

CITY OF WHITE SALMON

Continuation of April 2, 2008 City Council Regular Meeting – April 10, 2008

I. CALL TO ORDER/ ROLL CALL

Mayor Poucher called the council meeting to order at 6:00pm. Council members Roberts, Landgren, Keene, Johnson and Marx were present. Staff members present were: Clerk Treasurer, Lori Kreps; PWD, Mike Wellman; Deputy PWD, Tom Smith; Police Chief, Bruce Brending. Also, present were: Attorney, Ken Woodrich; The Enterprise, Jesse Burkhart and approximately 40 members of the public.

Mayor Poucher announced the Town Hall portion of the agenda will be omitted tonight. Citizens will be able to make comments during the Public Hearing period.

II. TOWN HALL

III. PUBLIC HEARING

The Public Hearing was open for comments at 6:07pm. Mayor Poucher introduced, Attorney William J. Eling representing Richard Cortese, Police Chief Bruce Brending representing the BWSPD, and Lance Stryker representing the White Salmon Fire Department. Mayor Poucher said other elected officials and committee members are encouraged to speak. He said comments will be limited to five minutes.

Attorney Woodrich said the Cortese law suit pertaining to the termination of Police Chief Cortese was filed two years ago. He spoke about three options for resolve of the law suite.

- Option 1: Continue to defend lawsuit and go to trial. Cortese is asking for reimbursement of lost wages and attorney fees. There is a chance the City would win and there would be no cost. If the City lost the lawsuit the cost to the City could be over one million dollars.
- Option 2: Create a position of Director of Public Safety for Cortese under the supervision of the Mayor. The position would include both police and fire duties. The upfront costs to the City would be \$80,000. The duration of the contract would be 20 months.

Attorney Woodrich noted that Ordinance 2008-04-816 (An Ordinance of the City of White Salmon, Washington, creating a Director of Public Safety and enacting a new White Salmon Municipal Code Section 2.14) did not pass at the April 2, 2008 meeting. Woodrich said that at least a majority of the whole membership of the council would have been needed and only three members were present and one of those council members opposed the Ordinance. Attorney Woodrich is waiting for confirmation from the Department of Retirement that the position being created would qualify for the LEOFF II retirement system.

- Option 3: Police Chief Brending could elect to step down. The City would have to buy out his contract consisting of one year severance pay plus benefits.

Attorney Eling said he supports Option 2. Eling said it consists of value, certainty and fairness.

- Value: The City is receiving Cortese's value and services. It is not a buy out.
- Certainty: There is certainty for Cortese regarding length of position until retirement. The Police Department would receive financial certainty because the costs to the City would be capped.
- Fairness: By settling this it makes it fair to Cortese because he was not treated fairly.

Attorney Woodrich said that settling under option 2 would release the City of all liability. He said that Canfield & Associates, the City's insurance provider, would pay \$25,000 toward the settlement. The City of Bingen has agreed to waive a \$37,000 payment due from the City of

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White Salmon for the overpayment of Police protection. He said the Klickitat County Sheriff Department has agreed to provide office space in the Pioneer Center.

Police Chief Brending said he supported option 2 for the benefit of the Community and the Police Department. He urged the City Council to settle this. The Police Department will fully support the Council's decision.

Lance Stryker of the Fire Department said the membership of the Fire Department voted to support option 2. They will work with the Mayor, Council, and Budget Committee regarding the budget.

Shirley Cox, Budget Committee Chair, said the Budget Committee has not gone through the options of resolving the law suit and how it will affect the budget. She said a resolution of this would be good for the City. Cox does not think it needs to be resolved tonight. The Budget Committee needs to review the figures.

Mike Zitur, 817 E. Jewett Blvd, said the City needs to put an end to this matter and move forward. Two years is not a rush and it is unjust what they did to Rich.

Jaci Dietch, 122 NW Garfield Ave, said she agrees with Shirley Cox that we do not need to resolve this tonight since we are not on a time schedule. Dietch asked Attorney Woodrich if the insurance would pay if we were to choose Option 1.

Attorney Woodrich said that as of today the insurance would not pay anything towards the lawsuit.

Dietsch said that by her calculations the revenue needed for the 2008 Budget is \$129,550 and for the 2009 Budget is \$99,400, which does not include the expenses for running the office.

C. Marx asked Dietsch what option she supports.

Dietch said she supports Option 2 because it could be spread over a two year period.

Mike Hanks, 608 NE Wauna, asked Police Chief Brending if the police officers are going to 20 hour shift coverage with 4 hours on call because of this law suit?

Police Chief Brending said coverage is limited with one officer resigning and one officer at the academy. The department is gaining another police officer which is within the budget.

Tao Berman, 567 NW Spring Street, asked about the chances of the City winning if Option 1 is chosen.

C. Marx said he believed it would be a 50/50 chance of winning given all of the information.

Attorney Woodrich said he believes there is enough of a case to take it to trial. He agreed with C. Marx that it would be a 50/50 chance of winning.

Berman asked if the insurance would cover more if it went to trial. Attorney Woodrich said they would not cover lost wages.

Sandy Dickey, Bingen City Council Member, said Option 2 is the best option for both Cities. Her understanding is that Bingen would be responsible for a portion of Cortese's costs when he is out on patrol.

Elmer Kinder, 569 NE Tohomish, asked where the money for Option 2 would come from?

Mayor Poucher said the money would be coming from an Interfund Loan that would be paid back over a number of years. There would be no decrease in the Police Department budget and a small amount of decrease in the Fire Department budget. The City is looking at other options for revenue.

Police Chief Brending said the department has a budget for eight officers. He said they will have six officers and some funding is available for the funding of the Director of Public Safety position.

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C. Johnson said it would be as though Cortese was working in the Police Department which there is already money budgeted.

Mayor Poucher said the Police budget will increase to fund the position. Revenue will come from an interfund loan.

Jan Brending, City of Bingen, said that no matter what option is selected all the revenue would come out of current expense. To date she is not aware of any budget amendments reducing the current expense.

Donna Marx, 260 NW Lincoln, supports option 2. She asked if the City would always have the position of Director of Public Safety once the 20 months has been fulfilled.

Attorney Woodrich said the City Council could repeal the Ordinance or not fill the position.

Lance Stryker said the Fire Department supports Option 2.

John Wilcox, 210 Rio Vista, supports Option 2. What costs would the insurance pay if the city were to lose? Attorney Woodrich said the insurance rating would be high risk if they were to pay out one million dollars.

PWD Wellman said he would like to see the City settle this. The City needs to move on.

Peter Knowles, 86 NE Park Ave, asked about the job description and how it is going to be filled.

C. Marx said this is a settlement that is contingent on Cortese's employment. The job is not going out to bid.

Attorney Woodrich said it is a non civil service position. This position is to be appointed by the Mayor for a specific purpose. It is complicated because it has to meet the requirements of the Department of Retirement Systems. It is important to note that the position is under the direction of the Mayor. The job description states "other duties as required" that would consist of other duties pertaining to the needs of the City.

Roy Barnes, Bingen, would like to thank everyone involved in bringing this to an end.

Clyde Knowles, 411 Washington Street, said this is the best solution to a bad situation. It is time to close this.

Mark Peppel, 108 Alta Vista Drive, supports option 2. Cortese, being a qualified police officer can start now and give the City the coverage it needs.

Ted Sperry, 491 W. Jewett, said the job description states that Cortese would work 1/3 of his time for the police department. Cortese could work as an officer until the officer at the academy has completed his training.

Attorney Woodrich personally thanked Chief Brending for working hard with him and the Mayor in getting to this point. He would like to go on the record to reaffirm that Chief Brending has a contract with the City of White Salmon and the City intends to honor that contract. Woodrich said the City is backing the Police Department and Chief Brending.

Stan Horack, 705 W. Jewett, is in favor of Option 2.

Betty Barnes, Bingen, is in favor of Option 2. If Police Chief Brending supports it, we should too.

Mayor Poucher closed the Public Hearing at 7:30pm.

Attorney Woodrich reviewed the options and reviewed the changes to the Job Description for the Director of Public Safety. If Option 2 is adopted it must have a complete Job Description that needs to be adopted by Resolution.

C. Roberts is pleased with the Mayor in bringing closure to this.

C. Marx said he is okay with an interfund loan to settle this lawsuit.

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C. Landgren said he appreciates Attorney Woodrich for his hard work and bringing closure to this lawsuit. We must move forward to a new White Salmon for “we” and not “I”.

C. Johnson said everyone has worked hard to bring closure to this. The numbers are rough and everyone is working toward what is best

C. Marx said he supports Option 2.

C. Keene agrees with bringing closure, but would like to see a budget for this position before this is approved.

IV. APPROVAL OF CONSENT AGENDA

V. ACTION ITEM (Deferred)

1). Approval of Ordinance 2008-04-816 (An Ordinance of the City of White Salmon, Washington, creating a Director of Public Safety and enacting a new White Salmon Municipal Code Section 2.14). C. Landgren made a *motion* to approve Ordinance 2008-04-816. C. Marx *seconded* the motion *Approved 4-1. Opposed C. Keene.*

VI. ACTION ITEMS (New)

VII. DEPARTMENT HEAD / COMMITTEE REPORTS

VIII. APPROVAL OF CHECKS

Vouchers audited and certified as required by RCW 42.24.080 and expense reimbursement claims certified as required by RCW 42.24.090 as of this date April 10, 2008. C. Johnson reviewed the accounts payable and made a motion to approve claim checks 36739-36747 in the amount of \$6,540.37. *Seconded* by C. Marx, *Approved 5-0.*

IX. COUNCIL AND PUBLIC COMMENTS

Chief Brending said we are not in an overtime moratorium. An officer was on call during the shop lifting incidence at High School Pharmacy. He is working a modified schedule when officers are away at training.

X. EXECUTIVE SESSION / ADJOURNMENT

Meeting adjourned at 7:45pm.

David Poucher, Mayor

Lori Kreps, Clerk/Treasurer