



YAKIMA CITY COUNCIL
August 15, 2017
City Hall -- Council Chambers
6 p.m. Business Meeting; 6:30 p.m. Public Hearings -- MINUTES

BUSINESS MEETING

1. Roll Call

Council: Mayor Kathy Coffey, presiding, Assistant Mayor Carmen Mendez, Council Members Maureen Adkison, Holly Cousens, Avina Gutierrez, Dulce Gutierrez and Bill Lover

Staff: City Manager Moore, City Attorney Cutter and City Clerk Claar Tee

2. Pledge of Allegiance

Mayor Coffey led the Pledge of Allegiance.

3. Interpreter Services

Mayor Coffey introduced Jorge Villanueva who announced interpreter services are available.

4. Open Discussion for the Board of the

A. Update on senior staff searches

City Manager Moore provided an update regarding the search for an Assistant City Manager and Director of Finance and Budget.

B. Appointments to Boards, Commissions and Council Committees

i. Consideration of Council Member Dulce Gutierrez's application to WA State Partnership on Juvenile Justice

MOTION: Mendez moved and Cousens seconded to approve Council Member D. Gutierrez's application for this committee. The motion carried by a unanimous vote.

5. Council Reports

A. Council Partnerships Committee meeting follow-up

1. Discussion of a draft letter to President Trump re: DACA

Mayor Coffey briefly described DACA requirements. Council Member D. Gutierrez thanked the Mayor for supporting this issue and her willingness to support the immigrant community. Council Member Lover stated he is a strong supporter of DACA and the Bridge Act; however, he feels this letter should be non-partisan. Council Member Adkison agreed.

MOTION: D. Gutierrez moved and Mendez seconded to accept the letter and send to

the President. MOTION: A. Gutierrez moved and Cousens seconded to strike paragraph 1, 2, and 9 and rewrite the letter without them. The motion to amend carried by a unanimous vote. The motion as amended carried by unanimous vote.

MOTION: D. Gutierrez moved and Coffey seconded to bring this letter back to the next City Council meeting for approval. The motion carried by a unanimous vote.

The following community members spoke in support of the letter: Aileen Kane, City resident; David Morales, City resident who also provided a letter of support from La Casa Hogar; Kristen Burke, City resident.

2. Discussion of draft letter to U.S. Congress members re: H.R. 2997

MOTION: Lover moved and Cousens seconded to approve moving this letter forward. The motion carried by a unanimous vote.

3. Discussion of draft letter re: Historic Preservation Commission request for funding generated from recorded documents surcharge

MOTION: Adkison moved and Cousens seconded to approve moving this letter forward. The motion carried by a unanimous vote.

B. Discussion regarding neighborhood forums

Council Member D. Gutierrez reported the Public Safety Committee is preparing to host multiple neighborhood forums on the subject of public safety and Council members and community members requested a neighborhood forum. The Committee is planning to conduct approximately seven neighborhood forums by the end of 2017 (with flexibility to accommodate or adjust based on the request made by the public or Council). Recognizing the budget constraints of the City, the Committee members will actively seek low cost or free facilities where the forums can be held and will also encourage residents to assist with promotional efforts.

MOTION: D. Gutierrez moved and Mendez seconded to accept the proposal for neighborhood forums as presented today and grant the Public Safety Committee permission to move forward with solidifying forums and hosting them. The motion carried by unanimous vote.

C. Accept July 20, 2017, Council Nominating Committee minutes

MOTION: A. Gutierrez moved and Mendez seconded to accept the minutes. The motion carried by unanimous vote.

6. Consent Agenda

Mayor Coffey referred to the items placed on the Consent Agenda, questioning whether there were any additions or deletions from Council members present. There were no changes. The City Clerk read the Consent Agenda items, including resolutions and ordinances, by title. (Items on the Consent Agenda are handled under one motion without further discussion—see motion directly below.)

MOTION: Adkison moved and Mendez seconded to approve the consent agenda. The motion carried by unanimous vote.

A. Approval of the minutes from the July 11, 19 and August 1, 2017, City Council

Business meetings, July 25, 2017, City Council Retreat and August 8, 2017, Special City Council meeting/Partnership Committee meeting

- B. Approve payment of disbursements for the period July 1 – 31, 2017
- C. 2nd Quarter 2017 Capital Improvement Projects Report
- D. Resolution authorizing the Chief of Police's execution of recurring annual agreements with the United States Department of Justice, Drug Enforcement Administration

RESOLUTION NO. R-2017-099, A RESOLUTION authorizing the Chief of Police's execution of recurring annual agreements with the United States Department of Justice, Drug Enforcement Administration.

- E. Resolution authorizing an agreement with HLA Engineering and Land Surveying, Inc., in an amount not to exceed \$123,829 to provide construction administration concerning Security Gate Improvements at the Yakima Air Terminal-McAllister Field

RESOLUTION NO. R-2017-100, A RESOLUTION authorizing an agreement with HLA Engineering and Land Surveying, Inc., in the amount not to exceed \$123,829.00 to provide construction administration concerning Security Gate Improvements at the Yakima Air Terminal-McAllister Field.

7. **Public Comment**

PUBLIC COMMENTS TAKEN AFTER THE PUBLIC HEARING

Teodoro Morales, City resident, shared his concerns about the Roy's Market location for homeless services and asked Council to put it in their heart and think about the future, children and the community they represent.

Cassie Collins, City resident, believes the City needs to build better trust between law enforcement and the community as community members are afraid to contact the police in fear of being questioned about immigration status.

Susan Soto Palmer, City resident, thanked Council for their support in the Roy's Market location for the homeless and encouraged Council to work with the Crime Victim Service Center in conjunction with the upcoming public safety forums.

PUBLIC HEARINGS

- 8. Closed record hearing to consider an appeal regarding the Hearing Examiner's decision on a request from Yakima Neighborhood Health Services for a proposal to convert an existing commercial building into a multi-family residential development

Mayor Coffey called the hearing open, and read the following statement: *this is a closed record hearing, which means that no new evidence can be submitted during this process. The only evidence that can be discussed is evidence that was put into the record at the Hearing Examiner's open record hearing on May 1, 2017. The Council will not consider any evidence other than that that is in the record. The record includes all testimony provided at the Hearing Examiner's open record hearing, written documents submitted to the Hearing Examiner, and all public comments. That information was provided to the Council members prior to this appeal hearing and Council members have had the opportunity to review the record prior to*

this hearing. This is an appeal of the Hearing Examiner's decision. The Council is sitting as an appellate body, not as finders of fact. The issue before the Council is whether the Hearing Examiner erred in his determination, based on the facts in the record and the Yakima Municipal Code.

This is a quasi-judicial hearing. As such the Appearance of Fairness doctrine controls. Council members, please answer affirmatively or negatively to the following questions:

- 1. Do you have any interest in the property or the application, or do you own property within 300 feet of the property subject to the application? All Council members said no.*
- 2. Do you stand to gain or lose any financial benefit as a result of the outcome of the appeal? All Council members said no.*
- 3. Can you hear and consider the application in a fair and objective manner? All Council members said yes.*
- 4. Have you had any ex parte communications with any appellant (Ms. Scott or anyone listed in the appellant's submission) or respondent (anyone from Yakima Neighborhood Health Services or their representatives)? If so, please place on the record the substance of your communications so that interested parties have the opportunity to rebut the communications.* Council Members Cousens, Mendez, D. Gutierrez and Adkison stated they have not. Council Member D. Gutierrez stated she had one instance prior to reviewing the record, when an appellant shared her opinion. Council Member Lover stated this has been before Council for years and therefore, has talked to most of the appellants and proponents; however, he will be fair and objective. Mayor Coffey stated she talked to both appellants and proponents over the years due to Council business but has not had any recent communications.

Is there anyone who wishes to challenge any Council member's participation in this appeal on the appearance of fairness grounds? Each Hall, legal counsel for YNHS stated they have no challenge. There were no other comments.

Mayor Coffey reported on how the hearing will be conducted. **MOTION: Mendez moved and D. Gutierrez seconded to allow up to 45 minutes for Appellants' argument, up to 45 minutes for Respondent's argument, and 10 minutes for rebuttal.** The motion carried by unanimous vote.

Joseph Calhoun, Planning Manager, stated this appeal concerns an application submitted by YNHS for property located at 201 S. 6th St. in the Small Convenience Center (SCC) zoning district. The application proposes redevelopment of the existing structure into: 1) Multi-family development consisting of 5 dwelling units – Class 2 use in SCC; and, 2) Café/Deli and Laundromat – Class 1 use in the SCC. The application also included: 1) an Administrative Adjustment to the parking standard from 36 to 15 stalls; and, 2) SEPA Environmental Review. Mr. Calhoun reviewed the timeline and events of the entire process, and reminded Council and the public that this is a Closed Record appeal, no new evidence can be submitted, and no one other than the appellants and respondents to the appeal can make arguments at this hearing.

Benine McDonnell, City resident, and appellant, stated the appellants are asking for a reversal of the Hearing Examiner's decision as they feel the definition of multifamily comes into question with only five rooms and possibly eight people per room, possibly unrelated. Additionally, they are concerned with parking since most people would want to park in front of a laundromat or deli instead of walking even a short distance, and currently, neighboring residents are already parking on the planting strip because there are no other places to park.

Maud Scott, City resident and appellant, stated she may not have the technical expertise to

delve into the building plans or legal jargon; however, she does have experience with her neighborhood and has heard a lot of nearby homeowners are ready to sell their houses and move away. As a property owner, she said it is hard to put your heart and soul into a property and then the whole climate changes. Unfortunately, they could not hire an attorney to help them appeal this decision. She noted how difficult it is to picture how YNHS's plan will function in the neighborhood or how the neighbors will be treated.

Verlynn Best, Chamber of Commerce CEO/President and appellant, implored Council to look at this closely and the effect it will have on the neighborhood and surrounding businesses.

Rich Hill, legal counsel for Respondent, YNHS, asked Council to affirm the decision by the City of Yakima Planning staff and the Hearing Examiner as the appeal has no merit, no basis in fact and is unsupported by the law. He reviewed the facts found by the Hearing Examiner as reported in the record, as well as reviewing the PowerPoint by Robert Ferry on the architecture and programming of the building, which is also in the record. Mr. Hill reminded Council that their role was solely to decide whether the Hearing Examiner had properly interpreted City code and zoning ordinances in ruling that the Roy's project was in compliance. He noted the Hearing Examiner essentially wrote that any impact this project may have on the community would not be any worse than the current impact with homeless individuals living on nearby streets. He stated the appellants relied on spurious and untruthful stereotypes about the homeless, which the Council should disregard.

Benine McDonnell, in her rebuttal comments noted they are not attorneys, just citizens who with common sense have tried to appeal this decision, which is a citywide issue, not just a 300 foot issue. She reported they feel a clean and sober model is what works best in helping homeless folks since many of them have drug and alcohol issues.

Maud Scott in her rebuttal comments stated she has been over this ground so many times it is difficult to separate one hearing from another on this issue. She commented that they have major concerns with this project, which is so close to their families and property.

MOTION: Mendez moved and D. Gutierrez seconded to adjourn to a closed session under RCW 42.30.140(2) for deliberation (7:32 p.m.). The motion carried by unanimous vote.

Mayor Coffey called the meeting back to order (8:06 p.m.)

Council Member Lover feels the architectural drawing is a distraction and doesn't feel it will pass muster. Assistant Mayor Mendez raised a point of order stating Council members should stay on topic. Mayor Coffey stated the point is well taken.

Council Member A. Gutierrez commented that had the discussion been about the concerns of the neighboring residents, instead of the narrow focus on compliance with City code, the outcome may have been different. She shared her frustration with comments made by the respondent about the appellants. Mayor Coffey raised a point of order stating Council members should refrain from making personal remarks. Council Member A. Gutierrez appealed the point of order. The point of order was affirmed by a 5-2 vote, with A. Gutierrez and Lover voting no. After further discussion,

Mayor Coffey closed the hearing.

MOTION: Coffey moved and D. Gutierrez seconded to affirm and adopt the Hearing Examiners decision. The motion carried by a 4-3 vote, Adkison, A. Gutierrez and Lover voting

no.

9. **Other Business**

None.

10. **Adjournment**

MOTION: Mendez moved and D. Gutierrez seconded *to adjourn to a Council Study Session on August 22, 2017, at 10 a.m. in the Council Chambers*. The motion carried by unanimous vote. The meeting adjourned at 8:29 p.m.

CERTIFICATION

READ AND CERTIFIED ACCURATE BY

COUNCIL MEMBER

DATE

COUNCIL MEMBER

DATE

ATTEST:

CITY CLERK

MAYOR

DRAFT