



**CITY OF LA CENTER COUNCIL  
REGULAR MEETING  
February 24, 2016**

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**REGULAR MEETING:**

1. Mayor Thornton called the meeting to order at 7:00 p.m.

2. **PLEDGE OF ALLEGIANCE**

3. **ROLL CALL:**

**Council:**

Councilmember Birdwell-Currey	Present
Councilmember Luiz	Present
Councilmember Williams	Present
Councilmember Valenzuela	Present
Councilmember Cerveny	Present
Mayor Thornton	Present

**Staff:**

Marc Denney, Chief of Police  
Dan Kearns, City Attorney  
Sue Lawrence, WWTP Supervisor  
Suzanne Levis, Finance Director  
Jeff Sarvis, Public Works Director

**Guests:**

Doug Boff	Dave & Sharleen Meadows
Matt Conner	Dennis & Jennifer Miller
Al Filla	Kelly Moyer
Jack La Bounty	Gail & Dennis Nuttbrock
Judy Hickman	Nelda Perryman
Jim & Candi Irish	Michelle & Rod Sweet
Larry Lewton	Chris Swindell
Ed May	Rick and Suzi Terrell

4. **CONSENT AGENDA**

- A. **APPROVAL OF CLAIMS/ADJUSTMENTS – 02.24.16**
- B. **REGULAR MEETING MINUTES – 02.10.16**
- C. **RESOLUTION NO. 16-403 – A RESOLUTION OF THE CITY OF LA CENTER DECLARING CERTAIN PROPERTY AS SURPLUS AND AUTHORIZING ITS DISPOSAL.**



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**MOTION MADE BY COUNCILMEMBER CERVENY, SECONDED BY COUNCILMEMBER VALENZUELA AND CARRIED UNANIMOUSLY TO APPROVE THE FEBRUARY 24, 2016 CONSENT AGENDA.**

**5. COUNCIL STAFF REPORTS/ANNOUNCEMENTS.**

**A. MAYOR'S REPORT.**

- The public hearing on the Comprehensive Plan originally scheduled for today is rescheduled for the March 23 City Council meeting.
- The City Council Retreat is this Saturday, February 27, at the Public Works office from 9 a.m. to 3 p.m. The former City Administrator for the City of Camas, Lloyd Halverson, will be facilitating. The Agenda was provided to Councilmembers.

**B. ATTORNEY'S REPORT – CITY ATTORNEY DAN KEARNS:** The Growth Management Hearings Board reissued a corrected compliance order concluding the hearing and appeal. The City's Comprehensive Plan is now in compliance. There were no other pending litigation updates.

**C. COUNCIL COMMENTS.**

- **COUNCILMEMBER BIRDWELL-CURREY** – None.
- **COUNCILMEMBER LUIZ** – None.
- **COUNCILMEMBER WILLIAMS** – He will be out of town next week.
- **COUNCILMEMBER VALENZUELA** – None.
- **COUNCILMEMBER CERVENY** welcomed everyone in attendance today.

**D. STAFF REPORTS.**

- **CONSULTANT ERIC EISEMANN, E<sup>2</sup> LAND USE PLANNING LLC.** Consultant Eisemann provided a Comprehensive Plan Staff Report to Council. This week, the Board of County Councilors made a decision on the Preferred Alternative for the Supplemental Environmental Impact Statement (SEIS) and recommended unanimously to include the 17 acres on Bolen Road for the La Center School District site and the 56 acres at the junction for commercial purposes provided that, if challenged, La Center will provide for the defense instead of Clark County. The City of Ridgefield did not get the Tri-Mountain



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Golf Course. Once the County finishes their GIS process, the City of La Center will submit its Plan.

The City's Planning Commission unanimously voted to send the revised Comprehensive Plan to Council with a recommendation for action. Changes from the February 10 City Council meeting have been incorporated into the Plan, and will be available on the City's website tomorrow. The public hearing is scheduled for the March 23 City Council meeting.

The County GIS is amending the plan map (the map in the Comprehensive Plan is not current) which will fix some split zone problems. The final two steps in the process will be completed in the Capital Facilities Plan for Parks and Recreation, which will be presented to Council in April.

Consultant Eisemann then answered general questions from Council. He pointed to the 56 acres of land on the map that is included in the GIS for La Center, which will be finalized by the end of June 2016. There will be approximately 120 acres that are developable.

- **DIRECTOR SUZANNE LEVIS, FINANCE DEPARTMENT.** Director Levis summarized the Final 2015 Financial Report which was provided to Councilmembers previously.

General Fund Revenues came in \$270,000 (7%) over budget primarily due to gambling revenues, charges for services, and building activity. Fines and forfeitures was a bit under.

General Fund Expenditures came in over budget primarily due to the Police Department positions and overtime, city attorney fees, and IT services. IT services were budgeted at \$11,000 and came in at \$45,000 – there were more IT issues needing attention last year. Other expenses were for the Comprehensive Plan consultant. The Battle Ground Municipal Court expenses were \$43,000 less than budgeted. It was noted that writing tickets almost never results in positive cash flow.

Impact Fee Fund Revenues were 46% over budget, and the trend continues.

Capital Projects Fund – R.E.E.T. revenues were higher than anticipated, due to the purchase and sale of houses.

Sewer Fund (Operations) Expenditures – Revenues are on target, but expenditures were for the legal processes. We did not need the \$51,000 budget amendment anticipated at end of 2015.

Sewer Equipment Fund Expenditures – We budgeted to do work on lift stations but substituted for media replacement for odor control.



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6. **CITIZEN'S PUBLIC COMMENT.**

**LARRY BARTEL, RIDGEFIELD.** The hiring process is almost complete for the new Clark County Fire & Rescue (CCF&R) fire chief. There will be an open house at the Ridgefield fire station to give the public an opportunity to meet the final two candidates and make comments, before a final decision is made.

**SUSIE TERRELL, 1534 W. E PLACE,** is a Board member of the La Center Historical Museum. She is currently working on a project restoring and framing old high school graduation photographs and invited the community to participate in the project or donate. They are on display at the museum.

**JIM IRISH, 1653 E. HERITAGE LOOP,** thanked Chief Denney for quickly and professionally addressing complaints of a homeless vagrant in town. He acknowledged students helping other students by setting up a food bank for students at the Lewis River Food Bank. He participated in a community event where La Center students planted trees along Breeze Creek. The classes also monitor the water quality which teaches them about the wetlands and how it improves the quality of life for citizens and fisherman.

7. **PRESENTATIONS** – None.

8. **ORDINANCES, RESOLUTIONS AND PUBLIC HEARINGS** – None.

9. **ITEMS REMOVED FROM THE CONSENT AGENDA** – None.

10. **UNFINISHED BUSINESS** – None.

11. **NEW BUSINESS.**

**A. INTERGOVERNMENTAL AGREEMENT (IGA) WITH COWLITZ TRIBE.**

**MAYOR THORNTON** opened the discussion by stating that the City has been working on the IGA with the Cowlitz Tribe (“Tribe”) for several weeks. This discussion will start with staff presentations, and then he will open the discussion to public comment.

**CITY ATTORNEY KEARNS:** Attorney Kearns outlined the basic of the IGA. The most recent version of the IGA was provided today to Councilmembers and reflects the negotiation process. This is an agreement between two governmental entities adjacent to each other where one wants to make transportation improvements within the jurisdiction of the other. La Center’s jurisdiction is on west side of the freeway, and the Tribe wants to reconstruct the interchange in connection with its new casino which will affect access to properties within La



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Center's city limits. It is imperative to the City that the IGA be consistent with its development standards because access to public streets will be affected including the gas station. (A separate agreement between the City and the gas station owners will be presented at a later date.)

The subject of the last-minute negotiations with this IGA is the expansion of the City sewer system. These important provisions are in sections 3, 4, and 6 of the IGA. The Tribe has agreed to pay \$2 million towards the cost of extending the sewer line from the WWTP to the junction; however, the exact dollar amount of this expansion is unclear. It could be between \$2 million and \$3 million. The City is obligated to obtain financing up front for the project with the Tribe compensating the City over time in payments. But there is a concern whether the City can obtain financing; so, the Tribe has agreed to pay the costs. Paying for the expansion of the sewer and the financing was an important deal point in the negotiations.

Another important concern is the cost of sewer litigation (IGA sec. 4, pg. 3). The City has expended approximately \$862,000 over the past 5 years for litigation costs and amending the City's Comprehensive Plan in its efforts to provide sewer to the Tribe. The Tribe has agreed to pay half of those expenses.

In section 2 of the IGA, the Tribe will not take land into reservation located east of I-5 and north of 299<sup>th</sup> Street and south of the new Urban Growth Area (UGA).

In section 6, the Tribe is asking for reimbursement from any properties that subsequently hook onto the new sewer line as provided for by State law. As properties connect to the system, a reimbursement fee is paid to the City and passed back to the Tribe. The details of this financing will need to be worked out and provided for in a separate mutually agreed financing agreement. There is no timeline set for the financing agreement. Section 3 of the IGA outlines three categories of payments to the City for the extension of sewer.

Section 6 also indicates that within 90 days of execution of the IGA, the City will engage a financial advisor to provide advice on the formation of a reimbursement district.

The transmission lines are no longer an issue, because Clark County has relocated the substation and delayed construction for several years. The lines will not be underground as it is too difficult and expensive.



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As far as whether this IGA is good for the City of La Center, Attorney Kearns indicated that it is a policy decision that the City Council must make. The IGA is meant to cover the basic deal points in an enforceable manner, and it accurately reflects the negotiations between the Tribe and the City. No contract is without risk, and if it is breached, there are remedies. One foreseen problem is that if there is a breach early on and there is no financial agreement in place, it would be difficult for the court. The details of the financing agreement cannot be worked out today and is not a part of this IGA. The Tribe has obligated itself to pay the costs, whatever they may be. However, upon execution of the IGA, the City is expected to engage a financial advisor to figure out where the money will come from and work with the Tribe to set out the terms of repayment.

**COUNCILMEMBER WILLIAMS** expressed concerns about the timing not being outlined in the IGA. If the City is responsible for obtaining the financing to start this project, when does the reimbursement begin? And what if problems arise when negotiating the financing agreement?

**ATTORNEY KEARNS:** A repayment schedule is not outlined in the IGA, but Attorney Kearns anticipates that the Tribe will start making the payments when due. Details will have to be set out in the financing agreement. Council should consider adding a timing provision to the IGA. Also, any motion approving execution of the IGA should include that it be contingent upon the Tribe waiving sovereign immunity. It would be appropriate for Council to adopt the IGA with specific amendments.

**JEFF SARVIS, PUBLIC WORKS DIRECTOR,** clarified that the land north of the Fudge property is for future industrial growth. He anticipates that once the I-5 junction is serviceable, it could be included with the next Comprehensive Plan update. Clark County PUD will move forward with the substation construction in another year or two. Underground transmission lines are no longer an option.

Today, the discussion is about building a \$32 million interchange. The planning is nearly complete and it is consistent with the City's Capital Facilities Plan. Adopting the IGA will allow construction to begin. It is important that the land the City is left with is developable. The City should be cautious to not price itself out of the market. A latecomer's agreement is typically for 15 years. The devil is in the details, and we just don't have those details yet.

A development agreement with Minute Management is forthcoming.

**SUZANNE LEVIS, FINANCE DIRECTOR:** Director Levis recommended that a financial consultant and bond counsel be consulted before the City signs the IGA.



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**CONSULTANT RAY BARTLETT:** It would be worthwhile for the City to get professional advice from a financial advisor and bond counsel. The IGA says the City will issue the debt. Municipalities have to have a credit rating to issue the debt. Even though the Tribe has agreed to pay the debt service, the City should be sure that certain obligations are in place by having language in the IGA to avoid problems when the separate financing agreement is drawn up. A financing agreement can be drafted in a 30- to 90-day period after obtaining financing advice.

**MAYOR THORNTON** opened the discussion up to public comment at 8:09 p.m.

**DAVE BARNETT, SEATTLE,** read a statement prepared by **COWLITZ CHAIRMAN BILL IYALL**, who was unable to attend the meeting (a copy of which is available on file and made a part of these Minutes). The statement indicated that the IGA addresses most of the City's concerns brought up in past negotiations. The Tribe has decided to fully fund the cost of the sewer line extension no matter what the cost, and they are committing to assist the City in obtaining financing. The Tribe has agreed to not take land on the east side of I-5 north of 299<sup>th</sup> Street into trust. The financing agreement for the sewer line, the latecomers agreement, and law enforcement agreement are to come.

**PETER SCHULTZ, MOHEGAN TRIBAL COUNCIL.** The "financing mechanism" includes working with the Tribe's Chief Financial Officer and legal experts, but it takes a long time to work out financing details. The Tribe is guaranteeing they will make the payments when due at the end of each operating year. It is a difficult process, but it can be done if everyone collaborates.

**DAVE BARNETT, SEATTLE.** Before the City meets with bond counsel, the City needs to know what they want. Financing takes time. The construction of the interchange is 75 days behind schedule. If the new casino opens without the interchange being completed, it will be a huge detriment to the City. The Tribe will work with the City on timing. He was unaware of the land north of 299<sup>th</sup> Street was not being taken into trust. The lines seem to keep changing.

**MAYOR THORNTON** stated it was clear that the property not to be taken into trust extends to Paradise Park, when he spoke with Chairman Iyall. Public Works Director Sarvis then pointed out the area on a map.

**DAVE BARNETT, SEATTLE:** He does not see a real value of the property north of 299<sup>th</sup> Street to the Tribe. This matter can be brought back for discussion. More important right now is getting the construction moving so as to not lose money. A redraft of the IGA can be done, if necessary. The Tribe is committing to whatever is necessary financially and it is enforceable in writing.



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**PHIL HARJU, VICE CHAIRMAN AND GENERAL COUNCIL, COWLITZ TRIBE.** The Tribe and the City of La Center are very close to adopting a historic agreement, and there is nothing that is preventing the City from signing the IGA. He urged the City to consult the City Attorney about the language in the IGA. Section 3, “Payment to the City for Extension of Sewer,” could not be clearer – it obligates the Tribe to make payments toward a \$5 million to \$6 million sewer extension. The financing details will not be outlined today, but the IGA is an enforceable mechanism to get the sewer extension started. He fears the community will question why the construction continues to be delayed.

He is not aware of any plans for the Tribe to take land into trust on the east side of the freeway north of La Center; so, the language can be changed in the IGA. Now is the time for Council to make a policy decision and trust the Tribe.

**LARRY BARTEL (CLARK COUNTY FIRE & RESCUE), 911 NORTH 65<sup>TH</sup>, RIDGEFIELD.** If the project is delayed, it will create a problem for EMS responding through that area and increase the potential for injury/accidents. He urged Council to do whatever it takes to get this project started as soon as everyone is comfortable. The negotiation process between CCF&R and the Tribe was a good experience, and he is very happy with the results.

**CONSULTANT RAY BARTLETT:** He is concerned for the City if they cannot borrow the money. The IGA states the City is responsible for getting a loan.

**PHIL HARJU, VICE CHAIRMAN AND GENERAL COUNCIL, COWLITZ TRIBE.** Perhaps the Tribe will borrow the money. The IGA says the Tribe shall pay for the cost of extension for sewer and obtaining financing through municipal bonds, loans or similar mechanisms for the sewer system extension including principal and interest payments as well as the cost of interim financing, if necessary. Continuing to delay the execution of the IGA costs the Tribe money.

**COUNCILMEMBER CERVENY:** She understands the pressure the Tribe is under to continue the construction, but this is not the Council’s concern. The City has been forthright, transparent, and honest during negotiations. The Council has the responsibility as elected officials to address the terms with financial prudence. All parties want the negotiations to end successfully, and this goal is near.

**PHIL HARJU, VICE CHAIRMAN AND GENERAL COUNCIL, COWLITZ TRIBE.** The Tribe has worked very hard to make the IGA agreeable. The Tribe has committed to pay millions of dollars for the sewer and, without this commitment, there will be no money to build it. In addition, the Tribe has offered the interchange, power, and other amenities upfront from the beginning. Timing is critical for the construction project.





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**COUNCILMEMBER VALENZUELA** asked City Attorney Kearns if the IGA could be amended with a provision indicating that if the City could not get the financing, the Tribe would.

**ATTORNEY KEARNS:** Amending the IGA is a possibility. The provision that the Tribe would pay for the sewer was presented only a couple days ago. The question now is how the project will get financed; but the financing terms cannot be addressed today. Council should focus on whether the IGA sets out the basic terms. Backstop language can be added. Another section can be included stating that the Tribe will obtain financing and construct the sewer to City standards. That would be a contractual commitment.

**COUNCILMEMBER VALENZUELA** is concerned that with each new day comes a new iteration with new complications. Perhaps a motion could be formulated with stipulations in order to move forward.

**ATTORNEY KEARNS.** A provision could be included that if the parties cannot reach a mutually satisfactory agreement within 90 days (or some other period) within the execution of this IGA, the Tribe would be obligated to pay a certain amount a year for 10 years. However, this might not get the City a sewer.

**MAYOR THORNTON:** There are many fundamental questions and unknowns that need to be addressed such as latecomer fees, impacts fees, and sewer hookup fees. It is critical for the City to get the sewer out to the junction in order to facilitate development. The City recognizes the Tribe's situation with the development, but we have to look out for the best interest of our community and take time to seek advice of bond counsel or financial adviser.

**PETER SCHULTZ, MOHEGAN TRIBAL COUNCIL:** The Tribe is willing to work with the City on the amount the Tribe has committed to pay.

**COUNCILMEMBER WILLIAMS:** We should resolve the financing provision (section 3.B.) so this process can be expedited. There is also a concern as to what will happen if the City cannot get the financing. The citizens want to see the development at the junction, because it will help the City's tax base. The latecomer agreement can be addressed later.

**CONSULTANT RAY BARTLETT:** It would be acceptable if an adjustment to the IGA was made indicating that the Tribe would get the financing, if the City cannot.

**COUNCILMEMBER LUIZ:** This IGA is a fair one, and he is comfortable moving forward with the addition of a 90-day deadline provision to come up with a



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financing agreement. An agreement is critical in order to complete the interchange by the time the new casino opens, not to mention the extension of the sewer lines. The City needs to offset the lost revenues from the cardrooms with the anticipated development of the I-5 junction area. If there is no sewer line, the City will not have input into what is developed.

At 8:44 p.m., **MAYOR THORNTON** called for a 15-minute break.

At 9:03 p.m., **MAYOR THORNTON** reported that the break would be extended for another 10 minutes.

At 9:20 p.m., **MAYOR THORNTON** called the meeting back to order.

**ATTORNEY KEARNS** provided Council with changes to sections 2, 3, and 8 of the IGA which provide for a backstop guarantee if the City is unable to obtain a satisfactory financing mechanism for the improvements. Section 3 provides an option for the Tribe to obtain financing.

Sections 3.A., 3.B., and 3.C. now provide for “City and/or Tribe” financing. The last paragraph in section 3 adds a deadline of 120 days to execute a mutually satisfactory financing agreement. Attorney Kearns then read the full paragraph aloud.

In section 2, the land was delineated to more clearly state south of Paradise Park and north of 299<sup>th</sup> Street. The City has had a long-term interest in commercial development in this area.

In section 8, “Enforcement of Agreement,” an attorney fee provision was added.

The term “bond” was removed and replaced with “obtain financing.”

**MAYOR THORNTON** opened the discussion up to public comment at 9:24 p.m.

**AL FILLA, 152 W. 15H ST.** This is what the City has been looking for to get sewer out to the junction. It is a good opportunity, so the City should go for it.

**MAYOR THORNTON** closed public comment at 9:25 p.m.

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**MOTION MADE BY COUNCILMEMBER LUIZ, SECONDED BY COUNCILMEMBER WILLIAMS AND CARRIED UNANIMOUSLY TO APPROVE RESOLUTION NO. 16-404 AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT PURSUANT TO RCW CHAPTER 39.34 WITH THE COWLITZ INDIAN TRIBE RELATED TO CERTAIN TRANSPORTATION IMPROVEMENTS AT LA CENTER'S INTERSTATE 5 INTERCHANGE WITH AMENDMENTS AND AFTER THE COWLITZ TRIBE WAIVES SOVEREIGN IMMUNITY.**

**12. ADJOURNMENT.**

Meeting was adjourned at 9:27 p.m.

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Mayor Greg Thornton

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Suzanne Levis, Finance Director/Clerk