

LEAVENWORTH CITY COUNCIL STUDY SESSION MINUTES

August 11, 2020

Mayor Carl Florea called the August 11, 2020 Study Session to order at 8:30 AM via Zoom Conferencing.

Council Present: Mayor Carl Florea, Carolyn Wilson, Sharon Waters, Clint Strand, Jason Lundgren, Anne Hessburg, and Zeke Reister.

Staff Present: Ana Cortez-Steiner, Chantell Steiner, Herb Amick, and Lilith Vespier.

Mayor Florea excused Councilmember Mia Bretz.

1. Chamber Report

Chamber Executive Director Troy Campbell provided the Council with an update on his progress and tasks with the Chamber over the past couple months. He spoke about the new Chamber electronic newsletter, blog post for communicating quickly with the Chamber members, information on COVID compliance and small business grant opportunities, and the new job posting page for members to use. He identified some transitions occurring with staffing to assist more with the COVID response efforts, including purchasing and distributing of masks, thermometers, and hand sanitizers, ordering and monitoring signage for closures and deliveries, and assistance with clearing and cleaning tables. Director Campbell noted the Chamber's 2020 Budget that included some new allocations this year to work on and expand economic development efforts that were being redirected to COVID related efforts. He provided positive figures of comments that the Chamber has been receiving via Facebook and other social media in regard to the compliments from visitors, residents and businesses for the care and safety the City has taken to close the downtown to allow for more space and social distancing.

2. Water Rights Update

Water Rights Attorney Tom Pors of the Law Offices of Thomas M. Pors introduced himself to the Council and provided a short history on his participation with the City for litigating the City's water rights against the Department of Ecology. He proceeded to provide the Council with a PowerPoint Presentation regarding the current status of where the City is in regard to acquiring more water rights. He noted that the City has been utilizing water rights off of Icicle Creek since 1912; since 1990, the City has additionally utilized the well site next to the City's Golf Course. He identified the current area that the City services inside city limits and within the urban growth area. He provided clarification on the terminology and the definitions for the acronyms that will be discussed today, which includes the following: ERU – Equivalent Residential Unit, Qi – Instantaneous Quantity, GPM – Gallons Per Minute, CFS – Cubic Feet Per Second, MGD – Maximum Gallons Daily, MDD – Maximum Daily Discharge, Qa – Annual Quantity, Primary – means additive rights, Supplemental – means non-additive, and Interruptible versus Non-interruptible rights for the Wenatchee River.

Attorney Pors noted the current status of the different rights that the City has in regard to primary, interruptible and non-interruptible limits. He identified various factors that affect the water availability for future demands that includes the Growth Management Act (GMA), population, infrastructure sources, water rights, water use efficiency/conservation, and defining the expansion

of the service area. He reviewed the City's projected water demands that have been driven based on historical data, future growth rates based on existing usage, and population increases; he identified conservation changes that occurred when the City started metering water in the early 90's and has stayed fairly flat for the past thirty years. He reviewed a slide depicting the effect of growth rate on projected annual water rights adequacy and demonstrating the difference between the City's water limit expectation versus Ecology's position for what the City's water right limit is and how population changes between 2026 and 2086 will be affected by growth rates ranging from 1% to 4%. A 1% rate will allow the City to stay below both entities desired water right limit through 2086 and beyond, while a 4% increase would surpass Ecology's limit by 2036 and the City's desired limit by about 2046. He also showed the effect of growth rate on projected uninterrupted instantaneous water rights adequacy by comparing growth rates from 1% to 4% to the City and Ecology position on water availability.

Jesse Cowger of Varela & Associates reviewed a bar chart depicting the current status of the system capacity, facilities, and future demands. He correlated how the various facilities utilize ERU's for capacity, storage, and distribution in comparison to the amount of ERU's needed and available. He then reviewed the current use of the facilities versus the water availability and how availability will be affected by future growth.

Attorney Pors updated the Council on the litigation efforts and options for the City to regain water rights that had been reduced by Ecology, without authority to do so, in the early 1990's. At the time, the City did not understand what had happened and it wasn't until about twenty years later that the error came to light. Many factors were considered in the court proceedings, such as finding resolution to the dispute, looking at the Icicle Creek water rights available, uses by the irrigation districts, water availability, and conservation; in turn a negotiation was reached to provide the City with temporary additional rights to meet current demands. The City's attorney has been continuing to file a status report every six months to keep the case open until resolution can be found; a future executive session will be necessary to determine whether the City wants to continue the litigation. Attorney Pors stated that the City is currently engaged in the new Wenatchee Reserve water rights review, through the Icicle Work Group (IWG) for substantial ground water rights, while working towards a settlement of the initial litigation with Ecology that could possibly be resolved through the additional water rights gained from the Wenatchee. However, the City will have to demonstrate demands in order to gain more of the unused water rights on the Wenatchee. Since filing the last status report, Ecology has determined that the City no longer needs the additional temporary capacity that was provided, due to the increase in water rights that is anticipated to occur from the settlement with the IWG, and has since pushed to close the original litigation noting no further need by the City to have the temporary water rights provided by Ecology. Some options for the Council to consider include whether to further litigate against Ecology, which the next report is due in September, to proceed with involvement in the Icicle Creek Strategy without an appeal, to file a future application for the Wenatchee water rights when demand is necessary, to acquire and consolidate other existing small systems, or to seek County support to meet future demands for properties located outside of the City that have exempt ground water wells or private systems. Attorney Pors summarized the current status of the City's water rights that includes adequate annual water right capacity for at least thirty years, but not for anticipated build-out, and adequate instantaneous water right capacity for about twenty-six years at the current growth rate. He reminded the Council that water availability is affected by the water rights and source capacity, storage/transmission, conservation, growth rates, and service area expansion.

Councilmembers reviewed questions that Attorney Pors and Jesse Cowger clarified regarding the intricacies of the water rights, particularly in regard to Certificate 8105 and the temporary rights provided during the past decade. A brief discussion on terminology was covered; Attorney Pors stated that he would provide a detailed page to the City to share with the Council. Attorney Pors clarified how changes can occur quickly with fast growth and the type of growth that could increase water demands unusually, such as large industrial growth. A current unusual growth spurt occurring is the 200-unit apartment complex; Development Services Manager Lilith Vespier clarified that this project has not put the City in jeopardy of reaching a maximum use limit. She stated that the City's current growth rate is about 1.7% while the Water System Plan incorporates a 2.2% growth rate. There was discussion in regard to supplying water to the residents within the City limits versus the urban growth area, which is also accounted for within the Water System Plan growth projections. Performing system improvements, such as meter and mainline replacements, will vastly improve the outlook of the City's long-term water rights as it will regain that lost water for use on new growth. The City is currently losing approximately 800 ERU's; about 25% of water being withdrawn that is not making it to existing customers. Replacement of the water meters is anticipated to drop this considerably and any remaining loss will need to further be examined from mainline losses. There was a brief discussion on how the City can isolate areas of the system to find larger leaks in the mainlines and also how shut-down of the system can assist in finding illegal hook-ups. Assistant Water Operator Kristian Winston questioned how and when the Growth Management Act (GMA) affects the City's planning processes; Attorney Pors stated that the Water System Plan is produced based on requirements from the Department of Health to meet projected demands that correlate to the demands within the GMA.

Mike Kaputa, Director of Chelan County Natural Resources, stated that it sounds like the City should reach out to Ecology to clarify a collaborative water supply solution that has been positively being addressed through the IWG in conjunction with Ecology policy makers. He noted his surprise at hearing that Ecology is wanting the City to terminate the litigation process as that conflicts with what he has heard in the IWG meetings. He spoke about specific reserves in Icicle Creek that is being addressed through an in-stream rule amendment, as well as some storage reserve improvements that may positively offset some of the water supply impacts. He added that Ecology has signified a desire to create a settlement through the IWG efforts that appears to possibly be conflicting with the City's previous litigation efforts. He noted the grant applications from IWG and the Bureau of Reclamation for the City's water meter project and the boulder/fish screen improvements near the Water Treatment Plant. He spoke to the 2014 Interlocal Agreement between the County and the City that specifies the efforts to assist each other with their individual water right needs as growth continues.

3. Council Retreat Follow-up

City Administrator Ana Cortez-Steiner reviewed for the Council a summary of the Council's past priorities and how they currently correlate to the Council's comments on priorities that were discussed at this year's annual retreat. She provided a spreadsheet of the priorities via email and asked that Councilmembers review and let her know if there are any questions. She reviewed the status of the sale of the Meadowlark Property that is currently in process for a potential sale; she will continue to work with Upper Valley MEND for potential options for the City to be involved in the future development of the land. She stated that the Residential Advisory Committee has met and will act in capacity as the Steering Committee for the Osborn Property visioning process. A third priority will include the development of a communications plan with emphasis on key priorities of the Council. Administrator Cortez-Steiner stated that the priorities provided on the

spreadsheet are in no particular order or preference and that these priorities noted are just a few of those to be considered for further advancement.

Council discussed the difference of the priorities that were discussed at the retreat versus the new spreadsheet prepared by Administrator Cortez-Steiner versus a separate budget priorities list that identifies projects based on costs and funding availability. Finance Director Chantell Steiner clarified the difference between the Council Priority List from the retreat versus the Budget Priority List that will be developed and reviewed later this fall that will incorporate the Council Priority List items that have financial impacts. Administrator Cortez-Steiner clarified that the few items identified in the Study Session agenda are only the priorities that staff has been able to start working on right away; other projects will be addressed as time allows. However, some of the items are already being addressed, such as parking, or will be addressed as funding availability assists in moving those projects forward. Council had an in-depth discussion on how priorities are incorporated within the City's budget process, adding staffing levels to address new service level initiatives, the timing of those discussions throughout the budget process, and the complexity of the variety of projects and initiatives that all need to be further discussed and implemented as time allows.

4. Professional Services Agreement with the Center for Creative Land Recycling

Council discussed the desire to continue seeking the purchase of the Osborn Property and to ensure a community driven process for the use of that property. Council reviewed the option to step back and consider a formal Request for Proposal (RFP) or Qualifications (RFQ) to ensure that the Center for Creative Land Recycling is the right company to move forward with. Councilmember Lundgren stated that he has had discussions with various stakeholders in regard to how the City has been moving forward to contract out the visioning process and it appears to be preferred that it be done through a formal transparent RFP process. Councilmember Hessburg concurred that she also has heard this as a desired direction. It was noted that there needs to be some further assessment to what options are available to proceed with the visioning process which may determine a modified direction for the Center for Creative Land Recycling.

Administrator Cortez-Steiner reviewed questions from the Council on the Osborn Visioning Checklist that has been provided with the evening agenda items. She specified and proceeded to review the steps identified in the checklist noting the desire to reduce confusion to the public via streamlined surveying and public meetings which will be developed by the Steering Committee as the steps progress. Manager Vespier clarified item number ten, that refers to a Housing Strategy Survey; she stated that this survey will incorporate what the Planning Commission has been reviewing and working on in regard to the Housing Action Plan. The Survey will provide current housing statuses and to seek input from the Community on desired housing opportunities. Council discussed separating the various surveys included in the tasks to create more transparency and to reduce confusion for the public, as well as to avoid the perspective that the City is driving the desired outcome through targeted survey questions. Administrator Cortez-Steiner suggested ways to consolidate the references to surveys; Mayor Florea added that there are many groups that need to be reached to get a broad perspective, the intent is to reach out to all types of residents to gather their feedback. Council continued to discuss their desire to ensure an open discussion process for all stakeholders within the Community for the use of the property. Councilmembers voiced concerns at losing community support as well as the potential for the School District to consider not selling the property, due to potential city-initiated decisions to utilize the land for undesired uses.

Administrator Cortez-Steiner asked the Council to clarify what type of RFP process is preferred to move forward; should the City consider national, regional or local level knowledge and what level of expertise is needed. Several members noted the need to seek national level knowledge and expertise due to the complexity of the project and that local knowledge will be identified and provided through the visioning process with whomever is chosen. One of the requirements should ask for clarity from respondents that identifies their connections and experiences with resources such as partners, grant funding programs and successful projects that have been completed.

The meeting adjourned at 11:38 A.M.

APPROVED



Carl Florea
Mayor

ATTEST



Chantell Steiner
Finance Director/City Clerk