

White Salmon City Council Meeting

A G E N D A

July 15, 2020 – 6:00 PM

Via Zoom Teleconference

Meeting ID: 862 1220 8127 Password: 967813



Call in Numbers:

669-900-6833

929-205-6099

301-715-8592

346-248-7799

253-215-8782

312-626-6799

We ask that the audience call in instead of videoing in or turn off your camera, so video does not show during the meeting to prevent disruption.

Thank you.

Call to Order

Roll Call

Public Comment

Public comment will not be taken during the teleconference. Public comment submitted by email to Jan Brending at janb@ci.white-salmon.wa.us by 5:00 p.m. on Wednesday, July 15 will be read during the city council meeting and forwarded to all city council members. Please include in the subject line "Public Comment – July 15 Council Meeting."

Changes to the Agenda

Business Items

1. Appointment of City Council Member Position #4
 - a. Interviews
 - b. Executive Session - The City Council will meet in Executive Session pursuant to RCW 42.30.110(1)(g) to discuss the qualifications of candidates for the position of Council Member.
 - c. Action
2. Resolution 2020-07-503 Establishing a Sole Source Provider and Authorizing the Purchase and Installation of Telemetry Equipment
 - a. Presentation and Discussion
 - b. Action
3. Cost Sharing Agreement Between City of White Salmon and Yakama Nation
 - a. Presentation and Discussion
 - b. Action

Consent Agenda

4. Approval of Vouchers
5. Approval of Meeting Minutes - July 1, 2020

Department Head and Committee Reports

Adjournment

File Attachments for Item:

Appointment of City Council Member Position #4

a. Interviews

b. Executive Session - The City Council will meet in Executive Session pursuant to RCW 42.30.110(1)(g) to discuss the qualifications of candidates for the position of Council Member.

c. Action



AGENDA MEMO

Needs Legal Review: Yes
Council Meeting Date: July 15, 2020
Agenda Item: Appointment of City Council Position #4
Presented By: Jan Brending, Clerk Treasurer

Action Required

Appointment of an individual to City Council Position #4.

Motion

Motion to appoint _____ to City Council Position #4.

Explanation of Issue

The City has advertised for the vacant council position #4 allowing interested individuals to submit letters of interest to the Clerk Treasurer by July 13, 2020.

Any letters of interest will be forwarded to the City Council first thing on Tuesday, July 14 along with the interview questions which will be provided to all candidates.

The process will be as follows:

1. Interviews will be conducted in open session with each interested individual. Candidates will wait in the Zoom Waiting Room until it is their turn for their interview.
2. The council will discuss the qualifications of the candidates in Executive Session pursuant to RCW 42.30.110(1)(g). Separate instructions will be provided to council members for the Zoom Executive Session (using a separate account from that used for the regular council meeting).
3. A straw vote will be held whereby each council member will email Jan Brending, Clerk Treasurer their preferred candidate. Jan Brending will read the results of the straw vote in open session.
4. A motion will be required to appoint the overall preferred candidate.

File Attachments for Item:

2. Resolution 2020-07-503 Establishing a Sole Source Provider and Authorizing the Purchase and Installation of Telemetry Equipment

a. Presentation and Discussion

b. Action



AGENDA MEMO

Needs Legal Review: Yes
Council Meeting Date: July 15, 2020
Agenda Item: Resolution 2020-07-503 Establishing a Sole Source Provider and Authorizing the Purchase and Installation of Telemetry Equipment
Presented By: Patrick Munyan, city Administrator

Action Required

Adoption of Resolution 2020-07-503 Establishing a Sole Source Provider and Authorizing the Purchase and Installation of Telemetry Equipment.

Motion

Motion to adopt Resolution 2020-07-503 Establishing a Sole Source Provider and Authorizing the Purchase and Installation of Telemetry Equipment.

Explanation of Issue

The uses several turbidity meters at the Buck Creek Water Slow Sand Filtration Plant. The meters are necessary to measure the turbidity of the water in Buck Creek and are required by the Washington State Department of Health. The turbidity meters need to be replaced as they are not functioning correctly. The city's current telemetry system is specifically programmed to work with a certain brand of meters. Because the city needs to purchase a specific brand of turbidity meter, a resolution establishing a sole sour provider and authorizing the purchase and installation of the equipment is required.

Staff Recommendation

Staff recommends the city council adopt Resolution 2020-07-503 establishing a sole source provider and authorizing the purchase and installation of telemetry equipment.

RESOLUTION 2020-04-502

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF WHITE SALMON, WASHINGTON,
ESTABLISHING A SOLE SOURCE PROVIDER AND AUTHORIZING THE
PURCHASE AND INSTALLATION OF TELEMETRY EQUIPMENT**

WHEREAS, the City has a water telemetry system that continually monitors; and

WHEREAS, consistent monitoring is necessary to ensure water quality to promote public health and comply with testing requires established by Washington State Department of Health; and

WHEREAS, it is critical for the City of White Salmon to have proper and compatible equipment to ensure continuous monitoring with as few interruptions as possible; and

WHEREAS, the telemetry software is programmed to communicate with a particular name brand monitoring and data collection unit which provides a particular milliamp frequency; and

WHEREAS, changing to an incompatible monitoring unit would add additional work and expenses which include reprogramming, mounting and assembly; and

WHEREAS, these additional expenses could be avoided by establishing a sole source provider; and

WHEREAS, RCW 39.04.280(1)(a) allows agencies to waive competitive bidding if a purchase is clearly and legitimately limited to a single supplier. These situations often arise when an agency has specific technological requirements. Examples include:

- Licensed, copyrighted, or patented products or services that only one vendor provides
- New equipment or products that must be compatible with existing equipment or products
- Proprietary or custom-built software or information systems that only one vendor provides
- Products or services where only one vendor meets the required certifications or statutory requirements; and

NOW, THEREFORE, be it resolved by the City Council of the City of White Salmon as follows:

1. The City of White Salmon Public Works Departments shall purchase equipment that is compatible with existing equipment and products.

2. The above-described circumstance is justification for the waiver of bidding requirements under the authority of RCW 39.04.280(1)(a).
3. Pursuant to White Salmon Procurement Policy 9.0 and RCW 39.04.280(1)(a), the bidding requirement is hereby waived for the purchase of compatible telemetry equipment and herein is considered by the City Council as a sole source purchase.

ADOPTED by the Council of the City of White Salmon, Washington. Dated this 15th day of July, 2020.

Jason Hartmann, Mayor Pro Tempe

ATTEST:

APPROVED AS TO FORM:

Jan Brending, Clerk Treasurer

Kenneth B. Woodrich, City Attorney

File Attachments for Item:

3. Cost Sharing Agreement Between City of White Salmon and Yakama Nation

a. Presentation and Discussion

b. Action



AGENDA MEMO

Needs Legal Review: Yes
Council Meeting Date: July 15, 2020
Agenda Item: Cost-Sharing Agreement Between City of White Salmon and Yakama Nation
Presented By: Jan Brending, Clerk Treasurer and Patrick Munyan, City Administrator

Action Required

Authorize the Mayor Pro Tempe to sign cost-sharing agreement with the Yakama Nation.

Motion

Motion to authorize Mayor Pro Tempe to sign Cost-Sharing Agreement Between City of White Salmon and Yakama Nation providing a grant in an amount not to exceed \$20,000 for work related to White Salmon River Source Reliability Study.

Explanation of Issue

The City has a grant from the Washington Department of Ecology to conduct the White Salmon River Source Reliability Study. The Yakama Nation has participated in an advisory group exploring alternatives to the City's withdrawal of water from Buck and Jewett Creeks. The Yakama Nation has funding available that they would like to grant to the city as part of their participation in the study.

Staff Recommendation

Staff recommends the city council authorize the Mayor Pro Temp to sign the cost-sharing agreement with the Yakama Nation.

**COST-SHARING AGREEMENT BETWEEN
CITY OF WHITE SALMON AND YAKAMA NATION**

This Cost-Sharing Agreement (“Agreement”) is between the Confederated Tribes and Bands of Yakama Nation (“Yakama Nation”), a sovereign native nation with its primary place of business located at 401 Fort Road / P.O. Box 151, Toppenish, WA 98948, and the City of White Salmon (“City”), a Washington Municipal Corporation with its primary place of business at 100 N. Main Street, White Salmon, WA 98672.

Whereas, the Yakama Nation’s staff has participated for several years in an advisory group exploring alternatives to the City’s municipal withdrawals from Buck and Jewett Creeks due to concerns over impacts to culturally and ecologically significant aquatic resources and the terrestrial resources that depend upon them; and

Whereas, the Yakama Nation, the City, and other members of an advisory group, through a preliminary appraisal funded by the Washington Dept. of Ecology’s (“Ecology”) Office of Columbia River, selected as a preferred alternative a new surface water diversion project, or Preferred Alternative 5A (“Project”), on the White Salmon River to supply an alternative and reliable domestic water source for the City and protect stream flow in Buck and Jewett Creeks; and

Whereas, the Yakama Nation and the City desire to collaborate for cost sharing purposes on a feasibility study (“Study”) to evaluate the Project and its potential benefits on the Yakama Nation’s instream aquatic resources and the City’s water delivery capabilities; and

Whereas, the City has funds available for the Study through a grant from Ecology’s Office of Columbia River and Water Resources; and

Whereas, the Yakama Nation has funds available for the Study through a Pacific Coastal Salmon Recovery Fund (“PCSRF”) grant (Buck Creek Flow Restoration, 16-Yaka-03); and

Whereas, the Yakama Nation’s role in the Study is to provide payment to the City, from the Yakama Nation’s PCSRF grant, so that the City may complete the Study;

Whereas, the City will have overall responsibility for the Study and the Project including, but not limited to, hiring any consultants, overseeing any contractors, and timely execution of work; and

Whereas, the shared goal of the City and Yakama Nation in this Study is to facilitate the furtherance of an alternative municipal water source for the City that provides reliability and redundancy while protecting and enhancing the streamflow in flow-limited tributary streams and, by extension, the quantity and quality of aquatic habitat.

The Yakama Nation and the City therefore agree as follows:

ARTICLE 1. Term and Scope.

1.01. Effective Date. This Agreement is effective on the date when both parties have signed it.

- 1.02. Term.** The initial term of this Agreement September 30, 2021, unless terminated by either party consistent with the provisions of this Agreement. This Agreement may be extended only by mutual written agreement executed by the authorized representatives of both parties.
- 1.03. Scope.** This Agreement shall apply to Study expenses incurred by the City between June 1, 2020 and the end of this Agreement. The aggregate amount of the Yakama Nation’s reimbursements under this Agreement (“Total Obligated Amount”) may not exceed twenty thousand dollars (\$20,000).

Article 2. Designated Representatives.

- 2.01.** Designated Representatives will facilitate communication and coordination between the parties. The following individuals will serve as Designated Representatives for his or her respective party:
- Bill Sharp
Research Scientist
Yakima-Klickitat Fisheries Project
P.O. Box 215, Klickitat, WA 98628
(509) 945-3167
bill_sharp@yakama.com
 - Jan Brending
Clerk Treasurer
City of White Salmon
PO Box 2139, White Salmon WA 98672
509-493-1133 #205
janb@ci.white-salmon.wa.us
- 2.02.** Designated Representatives do not have legal authority to bind their respective party.
- 2.03.** Either party may change its Designated Representative by providing notice to the other party.

Article 3. The City’s Obligations.

- 3.01.** The City shall, with funding contributed through this Agreement and Ecology’s Office of Columbia River and Water Resources, execute an agreement directly with the consultants necessary to complete the Study and shall be responsible for their performance. Tasks for completing the Study are described in the “Tasks” section of the attached “Exhibit A – Scope of Work,” which is expressly incorporated by reference into this Agreement.
- 3.02.** The City shall provide to the Yakama Nation a completed W-9 form from its consultants contracted to complete the Study. If the City contracts with consultants to complete the Study subsequent to execution of this Agreement, the City shall promptly provide to the Yakama Nation a completed W-9 form for those consultants.
- 3.03.** The City shall ensure that its consultants provide certification that they are not debarred, suspended, or otherwise prohibited by a federal or state agency from performing work covered by this Agreement, and provide the Yakama Nation with documentation of certification.

- 3.04.** The City shall comply, and ensure that its consultants comply with prevailing wage rates, Davis Bacon Act standards, and related requirements, where applicable to the City's performance under this Agreement, and shall provide the Yakama Nation with documentation of compliance.
- 3.05.** The City shall obtain all necessary permits and permissions necessary to complete the Study.
- 3.06.** The City shall submit to the Yakama Nation invoices for allowable expenses that comply with Article 5 no more frequently than monthly.
- 3.07.** The City shall keep the Yakama Nation informed of Study progress by completing the progress reports described in the "Progress Reports" section of Exhibit A.
- 3.08.** The City shall give appropriate credit to the Yakama Nation and PCSRF in any and all press releases, publications, annual reports, video credits, dedications, and other public communications regarding the Yakama Nation's financial support for the Study and Project and provide the Yakama Nation with copies of the same.
- 3.10.** The City shall comply, and ensure that its consultants comply, with all applicable requirements regarding the use of federal funds including, without limitation, the Office of Management and Budget Uniform Guidance (2 C.F.R. Part 200); the Whistleblower Protection Act (41 U.S.C. § 4712); and the Copeland Anti-Kickback Act (18 U.S.C. § 874).
- 3.09.** The City shall comply, and ensure that its consultants comply, with all applicable requirements of the National Oceanic Atmospheric Administration's ("NOAA") guidelines on scientific integrity, included in section III of the attached "Exhibit B – NOAA Financial Assistance Administrative Terms," which is expressly incorporated by reference into this Agreement.
- 3.11.** The City shall be responsible for its own legal and administrative expenses.
- 3.12.** The City shall furnish all materials, equipment, and supplies necessary to perform its obligations under this Agreement.

Article 4. The Yakama Nation's Obligations

- 4.01.** The Yakama Nation shall promptly review the invoices received from the City for compliance with Article 5 and, within ten calendar days of receipt of an invoice from the City, inform the City of any errors or ineligible expenses.
- 4.02.** The Yakama Nation shall reimburse the City for allowable invoiced expenses within thirty calendar days of receipt of an invoice from the City that complies with Article 5.
- 4.03.** The Yakama Nation shall give appropriate credit to the City in any and all press releases, publications, annual reports, video credits, dedications, and other public communications regarding the Study and Project and provide the City with copies of the same.
- 4.04.** The Yakama Nation shall be responsible for its own legal and administrative expenses.

- 4.05. The Yakama Nation shall furnish all materials, equipment, and supplies necessary to perform its obligations under this Agreement.

ARTICLE 5. Invoices.

- 5.01. **Contents.** Invoices must include the dates of work; a description of the work; the total amount due; and the Total Obligated Amount remaining after the amount due.
- 5.02. **Allowable Expenses.** Invoices must include only expenses for tasks provided for in the Scope of Work.
- 5.03. **Expense Limits.** The total amount claimed as due under all invoices must not exceed the remaining Total Obligated Amount. If the City anticipates that it will exceed the Total Obligated Amount, then the parties must amend this Agreement, consistent with Section 11.02, prior to reimbursement of any additional amounts.

ARTICLE 6. Record Keeping and Audits.

- 6.01. **Records.** The City shall retain systematic records of all expenditures related to this Agreement including, without limitation, bills, invoices, cancelled checks, etc., for 6 years after submission of the final invoice. If litigation, claims, audits, negotiations, or other actions related to this Agreement occur within the 6-year period, then each party shall retain such records until the later of either 6 years after submission of the final invoice by either party or resolution of all such litigation, claims, audits, negotiations, or other actions.
- 6.02. **Inspection and Audit.** The City shall make the records described in Section 6.01 available for inspection or audit by the Yakama Nation during regular business hours and following reasonable notice. The Yakama Nation may, at its own expense, audit or have audited such records. The City shall also make such records available to any federal or state agencies or officials who may have a right to such audit pursuant to an applicable funding source agreement.
- 6.03. **Disallowed Costs.** The City shall reimburse the other party for any expenditure they invoiced and were paid for, which is subsequently found to be a disallowable cost by an auditing party due to non-compliance with any provision of this Agreement or under the terms of an applicable funding agreement, law, or regulation.

ARTICLE 7. Risk Management.

- 7.01. **Insurance Policies.** Each party shall, at their own sole expense, maintain the following insurance policies:
- 7.0.1.01. Worker's compensation in the maximum amounts required by applicable law.
- 7.0.1.02. Automobile liability insurance with bodily limits of at least \$1,000,000 per accident that includes coverage for both bodily injury and property damage.
- 7.0.1.03. Commercial general liability insurance of at least \$1,000,000 per occurrence and \$2,000,000 aggregate that includes coverage for both bodily injury, death, and property damage.

- 7.02. Proof of Insurance.** Each party shall promptly provide the other party with documentation of its insurance coverage following the execution of this Agreement.
- 7.03. No Subrogation.** Each party waives its subrogation insurance rights against the other party and the other party's officers, agents, employees, governmental entities, contractors, and subcontractors.
- 7.04. Indemnification.** The City shall, at its own expense, indemnify and (at the Yakama Nation's discretion, and with counsel acceptable to the Yakama Nation) defend and hold the Yakama Nation and its officers, agents, employees, and assigns (each and all considered the "Yakama Nation" for purposes of the City's indemnification obligations) harmless from and against any claim, demand, judgment, loss, cost, damage, expense or other liability whatsoever, including legal fees and expenses, which are incurred by or claimed against the Yakama Nation and arise, either directly or indirectly, from any error, action, omission, or breach of contract by the City or its officers, agents, employees, or subcontractors. The City's indemnification obligations will survive termination of this Agreement with respect to any error, action, omission, or breach occurring during the term of this Agreement.
- 7.05.** The Yakama Nation shall, at its own expense, indemnify and (at the City's discretion, and with counsel acceptable to the City) defend and hold the City and its officers, agents, employees, and assigns (each and all considered the City for purposes of the Yakama Nation's indemnification obligations) harmless from and against any claim, demand, judgment, loss, cost, damage, expense or other liability whatsoever, including legal fees and expenses, which are incurred by or claimed against the City and arise, either directly or indirectly, from any error, action, omission, or breach of contract by the Yakama Nation or its officers, agents, employees, or subcontractors. The Yakama Nation's indemnification obligations will survive termination of this Agreement with respect to any error, action, omission, or breach occurring during the term of this Agreement.
- 7.06. Limited Waiver of Immunity.** Yakama Nation expressly and irrevocably waives any sovereign immunity it has from suit for causes of action with respect to the obligations evidenced by this Agreement and consents to be sued in the Washington state courts of general jurisdiction to enforce the terms of the Agreement, or to compel or enforce arbitration as described below. Yakama Nation agrees that it will not raise sovereign immunity as a defense in any legal action brought to enforce the terms of this Agreement. This waiver shall survive expiration or termination of this Agreement.

ARTICLE 8. Termination.

- 8.01. For Cause.** Either party may terminate this Agreement for reasonable cause by providing the other party with written notice of termination. Reasonable cause includes, without limitation, a material breach of this Agreement by the other party or, with respect to the Yakama Nation, loss of grant funding necessary for reimbursement of the City. A termination for cause due to a loss of funding will be effective immediately upon written notice to the other party; while a termination due to a material breach will not be effective unless the breaching party fails to act to cure such breach for 30 days following the date of notice.
- 8.02. By Tribal Council.** The Yakama Nation may immediately terminate this Agreement for any reason by providing the City with no fewer than 10 days' prior written notice.

8.03. Effect of Termination. The parties shall remain responsible for their obligations which arose prior to termination.

ARTICLE 9. Dispute Resolution.

- 9.01. Negotiation.** If the parties disagree about the performance, interpretation, or enforcement of this Agreement, they shall first attempt to resolve their disagreement informally through dialogue between their Designated Representatives. If the disagreement cannot be resolved by the Designated Representatives, the parties shall hold face-to-face negotiations between their leaders, which must be held in Toppenish, WA. If the parties cannot resolve their disagreement after taking these steps, the disagreement will be deemed a “dispute.”
- 9.02. Mediation.** The parties shall endeavor to resolve any disputes through non-binding mediation before resorting to any other dispute resolution procedure. Such mediation must take place at a mutually agreeable location in Toppenish or Yakima, Washington. Any party demanding mediation shall do so consistent with the notice requirements set forth in Section 11.09. The parties shall share equally the costs of hiring a mediator and securing a suitable location for the mediation proceedings. Any applicable statutes of limitation will be considered tolled until the conclusion of the mediation process.
- 9.03. Survival.** The parties’ dispute resolution obligations will survive termination of this Agreement.

ARTICLE 10. Intellectual Property.

- 10.01. Non-Proprietary Information.** The parties shall make any non-propriety information developed under this Agreement publicly available.
- 10.02. Project Designs.** Any project design developed by one of the parties will remain the intellectual property of that party.
- 10.03. Logos.** Neither party may use the other party’s name, logo, or other identifying information without permission.
- 10.04. Creative Work.** Any creative work developed by a party under this Agreement, including all written, graphic, audio, visual and any other materials, contributions, applicable work product and production elements contained therein, whether on paper, disk, tape, digital file or any other media (“Creative Work”), will remain the intellectual property of that party. Each party shall grant the other party a perpetual, royalty-free, non-exclusive right to copy, distribute, use, and prepare derivative work from its Creative Work for any purpose in non-commercial use.

ARTICLE 11. General Terms.

- 11.01. Certification.** Each party certifies that neither it nor its council, board, or agents, are debarred, suspended, or otherwise prohibited by a federal or state agency from performing work covered by this Agreement

- 11.02. Amendments.** The parties cannot amend this Agreement except by a written instrument signed by the authorized representatives of both parties. Neither party will have a reimbursement obligation for work covered by an amendment until the amendment is properly signed by both parties.
- 11.03. Legal Relationship.** The Yakama Nation and the City are independent entities. This Agreement does not create a partnership or joint venture and the parties will not have authority to represent each other or to enter into contracts or other legal commitments on behalf of the other party.
- 11.04. Third-Party Rights.** This Agreement is not intended to create any third-party rights. Neither party will be responsible for the acts or omissions of entities or individuals not party to this Agreement.
- 11.05. Non-Assignability.** Neither party shall assign this Agreement without the express written consent of the other party.
- 11.06. Excusable Delay.** Each party shall excuse the other for any delay in the performance of obligations under this Agreement that result from any event or circumstance, regardless of foreseeability, not caused by and beyond the reasonable control of the non-performing party. The non-performing party shall, as soon as possible after it has knowledge of the event or circumstance that will or may result in delay, give notice and a full written description of the event or circumstance to the other party. Both parties shall then consult to determine the best course of action for resuming the Study.

Each party shall, at all times, take all reasonable steps to prevent excusable delay affecting the performance of its obligations under this Agreement; mitigate the effect of any excusable delay; and comply with its obligations under this Agreement notwithstanding an event or circumstance that results in excusable delay.

- 11.07. Entire Agreement.** This Agreement, including any documents expressly incorporated by reference, constitute the entire understanding of the parties on the subject matter of this Agreement. The parties do not agree to any terms, conditions, or obligations except as provided in this Agreement or documents incorporated into this Agreement by reference.
- 11.08. Severability.** If any term of this Agreement is to any extent illegal, incapable of being enforced, or otherwise invalid, the term will be excluded to the extent of such illegality, unenforceability, or invalidity. All other terms in this Agreement will remain in full force and effect. To the extent permitted and possible, the illegal, unenforceable, or invalid term will be deemed replaced by a term that is legal, enforceable, or valid and that comes closest to expressing the intention of the illegal, unenforceable, or invalid term.
- 11.09. Notice Requirements.** Notice under this Agreement must be in writing, properly addressed to the party, and delivered by a national transportation company with all fees prepaid and receipt signature required or by USPS certified mail, return receipt requested, postage prepaid. Notice will be effective upon the date of receipt. Either party may change its designated address or recipient for legal notice by giving the other party reasonable notice of such change.
- 11.10. Notice to the Yakama Nation.** Notice to the Yakama Nation must be sent to the Tribal Council Chairman at P.O. Box 151 / 401 Fort Road, Toppenish, WA 98948, with courtesy copies to the Yakama Nation's Designated Representative electronically at the email address listed in Article 2 and to the Yakama Nation Office of Legal Counsel at P.O. Box 150 / 401 Fort Road, Toppenish, WA 98948.

11.11. Notice to the City. Notice to the City must be sent to the City of White Salmon, PO Box 2139, White Salmon, WA 98672.

11.12. Execution. If the parties sign this Agreement in several counterparts, each copy will be deemed an original, but all counterpart copies together will constitute one instrument. The parties may sign and deliver this Agreement (and any ancillary documents) to each other electronically, and the receiving party may rely on the electronic document and signature as if it was a hard-copy original. The parties each state that they have the necessary legal authority to enter into and sign this Agreement, and to perform their obligations under this Agreement.

11.13. Choice of Law and Venue. Yakama law governs the validity and interpretation of this Agreement, and any adversarial proceedings brought by one party against the other party arising out of this Agreement. Any court action filed to enforce or interpret this Agreement must be in the Yakama Tribal Courts. The Parties each acknowledge that this Agreement will be considered to have been executed at the Yakama Nation governmental headquarters in Toppenish, WA, and that this Agreement establishes a consensual business relationship between the parties for purposes of Yakama Tribal Court jurisdiction. The City shall not raise any personal jurisdiction objections to Tribal Court jurisdiction.

11.14. Sovereign Rights & Immunities. In entering into this Agreement, the Yakama Nation is not waiving its sovereign immunity from suit, and is not waiving, altering, or otherwise diminishing its rights, privileges, remedies, or services guaranteed by the U.S. Treaty with the Yakamas of June 9, 1855 (12 Stat. 951). Nothing in this Agreement should be construed as contractually subjecting the Yakama Nation to any state, local, or federal jurisdiction to which it would not otherwise be subject.

Each party is signing this Agreement on the date stated opposite that party's signature:

THE CONFEDERATED TRIBES AND BANDS OF THE YAKAMA NATION

By: Delano Saluskin
Title: Tribal Council Chairman

Date

CITY OF WHITE SALMON

By: Marla Keethler
Title: Mayor

Date

Approved as to form:

Kenneth B. Woodrich, City Attorney

File Attachments for Item:

5. Approval of Meeting Minutes - July 1, 2020



CITY OF WHITE SALMON
City Council Regular Meeting – Wednesday, July 1, 2020
Via Zoom Teleconference

Council and Administrative Personnel Present

Council Members:

Jason Hartmann (Mayor Pro Tempe)
David Lindley
Ashley Post
Joe Turkiewicz

Staff Present:

Jan Brending, Clerk Treasurer
Ken Woodrich, City Attorney
Pat Munyan, City Administrator
Russ Avery, Public Works Operations Mgr.
Mike Hepner, Police Chief
Bill Hunsaker, Building Official/Fire Chief

1. Call to Order

Jason Hartmann, Mayor Pro Tempe called the meeting to order at 6:00 p.m. There were approximately 8 people in the audience (by video or telephone).

2. Roll Call

All council members were present. (Note: Council Position #4 is currently vacant.) Marla Keethler, Mayor is on maternity leave.

3. Public Comment

No public comment was received.

4. Changes to Agenda

Jan Brending, Clerk Treasurer requested that filling the council vacancy be moved to the July 15 meeting to allow additional time for potential candidates to submit a letter of interest. There were no objections from the council.

5. Ordinance 2020-07-1064, Repealing WSMC 17.36 and Adding a New WSMC 17.36 MHRP Mobile/Manufactured Home Residential Park District

Pat Munyan, City Administrator reviewed the proposed ordinance. He noted that the city council previously discussed the proposed ordinance and that the Planning Commission held a joint public hearing with the City Council on March 11, 2020. Munyan reviewed the recommendations of the Planning Commission noting they have been incorporated into the current proposed ordinance. Munyan said the ordinance clarifies the uses that will be allowed in the Mobile/Manufactured Home Residential Park District noting that single-family dwellings are no longer an outright permitted use. He said that language is also included in the proposed ordinance that would allow tiny homes in the district as required by state law.

Ken Woodrich, City Attorney said the city has to allow an economic use of the property so the ordinance includes provisions that would address that issue and provides due process.

Pat Munyan noted that the city previously received comments from John Crumpaker that were read into the record at the March 11, 2020 hearing. He noted that he spoke with Donna Rockwell who is the owner of the Spring Street trailer court about the changes. Munyan said Rockwell stated that she would not be submitting comments.

The city council and staff discussed the requirements for new water connections that are provided for in the ordinance. It was noted that unless the system is failing, or the property owner wants to redevelop or expand the facility then new connections would not be required.

The city council and staff discussed the process for adopting the ordinance. Ken Woodrich noted that the city has met the statutory obligations in order for the council to adopt an ordinance. Jan Brending said that if the ordinance is adopted tonight it goes into effect 5 days after publication with the publication taking place on July 8.

The city council discussed uses allowed within the district.

Ashley Post asked if the code can be amended at a later date if necessary. The answer was yes.

Moved by Joe Turkiewicz. Seconded by Ashley Post.

Motion to adopt Ordinance 2020-07-1064 Repealing White Salmon Municipal Code 17.36 –

MHR Mobile Home Residential District, Adding New Chapter 17.36 – MHRP

Mobile/Manufactured Home Residential Park District and Providing for Severability and an Effective Date upon first reading and finding that adoption of the ordinance is exempt from SEPA review per RCW 43.21C.450(1) in that the amendments to the development regulations are required to ensure consistency with the city's adopted comprehensive plan in that it was previously subjected to SEPA review and the impacts of the proposed regulation were specifically addressed in that review. CARRIED 4-0 with Jason Hartmann Mayor Pro Tempore voting.

6. Spoke Bike Park Improvements and Non-Exclusive License and Indemnity Agreement

Pat Munyan, City Administrator reviewed the proposed Non-Exclusive License and Indemnity Agreement with the Spoke Bike Club regarding the Spoke Bike Park.

Ken Woodrich noted that the Spoke Bike Club is not an official organization but a volunteer group that has taken on the project of developing and maintaining the bike park. He noted that there were several changes he had made that were not included in the agreement that he would like added – specifically changing the characterize of the Spoke Bike Club to a “community association” and specifying that the future possible uses of the area by the city includes possibly locating a stormwater holding pond on the property.

The council asked that the original maintenance agreement signed in 2012 be incorporated into this agreement.

Moved by David Lindley. Seconded by Joe Turkiewicz.

Motion to authorize the mayor to sign Non-Exclusive License and Indemnity Agreement with the Spoke Bike Club incorporating Ken Woodrich's redline edits and incorporating be reference

the 2012 maintenance agreement and authorize the Spoke Bike Club to proceed with the improvements to the bike park. CARRIED 4-0 with Jason Hartmann., Mayor Pro Tempe voting.

7. Rheingarten Park Remodel – Small Works Roster Bid

Jan Brending, Clerk Treasurer reported the city received one bid that was significantly over the engineer’s estimate. She said the bidder was notified that the bid was rejected and the city would be rebidding the project in the near future.

8. Crestline Payment No. 4 and USDA Reimbursement Request No. 4

Jan Brending, Clerk Treasurer said she is submitting Crestline Payment No. 4 in the amount of \$211,674.08 and USDA Reimbursement Request No. 4 in the amount of \$2,46,303.61. She noted that a portion of the payment to Crestline will be covered by city funds related to the stormwater improvements previously authorized.

***Moved by Ashley Post. Seconded by Joe Turkiewicz.
 Motion to approve Crestline Construction Payment No. 4 in the amount of 4211,674.08 and USDA Reimbursement Request No. 4 in the amount of \$246,303.61. CARRIED 4-0 with Jason Hartmann., Mayor Pro Tempe voting.***

9. Innovative Composites Engineering – Sewer Overage Billing Request

Jan Brending, Clerk Treasurer said the city council previously approved an adjustment to a utility billing for Innovative Composites Engineering due to a water leak. She noted that at the meeting when the council approved the request a council member noted that the water that leaked did not enter the city’s wastewater system. Brending said Innovative Composites Engineering has asked for an additional reduction in their sewer overage associated with the leak. She said that using the same method previously used for calculating the reduction, that if the council wishes to approve the additional reduction request, they approve an amount of \$1,350.00.

***Moved by Ashley Post. Seconded by Joe Turkiewicz.
 Motion to authorize the clerk treasurer to reduce the sewerage overage charges on the May 29, 2020 utility bill by an additional amount of \$1,350.00. CARRIED 4-0 with Jason Hartmann., Mayor Pro Tempe voting.***

10. Consent Agenda

- a. Leak Adjustment Request – Barbara Bailey
- b. Purchase of Face Masks COVID19 CARES Funding
- c. Approval of Meeting Minutes – June 17, 2020
- d. Approval of Vouchers

Type	Date	From	To	Amount
Claims	7/1/2020	EFT	EFT	3,570.00
	7/1/2020	36234	36260	161,476.62
			Claims Total	165,046.62
Payroll	7/6/2020	EFT	EFT	106,498.56

36231		36231	36233	1,098.08
			Payroll Total	107,596.64
Manual Claims	6/23/2020	36230	36230	1,337.30
			Manual Total	1,337.30
			Total All Vouchers	273,980.56

Vouchers audited and certified as required by RCW 42.24.080 and expense reimbursement claims as required by RCW 42.24.090 as of this 1st day of July, 2020.

The city council and staff discussed the purchase of face masks.

Moved by Ashley Post. Seconded by Joe Turkiewicz.
Motion to approve consent agenda as presented. CARRIED 4-0 with Jason Hartmann., Mayor Pro Tempe voting.

11. Department Head and Council Member Reports

Jan Brending, Clerk Treasurer said that the city will be attending the Farmer’s Market on Tuesday to hand out face masks to city residents, allow city residents to sign up for use of the Hood River Pool, hand out blue recycling bags, and remind people about the 2020 Census. She noted that Klickitat County has submitted its Phase 3 application.

Bill Hunsaker, Building Official/Fire Chief said city code allows fireworks to be used on the 4th of July. He said it is the time of the year where it is necessary to be careful noting that there was a small wildfire at Dickey Farms. Hunsaker noted that the Port of Klickitat – Bingen Point will not be open this year for setting off fireworks. It was noted that if the council wanted to ban fireworks an ordinance would have to be adopted a year in advance of the can change.

Hunsaker said he is busy doing building inspections.

Pat Munyan, City Administrator said the Jewett water project is moving along fine. He said the city is currently using both the old and new line. Munyan said when the contractor finishes the work in downtown they will be moving to the work near the hospital. He noted there have been several stormwater issues that will have to be dealt with as the project moves along. Munyan said there have been several issues with the LA Reservoir where rock has plugged up the altitude valve. He said a screen system will be installed to capture rocks and debris. Munyan said survey work on the 14-Inch Main Line project is underway.

Mike Hepner, Police Chief said he was notified by the Yakama Nation that they would not be selling fireworks this year. He said not all firework are legal noting that anything that flies through the area is illegal.

Russ Avery, Public Works Operations Manager said public works staff has been installing a few new services and fixing potholes.

Ken Woodrich, city Attorney noted that many of the Governor’s proclamations were extended to July 9 with new proclamations coming. He said the Governor is trying to make sure that Washington does not fall into situations where phases have to be rolled back.

Ashley Post, Council Member asked when city hall would be opening. Jan Brending said definitely not until Phase 3 and possibly not until later due to the space limitations of the lobby.

David Lindley, Council Member said that he has access to face masks that are being produced out of Seattle for free. He said he has reached out to Washington Gorge Action Programs, the schools and Next Door. Lindley said he and his family have used the Hood River Pool and it was really nice because they practically had the pool to themselves. Lindley said he has had conversations with Police Chief Hepner and is scheduling some ride-alongs with different officers. He noted that he has also talked to Ken Woodrich about policy reforms.

12. Adjournment

The meeting adjourned at 7:50 p.m.

Jason Hartmann, Mayor Pro Tempe

Jan Brending, Clerk Treasurer