

UNION GAP CITY COUNCIL REGULAR MEETING
Council Chambers, City Hall
Union Gap, Washington
April 14, 2008

- Call to Order Mayor Lemon called the Regular Meeting of the Union Gap City Council to order at 7:01 p.m.
- Council Members Present Council Members David Butler, Dan Olson, Glenn Bateman, Dan Vanover, Dave Matson, and James Murr were present.
- Staff Present Robert Noe, City Attorney; Dennis Henne, Public Works Director; William Rathbone, Development Coordinator; Robert Almeida, Police Chief; Keith Yamane, Fire Chief; Karen Clifton, City Treasurer; and Kathryn Thompson, City Clerk were present.
- Audience Present Joe & Linda Jackson, Dawn & Aimee Lemon, Mary Ann Lockhart, Debbie Matson, Michael & Joshua Murr, Stephanie Korn, Nancy Krause, Evonne Goeken, Isabelle Melville, Nathan Kwak, Lorene Blakely, Ray Kempf, Phil Salzman, John Hodkinson, Debbie Daunhauer, and others were present.
- Pledge of Allegiance Council Member Butler led the Pledge of Allegiance.
- Consent Agenda Motion by Council Member Butler, seconded by Council Member Vanover to approve the consent agenda, as follows:
- Approve the Regular Council Meeting Minutes, dated March 24, 2008, as sent out on pages 4773 through 4778 of the Minute Book.
- Approve the Special Council Meeting Minutes, dated April 3, 2008, as sent out on pages 4779 and 4780 of the Minute Book.
- Approve Claim Voucher Nos. 71424 through 71465 in the amount of \$350,097.38 dated March 31, 2008 and transfer from the operating funds to the Claims Fund.
- Approve Payroll Voucher Nos. 31467 through 31550, with the exception of Voucher No. 31449 which was voided, in the amount of \$151,579.89, dated March 31, 2008 and transfer from the operating funds to the Payroll Fund.
- Approve Claim Voucher Nos. 71466 through 71584 in the amount of \$492,060.08 dated April 14, 2008 and transfer from the operating funds to the Claims Fund.
- Declare the following surplus and authorize sale to the highest bidder: 1) 3112 1st Street – Garage; 2) 3107 2nd Street – House; 3) 3109 2nd Street – House & Garage; and 4) 3111 2nd Street – House & Garage.
- Motion carried unanimously; Council Member Wentz absent.
- Ordinance No. 2555 – Amending 2008 Budget – Purchase of Portable Radios, Mobile Radios, and Paging Equipment for Fire Department The Fire Chief explained this was included in the 2007 Budget, but the receipt and expenditure of this grant money was not included in the 2008 Budget.
- Motion by Council Member Vanover, seconded by Council Member Olson to adopt and publish Ordinance No. 2555, An Ordinance amending the 2008 Budget authorizing the expenditure of \$17,611 from the Fire Truck Reserve Fund. Motion carried unanimously; Council Member Wentz absent.
- Ordinance No. 2556 – Amending 2008 Budget – Expenses for State Audit Mayor Lemon informed the former Mayor did not budget enough money for the audit that is being conducted this year.
- Motion by Council Member Vanover, seconded by Council Member Butler to

adopt and publish Ordinance No. 2556, An Ordinance amending the 2008 Budget authorizing the expenditure of \$17,000 from the Current Expense Fund, by reducing the Current Expense beginning fund balance. Motion carried unanimously; Council Member Wentz absent.

Resolution No. 710 –
Interagency Agreement
between Wash. State
Patrol & Fire Dept.

The Fire Chief informed the State Fire Marshall's office is under the Washington State Patrol and this 6-year agreement outlines how our personnel would be paid if they were sent to help with a state fire.

Council Member Olson requested paragraph 6 on page 2 of the agreement be changed from Chief Tom Kehm to Chief Yamane.

Motion by Council Member Olson, seconded by Council Member Vanover to adopt Resolution No. 710, A Resolution authorizing Mayor Jim Lemon to execute, on behalf of the City, the attached Interagency Agreement between the Washington State Patrol and the Union Gap Fire Department, with the above mentioned correction. Motion carried unanimously; Council Member Wentz absent.

Resolution No. 711 –
Affirming the
Importance of Library
Story Hour

Motion by Council Member Olson, seconded by Council Member Butler to adopt Resolution No. 711, A Resolution acknowledging and affirming the importance of Library Story Hour. Motion carried unanimously; Council Member Wentz absent.

Resolution No. 712 –
Six-month Contract
with Graffiti Gone for
graffiti removal

Council Member Vanover questioned if the Mayor program started about 3 weeks ago.

Mayor Lemon informed his program has been going for 2-3 months.

Council Member Murr questioned if there has been new graffiti after the old has been cleaned up.

Mayor Lemon stated yes, some places have been covered over and over, and we are constantly being hit.

Council Member Matson questioned if the Mayor's program would continue in conjunction with Graffiti Gone.

Mayor Lemon stated yes, and informed some of the volunteers are also painting picnic tables for the park.

Council Member Butler questioned how Graffiti Gone handles the painting.

Nathan Kwak, Graffiti Gone, stated on the street, they match the color the best they can and in alleys they use a standard alley color. He stated they do not just patch unless it is the second time the same place is hit and they can match the paint. He stated on places such as block walls, they steam the graffiti off.

Council Member Vanover questioned what the price would be after 6 months.

Mr. Kwak informed they will have to figure that out because no one has any real statistics on the amount of graffiti. He stated this contract is \$2,000 for 6 months and it excludes a three-block radius or 1900 feet from school zones because school zones are high density. He informed the City could add the school zones for \$500 each except Ridgeview would be half price because half of Ridgeview is in Yakima.

Council Member Murr questioned which school zones have been the worst.

Mayor Lemon stated Union Gap and Stanton have been the worst.

Council Member Vanover questioned where the money is coming from.

Mayor Lemon stated the Contingency Fund.

The City Treasurer informed there is \$131,000 in the Contingency Fund.

Council Member Butler questioned how Graffiti Gone finds the graffiti.

Mr. Kwak informed they respond to what is reported by Code Enforcement.

Council Member Olson commented if the schools are added it would cost \$3,750.

Mr. Kwak suggested in the future the City work with the schools to kick in some of the money to take care of the graffiti.

After discussion, motion by Council Member Olson, seconded by Council Member Bateman to adopt Resolution No. 712, A Resolution authorizing the Mayor to enter into a 6-month contract with Graffiti Gone for graffiti removal, for \$3,750 including 3 and ½ schools (Union Gap, Martin Luther King, Stanton and ½ Ridgeview) and to work with the schools to see if we can work something out with them for future graffiti removal. Motion carried unanimously; Council Member Wentz absent.

Motion by Council Member Vanover, seconded by Council Member Bateman to adopt Resolution No. 713, A Resolution authorizing the Mayor to sign a Consultant Agreement with J-U-B Engineers, Inc. for Valley Mall Boulevard Phase III Construction Engineering and Construction Management Services. Motion carried unanimously; Council Member Wentz absent.

The Public Works Director informed this is a standard consultant agreement with J-U-B Engineers for Construction Engineering & Construction Management Services for Valley Mall Boulevard Phase III.

Mayor Lemon informed the reason this item is back on the agenda is because we do not have adopted parliamentary procedures, which would require someone from the prevailing side to have put this back on the agenda. Since there are no adopted procedures, he allowed this back on the agenda at the request of Council Member Olson.

Council Member Olson informed there is information in the packet from Pat Mason; Municipal Research & Services Center (MRSC) regarding the difference between an employee and a contractor and it is a real fine line. He stated Mr. Mason advised if you are going to error, you should error by making the person an employee. Council Member Olson commented he is not advocating for an employee because the consensus was to hire a contractor.

Council Member Vanover commented this information only holds true if you hire someone off the street; if you hire a business, they are all set up for this and it is just like contracting with J-U-B Engineers.

Council Member Olson stated a lot of cities have done this and have been fined and had to pay back Labor & Industries (L&I) costs and benefits. He stated if you read through the 20 questions the City cannot even ask them for reports. He also stated according to the Lodging Tax Advisory Committee minutes, the committee wants to give this person an office and equipment, but they will be considered an employee if the City provides an office and equipment. He stated the Internal Revenue Service (IRS) is tough but L&I can be tougher. He stated the Lodging Tax Advisory Committee wants someone only working for us and if they have to keep asking for money that is micro managing and L&I will say that is an employee.

Mayor Lemon questioned if Council Member Olson is in favor of contracting with

Resolution No. 713 –
Agreement with J-U-B
Engineers for
Construction
Engineering &
Construction
Management Services

Reconsideration of
Resolution No. 709 –
Hiring a Tourism
Promoter as an
Independent Contractor

a company or not at all.

Council Member Olson stated he is concerned about the Council getting into something they did not intend to get into.

Motion by Council Member Olson, seconded by Council Member Bateman to rescind Resolution No. 709, A Resolution authorizing the Mayor to recruit and hire a Tourism Promoter as an independent contractor, that was passed March 24, 2008. Motion failed: Council Members Olson and Bateman voting in favor; Council Members Butler, Vanover, Matson, and Murr voting no; Council Member Wentz absent.

Council Member Butler stated the Council has been discussing this for a long time and he would like this left alone so the Mayor can recruit someone.

Council Member Matson commented he does not know why it is so hard to tell the difference between a contractor and an employee.

The City Attorney stated the key to telling the difference is the relationship between the City and the independent contractor, and if the contractor is separate from the City there should not be a problem. He informed he believes this City is sophisticated enough to contract this position.

Mayor Lemon questioned if the City Attorney feels this contract is safe.

The City Attorney stated yes, if the City hires a company, and not someone who only works for the City.

Council Member Matson stated some individuals have a contractor's license.

Mayor Lemon requested this position be advertised as soon as possible.

The City Clerk stated she would work with the City Attorney on the language for the advertising.

Council Member Olson stated this is a duplication of services because the City spends \$37,000 with the Visitors and Convention Bureau and he feels this should be either or, but not both. He stated the hotel/motel people are the ones who want this position and if they are not getting service from \$37,000 why is the City going to spend \$48,000.

Council Member Vanover commented he would like the Council to look at parliamentary procedures because things are unpredictable the way they are; something is passed on one meeting and reconsidered at the next meeting.

Mayor Lemon informed at the March 24, 2008 meeting, the Council authorized \$15,000 for the Ag Museum capital improvements and operating costs.

Reconsideration of Use
of Hotel/Motel Money
to Pay Operating Costs
and Capital
Improvements for the
Ag Museum

The Public Works Director informed the parks department maintains the perimeter inside the Ag Museum. He stated the breakdown in the packet shows the amount for utilities that the Ag Museum has been paying, as well as labor, fuel, pesticide, and miscellaneous repairs and maintenance that come from the parks budget, for a total of \$31,272.

Mayor Lemon questioned if the City can pay for the utilities.

The City Attorney stated yes.

Council Member Olson commented the Ag Museum is our major tourist attraction.

Motion by Council Member Olson, seconded by Council Member Bateman to pay operating costs and capital improvements in the amount of \$31,272 for the Ag Museum from the Convention Center Reserve Fund in place of the \$15,000 approved during the March 24, 2008 Council meeting. Motion carried: Council Members Olson, Bateman, Matson, and Murr voting in favor; Council Members Butler and Vanover voting no; Council Member Wentz absent.

Mayor Lemon stated the City found out money cannot legally be taken out of the Convention Center Reserve Fund and set aside for a future Convention Center after this was first discussed.

Reconsider Earmarking
Funds for a Future
Union Gap Convention
Center

Council Member Olson stated money can be set aside but not taken out of the Convention Center Reserve Fund.

Council Member Butler stated the Lodging Tax Advisory Committee has not discussed this.

Council Member Olson stated they are an advisory committee and some of the comments they have made are not accurate. He stated the minutes show them saying if the City does not spend the money they will lose it, and that is not true. He stated he thinks the members of the committee need to know what their function is.

Motion by Council Member Vanover, seconded by Council Member Butler to table this item until after the Lodging Tax Advisory Committee meets. Motion carried unanimously; Council Member Wentz absent.

Mayor Lemon informed the last offer made on this property was withdrawn.

Consider Offer of
Purchase – 1704 E.
Mead Avenue

Motion by Council Member Vanover, seconded by Council Member Murr to accept the offer of purchase from David Gonzalez in the amount of \$43,920.00 for the property at 1704 E. Mead Avenue. Motion carried: Council Members Butler, Olson, Bateman, Vanover, and Murr voting in favor; Council Member Matson voting no; Council Member Wentz absent.

Council Member Olson questioned if Mr. Gonzalez understands there is no sewer directly available.

Mayor Lemon informed he was told and he understands there is no sewer available.

Library Story Hour. Isabelle Melville thanked the Council for the resolution affirming the importance of Library Story Hour and invited the Council members to come and visit the Library and find out what they provide. She also informed April is poetry month and poems are on display in the Library.

Items from the
Audience

Dangerous Dogs. Debbie Daunhauer stated she would like the City to consider an ordinance banning dangerous dogs such as pit bulls.

Mayor Lemon informed the Council dealt with this issue several times a couple of years ago.

Ms Daunhauer informed a dog at 3811 2nd Street jumped the fence and attacked her dog and husband. She stated the Police Officer suggested walking their dog with a knife to protect themselves because Union Gap has become a haven for pit bulls.

Mayor Lemon informed the Council never meant for the City to become a haven for pit bulls.

Ms Daunhauer stated this particular dog is not contained and could kill a child and the City would be liable for allowing these dogs. She questioned how a citizen gets

an ordinance passed.

Mayor Lemon stated usually the attorney prepares an ordinance, but he does not have a problem with citizens working with the attorney on a public issue.

The Police Chief recommended he meet with the Mayor, City Attorney, and Animal Control Officer and find out how many issues they have had with dangerous dogs, and specifically pit bulls. He stated a lot of cities passed an ordinance banning pit bulls and if we do not pass a similar ordinance, they will move here.

Mayor Lemon informed the City does have a dangerous dog ordinance on the books.

Ray Kempf stated he understands about the dogs coming here because people that live in Yakima bring their pit bulls to Loudon Park to walk them. He stated there are new Council members now and encouraged the Council to take another look at banning pit bulls. He also informed the City has ordinances for barking dogs and the number of dogs a person can own, but they are not enforced. He stated his neighbor had 11 dogs and after he turned him in he has 8 or 9 dogs and they are yappy.

Nathan Kwak stated in a lot of cities code enforcement is complaint driven and there is usually not a complaint until something happens and then the owners give the dog away. He stated Union Gap has ended up with an increase in aggressive pit bulls that have moved from other places.

The Police Chief recommended anyone with dog issues call the police department so the police are aware of the issue and can check on the situation. He informed if a barking dog is taken inside the police cannot take any action, but the officer can contact the owners. He stated if the police do not see the violation, then they need the citizen to fill out a complaint in order to proceed to court.

Mayor Lemon informed the following reports are in the packet and questioned if the Council has any questions of the departments: Building/Mechanical & Plumbing Report – March 2008; Code Enforcement Activity Report – March 2008.

Departmental Reports

Council Member Bateman stated he would like to review all the dog ordinances because he has one in his neighbourhood that is always jumping the fence.

Mayor Lemon questioned if the issue of terminating the contract with the Visitor & Convention Bureau needs to be on the agenda.

Council Agenda for April 28, 2008

Council Member Butler stated he would like to discuss that with the Lodging Tax Advisory Committee first.

At 8:15 p.m., Mayor Lemon adjourned the Regular Council meeting.

Adjournment

These minutes dated April 14, 2008 were approved at the Regular Council Meeting of April 28, 2008.

Jim Lemon
Mayor

ATTEST:

Kathryn Thompson, CMC
City Clerk