

**CITY OF WEST RICHLAND  
CITY COUNCIL MEETING  
Monday, July 21, 2008**

1. **Call to Order – Mayor Pro Tem Buel** called the meeting to order at 7:02 p.m.
2. **Roll Call –Mayor Pro Tem Rich Buel was present.** Council Members Tony Benegas, Gail Brown, Ken Dobbin, Mark Hanneman, Merle Johnson and Julie Jones were also present. Staff members present were Community Development Director Bob Leedy, Finance Director Howard Roberts, Public Works Director Roscoe Slade, City Attorney Terry Tanner, City Administrator Dave Weiser and City Clerk Julie Richardson.
3. **Pledge of Allegiance** – Councilmember Dobbin led the Council, Staff, and audience in the recitation of the Pledge of Allegiance.
4. **Approval of Agenda** – Councilmember Dobbin requested that consent agenda item 8c, "RES-Setting a Public Hearing – Vacating a Portion of Paradise Street Road Right-of-Way," be moved to item 9c and Councilmember Johnson requested that consent agenda item 8f, "ORD - Amending WRMC Section 10.12.060, Relating to Designated Streets Where Parking is Prohibited at all Times," be moved to item 9d under Ordinances, Resolutions, Motions and Public Hearings.

*Upon motion by Councilmember Dobbin, seconded by Councilmember Hanneman, Council unanimously approved the agenda as revised.*

5. **Presentations – a. Scott Woodward, Rivers to Ridges**, gave a presentation on the Ridges to Rivers Open Space Network of the Mid-Columbia Region. He thanked Council for allowing Councilmember Johnson to be the City's representative on the Rivers to Ridges steering committee.
6. **Announcements, Reports & Comments – a. Staff Reports**

**Community Development Director Leedy** announced two public hearings being held during the Planning Commission Meeting on Thursday, July 24: 1) Kids World Daycare conditional use permit; and 2) Norma Street rezone.

Mr. Leedy also advised that the Benton County Planning Commission continued discussion on the City's Urban Growth Area to their August 19 meeting.

**City Clerk Richardson** reminded council and staff of the AWC Avoiding Liability for Public Works Functions training being hosted by the City on July 24.

**City Administrator Weiser** distributed the minutes of the Benton Clean Air Authority meeting. Mr. Weiser updated Council on the Cross Connection program and said there is now 100% compliance for April. He advised that a Resolution supporting the I-82 interchange and the Benton interchange rebuild will be presented to Council for approval at the August 4 Council meeting.

**b. Council Announcements, Reports and Comments**

**Councilmember Jones** congratulated the 10, 11 and 12 year old Greater Richland Little League all star teams for qualifying for the state tournament.

**Councilmember Dobbin** reported on the Benton County Fire District #4 Commissioners meeting and said they passed a resolution to put a levy and bond proposal on the ballot. He said the two together would provide medical and ambulance service in West Richland for approximately \$10 per month per \$150,000 assessed value. Councilmember Dobbin also reported on the Tri-District Fire Committee meeting and said the committee discussed recent publicity regarding the fire services providing help to other areas and not here. He said the Commissioners say their first response capability here has a higher priority than anything else and the initial attack; keeping fires small and putting them out early is a top priority.

Mr. Dobbin said he believes the City resurfacing program is not keeping up with Council policy. He said the City needs to have about 5% of its streets resurfaced every year. He proposed that Council give Staff two to four weeks to work the issue and then bring the issue before the Utility Committee and receive their input, followed by bringing it to Council.

**Councilmember Johnson** commented that Van Giesen is starting to look better and there seems to be a different attitude in West Richland. He said he looks forward to Council and Staff setting priorities for Van Giesen. Councilmember Johnson recommended cleaning weeds and tumbleweeds now because it is easier now than it will be in the fall and fire danger will be prevented.

**Councilmember Benegas** provided an update on the upcoming financial stability strategic planning session/workshop that he is planning with Councilmember Jones and Finance Director Roberts. Their idea is to discuss and gather Council input on what the financial future looks like; what the priorities are; what options are available; and come up with a high level strategic plan for the next 2 to 5 years.

Councilmember Benegas thanked Police Chief Erdman for providing him with information regarding school zones after he was contacted by a citizen.

**Mayor Pro Tem Buel** commented on the hydroplane races being held on the weekend of July 25 through 27. He said it is one of the prime attractions for the Tri-Cities and brings millions of dollars to the economy. He feels the City of West Richland can be a part of that and receive some of the benefits.

- 7. **Citizens Public Comment** – Mayor Pro Tem Buel opened the meeting to citizen public comment on items not on the agenda at 7:37 p.m. There were no citizen comments.
- 8. **Consent Agenda** – *Upon motion by Councilmember Benegas, seconded by Councilmember Brown, Council unanimously approved the consent agenda as revised in item 4 (8c and 8f moved to 9c and 9d).*

**a. Approve Payment of Bills**

001	General Fund	247,406.45
101	Streets	9,676.92
104	Park Impact	10,938.85
121	Library Services	25,092.32
301	REET I – Capital Improvements	1,076.23
318	Capital Improvement – Water System Improvements	5,401.97
358	Capital Improvement – NWTP Expansion Construction	32,121.32
371	Capital Improvement – Keene Road Beautification	3,351.09
372	Capital Improvement – Belmont Blvd. Phase I	632.85
401	Water/Sewer	115,354.08
402	Irrigation	1,892.56
404	Stormwater	3,517.86
621	Treasurer's Trust	17,113.74
	Total	\$473,576.24

- b. **Approve Minutes of Council Meeting of July 7, 2008**
- c. This item was moved to item 9c.
- d. **Accept Keene Road Beautification Project as Complete**
- e. **RES – Declaring Official Intent to Reimburse Capital Expenditures in Connection with Improvements to the City's Existing Water and Sewer System from Proceeds of Future Borrowing – Finance Director Roberts presented a recommendation**

**RESOLUTION 15-08** - A RESOLUTION OF THE CITY OF WEST RICHLAND, WASHINGTON, DECLARING ITS OFFICIAL INTENT TO REIMBURSE CAPITAL EXPENDITURES IN CONNECTION WITH IMPROVEMENTS TO THE CITY'S EXISTING WATER AND SEWER SYSTEM FROM PROCEEDS OF A FUTURE BORROWING

f. This item was moved to item 9d.

**g. Confirm Mayor's Appointment to Real Estate Conservation & Management Board**

9. **Ordinances, Resolutions, Motions & Public Hearings – a. Closed Record Hearing - ORD – Rezoning Lot 1, Short Plat 468 to Residential Low Density, RL-22 – Community Development Director Leedy** presented a recommendation to rezone lot 1, short plat 468 to Residential Low-Density, RL-22, as requested by the property owner. Mr. Leedy noted that by action of Council during the July 7, 2008 meeting, consideration of this item was continued to this meeting. The reason for continuation was citizen testimony that the July 7 council packet should have contained a letter and petition signed by Mr. Alexander and others, opposing the request for change of zoning. Mr. Alexander was correct in his assertion. The packet for this meeting includes all materials provided to the Planning Commission.

**Councilmember Hanneman** recused himself from item 9 a & b during the July 7 meeting (item continued to this meeting) because he went and looked at the property and spoke with some of the neighbors without knowing the contacts would be inappropriate. According to the Appearance of Fairness Doctrine, Council Members have to avoid contact with proponents or opponents of an action in quasi-judicial matters.

**Councilmember Johnson** asked about comments made during the last meeting regarding when the annexation of the property took place, the City made statements about how that area would be designated. He asked if there were any such documents to that fact.

**Community Development Director Leedy** said it could be that something was misunderstood by the public or misstated by staff or representatives of staff, but Planning Staff couldn't find documentation of either of those. He said the R-22.5 was not a zone classification in place at that time and the only option for low density residential was R-40.

**Councilmember Benegas** said two lots to the west, there is a duplex and so they are currently at a 1.15 acre lot – one unit per 25,000 square feet. He asked if the limit on RL-22 is 20,000 square feet and he was told it is 22,500 minimum square feet.

**City Attorney Tanner** reminded Council of the questions answered during the July 7 meeting and the Appearance of Fairness Doctrine applies to this hearing.

Since Councilmember Benegas was not at the July 7 meeting, he asked the questions already answered by council members on July 7. Mr. Tanner mentioned that Mr. Benegas did not hear comments from the last meeting and may be at a disadvantage due to that, but he said there is no problem with Mr. Benegas participating.

*Have you engaged in communication with opponents or proponents regarding this issue outside of the public hearing process?* Councilmember Benegas replied, "No."

*City Attorney Tanner, "Will you obtain any financial benefit or suffer a financial loss as a result of the outcome of this hearing?"* Councilmember Benegas replied, "No."

*City Attorney Tanner, "Can you hear and consider this application in a fair and objective manner?"* Councilmember Benegas replied, "Yes."

*City Attorney Tanner, "Is there any member of the public, either proponent or opponent of this matter, who objects to the participation of Council Member Benegas in hearing this matter?"* There was no response.

Mayor Pro Tem Buel opened the closed record hearing at 7:46 p.m.

Mayor Pro Tem Buel asked for testimony from those supporting or opposing the action.

**David Alexander**, 4801 W. Lattin Rd. (building a house at 4810 W. Lattin Rd), referred to the physical description of the property contained in the Planning Commission staff report that is part of the record. He said there is a small factual error in the description which states, "To the south, across West Lattin Road, is Commercial (C-1) zoning." He said he lives on the land to the south across West Lattin Road and it is not C-1; it is RL-40.

**Community Development Director Leedy** confirmed that the property is zoned RL-40.

There was no additional testimony and Mayor Pro Tem Buel closed the hearing at 7:48 p.m.

**Councilmember Dobbin** said the evidence appears that when the annexation occurred, there were indications from the city that the property would remain as RL-40. He said Mr. Leedy did not discover any documents, but said it possibly may have been stated that way. He said the city needs to get in the mode where we do what we say we are going to do. He believes that the line of evidence is leaning toward us leaving it as RL-40 rather than changing it if we led the citizens to believe that at the time. He said unless we get out of the mode of changing what we say, we will never get citizen support for what is being done.

**Councilmember Johnson** said the area has a long history of the annexation coming and going and then finally someone came up with a combination of financials to get it through. He said he was adamantly against the annexation because it was not something that was done by the people who live there. He said there are two parcels still within the county and one is a gentleman's house because the city took his other parcels to put the financial package together. He said he was adamantly opposed then and he is not in favor of changing his mind so will be voting no on the rezone.

**Councilmember Benegas** said the property has been annexed and that is not the issue tonight. He said it is RL-40 now and no one knows if it will be like that forever. He said the owner of the land wants to change the zoning to RL-22 – 33,000 square feet which is 7,000 square feet less an acre. (Editing note: Councilmember Dobbin later stated a technical correction, stating, "An acre is 43,560 square feet"). He doesn't think it will be that big a difference. He feels people should be able to do whatever they want with their land. He stated that when he was elected, many constituents wanted to make sure that we not use the power of government to force our will on other people, especially someone who owns his own property and wants to do something that is still in the character of the land. He feels that RL-22 will retain the agricultural feel and people can still have animals out there and it is still plenty of land. He said a man owns the property and it is his right to do what he wants to and we should not step in his way. He will vote to give the property owner RL-22 zoning.

**Councilmember Jones** said it will not be a big change for the area so she will support the rezone request.

**Councilmember Brown** feels the rezone request is reasonable and she will support it.

- b. ORD – Rezoning Lot 1, Short Plat 468 to Residential Low Density, RL-22 – Community Development Director Leedy** presented an ordinance rezoning lot 1, short plat 468 to residential low density, RL-22 as delineated in item 9a.

**ORDINANCE 19-08 - AN ORDINANCE OF THE CITY OF WEST RICHLAND, WASHINGTON, REZONING LOT 1 OF SHORT PLAT #468 TO RESIDENTIAL LOW-DENSITY, RL-22**

*Councilmember Benegas moved to approve Ordinance 19-08 rezoning lot 1 of short plat #468 to residential low density, RL-22 and accept the findings, conclusions and recommendations found in the staff report and adopt those findings. Councilmember Brown seconded the motion and it carried by 4-2 majority vote as follows:*

*Yes: Mayor Pro Tem Buel, Council Members Benegas, Brown, Jones*

*No: Council Members Dobbin and Johnson*

*Recused: Councilmember Hanneman*

*Absent: None*

- c. RES - Setting a Public Hearing - Vacating a Portion of Paradise Street Road Right-of-Way.**

Councilmember Dobbin said he pulled this item from the consent agenda for two reasons:

1. The motion itself talks about vacation but not the establishment of the utility easement that is included in the ordinance.
2. On any vacation, he wants to make sure all the accesses are covered that are required by the City, fire department, Benton REA and others. He asked if staff has looked at the entire length of stretch and if there are easements or right-of-way equal to at least 10 feet on the other side to match this 10 feet.

**Public Works Director Slade** said this resolution is only to set a public hearing date and all the information will be provided to Council when the public hearing and ordinance adoption are presented.

**RESOLUTION 16-08 - A RESOLUTION OF THE CITY OF WEST RICHLAND, WASHINGTON, SETTING THE PUBLIC HEARING DATE TO CONSIDER VACATING A PORTION OF PARADISE STREET ROAD RIGHT-OF-WAY**

*Upon motion by Councilmember Brown, seconded by Councilmember Jones, Council unanimously established Monday, August 18, 2008 City Council meeting for the City of West Richland as the time when the public hearing will occur on vacating a portion of Paradise Street road right-of-way.*

- d. **ORD – Amending WRMC Section 10.12.060, Relating to Designated Streets Where Parking is Prohibited at all Times – Public Works Director Slade** presented a recommendation to adopt an ordinance amending WRMC section 10.12.060 prohibiting parking at any time on the west side of S. 39th Ave from Grant Street to the terminus of said roadway. This is conditioned on the apartment owner completing his modifications within the next 30 days. If the apartment owner does not complete the modifications as scheduled, Council should consider prohibiting parking on the east side of S. 39th Avenue in the future. The ordinance was presented during the July 7, 2008 meeting and public comments were taken. Council continued action on the ordinance to this meeting and directed staff to look for a working solution for all involved parties. Mr. Slade noted that an on-site meeting was conducted on Friday, July 11th, 2008 with the apartment owner and some residents on South 39th Avenue. The owner of West View Garden Apartments, at his cost, is willing to relocate his split rail fence along South 39th Avenue, relocate the fence at the end of South 39th Avenue, and construct a make-shift turn-around on his property within the next 30 days. With these modifications, tenants of the apartments would be able to pull further off the east edge of South 39th Avenue to park while maintaining the required 20 foot minimum access width. The make-shift turn-around will reduce the number of vehicles turning around on private property.

**Councilmember Johnson**, referring to the condition that a make-shift turn-around will be constructed, asked for an explanation.

**Public Works Director Slade** said the split rail fence was removed so cars can pull further off the street allowing the passenger to open the door. He said the gate at the north end of 39<sup>th</sup> was preventing cars from being able to turn around so they were turning around on private property. The property owner is willing to relocate the gate around the corner in between the two apartments. He said that still doesn't allow through access because they are concerned with security, but relocating the fence will provide a place to turn around. Mr. Slade said he spoke with other residents who live on 39<sup>th</sup> and it seems to be a workable solution for all.

**Reid Bergstrom**, 671 South 39<sup>th</sup>, said he is the one they are encroaching on all the time. He feels that in order for this solution to work, the residents will have to be made to park where they are supposed to. He said they are still parking next to the pavement and turning around in his driveway. He feels there will have to be a marker there to keep them where there is 20 feet of right of way. He said he still has the same problem as before and the only long term solution is to prohibit parking on both sides.

**Public Works Director Slade** said two standard no parking signs will be installed on the west side of 39<sup>th</sup>. If the solution doesn't work, the ordinance can be revisited.

**Scott Schell**, apartment building owner, said on Friday, he met with Public Works Director Slade, Mr. Bergstrom and Ms. Cooper and they came up with an agreement. He said part of the agreement was to take down the split rail fencing, which has been removed. Also, to take the existing gate and move it further down on the vacated Fargo Street. He plans to take some of area from where the gate currently exists and where the gate will be placed and make a three point turn-around for the tenants. He said he will speak with tenants and put in the tenancy rules that they are not to turn around in the neighbor's driveways.

**ORDINANCE 20-08 - AN ORDINANCE OF THE CITY OF WEST RICHLAND, WASHINGTON, RELATING TO DESIGNATED STREETS WHERE PARKING IS PROHIBITED AT ALL TIMES, AMENDING SECTION 10.12.060 OF THE WEST RICHLAND MUNICIPAL CODE**

*Councilmember Benegas moved to approve ordinance 20-08 amending WRMC section 10.12.060 prohibiting parking at any time on the west side of S. 39th Ave from Grant Street to the terminus of said roadway, seconded by Councilmember Hanneman. The motion carried by 6-1 majority vote as follows:*

*Yes: Mayor Pro Tem Buel, Council Members Benegas, Brown, Hanneman, Johnson, Jones*

*No: Councilmember Dobbin*

*Absent: None*

10. There was no unfinished business.
11. **Executive Session** – There was no executive session.
12. **New Business – a. Mitigation of Blowing Dust from Construction Sites – Discussion**  
– **Councilmember Dobbin** said he received a comment from a citizen on Thursday, July 10 regarding blowing dirt from a construction site. He reported to Lucinda Court, off Morab Street, and he saw dust blowing from three lots being constructed on and it was impending upon a resident's house and destroying his landscaping. He said there was no dust mitigation occurring. Mr. Dobbin said the resident attempted to contact the construction workers early in the afternoon, but they could not converse in English. Mr. Dobbin said he made three phone calls to city staff and by 8:10 p.m. there were three sprinklers going on the three lots. He said when he returned from an out-of-town trip on Monday, the resident informed him that the sprinklers never moved from the original site and they only covered a very fraction of the blowing dust area.

Councilmember Dobbin said he looked at the dust mitigation ordinance and it states, "At the time a building permit is issued, there will be a dust mitigation plan." He asked staff what the written plan is. He also would like Council to decide if that is the kind of plan they envisioned because Council passed the ordinance. He would like the Mayor to say why or why not the plan was being followed.

**Community Development Director Leedy** said the applicant on a building permit is required to sign an acknowledgment of the rules regarding air pollution control and read a statement from air pollution control on mitigating measures. He said the written plan is simply an acknowledgement that an applicant will do something and in 99.9% of the cases, it is that they will sprinkle the site to control dust.

**Chief Erdman** added that the plan has always allowed the use of sprinklers to mitigate dust control. He said there is a dust mitigation ordinance that is regularly enforced. He explained that in this particular incident, a Sergeant was sent to check the site and also the Kadlec Hospital project and the residential developments in the area. He said all three property owners were contacted, the city immediately took out water tankers, Kadlec Hospital brought out their tankers, and sprinklers were put on the private properties. The Sergeant said the mitigation was almost immediate as far as people trying to deal with the problem. He said it was a high wind day and unless there is high saturation – an inch or more below the soil – the dust cannot be stopped. He feels Council will have to make a decision whether sprinklers are sufficient. He said a sprinkler is typically not sufficient once the wind picks up.

**City Attorney Tanner** said the Benton Clean Air Authority also has enforcement jurisdiction within the city limits so that is another avenue for citizens to pursue when there is a situation where our ordinance isn't applicable.

**Mayor Pro Tem Buel** asked for the contact information of the homeowner and Mr. Buel will contact him and provide him with contact information for future use.

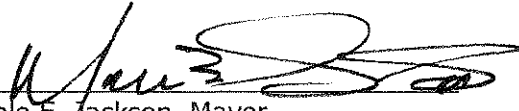
**Councilmember Dobbin** said when the City receives a complaint, not only should the citizen be referred to the Clean Air Authority, but the City should respond and show citizens the contractor will be required to do what he has read when he files for his building permit.


Council discussion ensued and many said it appeared to be an enforcement issue.

**Chief Erdman** asked for clarification because there was immediate response by a patrol supervisor, immediate contacts to the owners, and immediate response from the owners to take care of the property. He said the only other alternative is to quit asking for compliance and start charging people. He said if we want relationships with the community, including new

residents moving into the community and residential developers, enforcement action isn't always the right approach; we will try to get compliance first and if violations continue, then we will go after enforcement. He said this was the first complaint to the police department on this particular site and this particular issue and he felt there was good compliance very quickly on that evening.

**13. Adjournment** – The meeting was adjourned at 8:28 p.m.

  
Dale E. Jackson, Mayor

  
Julie Richardson, City Clerk