilmember McKeehan moved to defer this to the next meeting. Councilmember Stockton seconded. Carried unanimously.

10. 07-018 – Ordinance U-42 – 2007 Budget Amendment Mr. Montague stated that this budget amendment includes the changes that were talked about in the early budget meetings. This was prepared as directed. Ms. Niemeier stated that this is a \$52,400 general fund amendment. Councilmember McKeehan moved for the first reading of Ordinance U-42 in title and summary form only. Councilmember Rast seconded. Carried unanimously. Councilmember Trulove stated that he thinks it is not prudent to hire a permanent employee. He is not convinced that we need another police officer. He is also not convinced that we have explored all the possibilities with EWU. Using one time money is not a good idea. Councilmember Trulove moved to remove the funding for the police officer and the budgetary changes that it entailed. Motion died for lack of a second. Councilmember Rast stated that he looked at the Police budget and it seems that with all the increases in their budget they should be able to fund the position using their own funds. Councilmember Trulove stated that we might need a budget seminar on how the money was shuffled around. We are between city administrators and he does not think this is an appropriate time to do these things. The changes in the Police Department appeared after the prior City Administrator left. We should get the facts on the table. Councilmember McKeehan stated that he thinks we made our decision at the last meeting and we should stick with it. If the funding is in the police budget we can find it there during budgeting. Councilmember McKeehan moved for the second reading of Ordinance U-42 in title and summary form only, that reading considered the third, and placed before Council for final passage. Councilmember Harris seconded. Carried with Councilmembers Rast and Trulove voting nay. Yes votes: Councilmember Harris, Councilmember Stockton, Councilmember McKeehan. No votes: Councilmember Rast, Councilmember Trulove. Ordinance U-42 passed.

11. 07-017 – Ordinance U-43 – McCardle Annexation Final Ordinance Mr. Richardson stated that we submitted the application to the Boundary Review Board. We received back a certificate of expiration. Nobody requested a public hearing. Mr. MacDonald reiterated what was discussed in July. We have enough water for approximately 350 ERUs. We have applications in to the Department of Ecology to drill a new well and the Department of Health for approval of the site. The application to the Department of Ecology will take some time. We have asked them to allow us to test drill the site to make sure we have a viable source. Turnbull has submitted comments on the effect this will have on their property. We also have to update our water plan. There will be an agreement at the February 27 meeting to retain someone to do our water plan. We could possibly have a well on line in 2008, but that is optimistic. We have the capacity but we do have limitations. Councilmember Stockton moved for the first reading of Ordinance U-43 in title and summary form only. Councilmember Trulove seconded. Carried unanimously. Councilmember Stockton moved to defer this to the next meeting. Councilmember Trulove seconded. Carried unanimously.

12. 07-023 – Barry Miller Proposed Settlement Mr. Montague stated that we are in a legal process with Miller and Miller. He met with Barry Miller several times. Mr. Miller requested to have his attorneys speak with Council directly to save time. That cannot be done in executive session, but consideration of what the attorney presents should be done in executive sessions. Tim Lawlor stated that he is the attorney for Barry Miller. The Millers do not want to give up their property to condemnation. Condemnation cases are emotional. He outlined a settlement proposal. He stated that he was trying to provide information he does not think the Council had when they decided to condemn. Under state law the Millers should get their attorney fees and expert fees reimbursed because the City abandoned the condemnation. They are offering to clean up their property to make it code compliant. They are also asking for a rezone of a small portion of the property to light industrial. They think it is grandfathered. One hundred acres were taken in 1993 by the City of Cheney for the wastewater treatment plant. This is an additional 140 acres the City wanted. There is an easement road the City has through the Miller property for an old lagoon. The lagoon does not exist any

longer. The Millers graveled the road, improved it and a dispute arose when some city personnel used it with a golf professional. The proposal leaves the easement in place but makes it for emergency access only. The Millers are willing to waive any claims for violation of their civil rights or statements made by city officials if this proposal is accepted. In Washington you can only take property for a public use. They do not believe that there was a need to take the property. He went through the Department of Ecology and SCAPCA files. Documents show that there are no odor concerns and none are expected. Things were said that should not have been said. In the Cheney Free Press it was stated that the City found environmental contamination on the site. It also said that the contamination could cost \$20 million to clean up. That is inverse condemnation. He appreciates Mr. Montague and Mr. Miller meeting to try to solve this. They are not asking for any compensation to pay for their aggravation or damage to their property, if any. Councilmember Trulove stated that if the Council agrees this is reasonable it still has to be done according to the law. There are processes to follow. Mr. Lawlor stated that he understands that there are processes to follow. Councilmember Huff recessed the meeting at 7:26 p.m. for a four minute recess and executive session regarding matters of litigation. He asked Mr. Montague, Mr. MacDonald, and Mr. Conklin to stay. Mayor Pro Tem Huff reconvened the meeting at 7:54 p.m. Mayor Pro Tem Huff stated that they discussed the proposal. They are generally in favor of it, but there are minor modifications that need to be sent back to their attorney. Councilmember Huff recessed the meeting at 7:55 p.m. for a five minute executive session regarding matters of real estate. Mayor Pro Tem Huff reconvened the meeting at 8:03 p.m.

K. Council Reports Councilmember Rast stated that he would like to see the P Zone issue brought back. He frequently sees campus police pulling people over outside of the P Zone. Councilmember Trulove stated that the P Zone needs to be discussed. He will be at the City Legislative Action Conference for the first day. He is spending time once a week with some legislative committees.

L. Staff Reports Mr. Sale stated that there was an issue at the Wren Pierson Building with an EWU rental. The building was rented under the Tri Agency agreement. There was not supposed to be any alcohol. They approached the Police Department prior to the event to ask for presence. One of our officers and an EWU officer made a walk through. They found marijuana, alcohol, and damage to the building. The student that brought the application had a signed application. EWU thought initially the application was forged, but it was signed by a faculty member and initialed. EWU has paid the fees we asked them to pay. Mr. Montague stated that there will be a General Government Committee meeting on February 20th, Public Works and Utilities on February 15th, and Public Safety on February 20th. There will be a public reception at 5:30 p.m. prior to the next Council meeting for the new City Administrator.

M. Mayor's Report None

N. Executive Session Held earlier in meeting

O. Adjournment Councilmember McKeehan moved to adjourn the meeting. Councilmember Rast seconded. Carried unanimously. The meeting was adjourned at 8:09 p.m.

City Clerk

Mayor