

TOWN OF SOUTH PRAIRIE
REGULAR COUNCIL MEETING
TUESDAY, JANUARY 3, 2006, 7:00 PM

CALL TO ORDER:

Mayor Peggy Levesque called to order and presided over the Regular Council Meeting of January 3, 2006 at 7:00 PM, and requested everyone stand for the "Pledge of Allegiance." Mayor Peggy Levesque said Council Member Dave Lykstad was on his way but he would be late.

ROLL CALL:

Council Members: Chandra Hairston, Robert Stanbary, Laura Heideman and Virginia Thompson were present. Dave Lykstad arrived late.

Also in attendance: Michael J. Reynolds, Town Attorney; Nathan Mozer and Jennifer Dvorak, Parametrix – Town Engineers; Barbara Hansen, Gazette Reporter; Anthony Caldwell, Barbara Wigton, Sybil Thurston, Karen Leming, Laurence Levesque, Vicki Watkins, Chuck and Becky Bonato, Gary and Lois Erath, and Theresa Downs, citizens; Marla Nevill, Clerk/Treasurer

FORMALLY SWEAR IN NEWLY ELECTED OFFICIALS:

Michael J. Reynolds, Town Attorney, formally swore in Peggy Levesque to the position of Mayor. He asked that we wait to formally swear in the newly elected Council Members until after Dave Lykstad arrives.

APPROVAL OF REGULAR COUNCIL MEETING/PUBLIC HEARING MINUTES FOR DECEMBER 5, 2005:

- ❖ Councilor Chandra Hairston moved to approve the Regular Council Meeting/Public Hearing Minutes of December 5, 2005. Councilor Robert Stanbary seconded the motion. Motion carried unanimously.

APPROVAL OF SPECIAL COUNCIL MEETING MINUTES FOR DECEMBER 19, 2005:

- ❖ Councilor Robert Stanbary moved to approve the Special Council Meeting Minutes of December 19, 2005. Councilor Laura Heideman seconded the motion. Motion carried unanimously.

APPROVAL OF SPECIAL COUNCIL MEETING MINUTES FOR DECEMBER 22, 2005:

- ❖ Councilor Robert Stanbary moved to approve the Special Council Meeting Minutes of December 22, 2005. Councilor Virginia Thompson seconded the motion. Motion carried unanimously.

APPROVAL OF BILLS FOR DECEMBER 2005, IN THE AMOUNT OF \$48,521.41:

Councilor Chandra Hairston said she had called Marla today about the payment for the elected officials. Marla Nevill said we have to recess this meeting for approval of the final bills for 2005. She said she would leave a note for Judy to make sure the Council and Mayor salaries are submitted for approval at that meeting. Mayor Peggy Levesque said we don't need to amend the bills, since the remaining 2005 bills would be submitted for approval at the Recessed Council Meeting. Marla Nevill said that is correct.

- ❖ Councilor Laura Heideman moved to approve the bills for December 2005, in the amount of \$48,521.41 (forty-eight thousand five hundred twenty-one dollars and forty-one cents). Councilor Virginia Thompson seconded the motion. Motion carried unanimously.

NEW BUSINESS:

1) Resolution No. 266 – (Amendments to the South Prairie Creek RV Park Land Use Agreement, Resolution No. 151, dated August 6, 1994):

"A Resolution of the Town of South Prairie, Pierce County, Washington amending Resolution No. 151 and the Land Use Permit for South Prairie Creek RV Park and Campground with Use Agreement for the purposes of clarifying the Land Use Permit and modifying certain provisions to resolve all disputes and/or litigation and/or claims between the South Prairie RV Park and Dwight Partin and the Town of South Prairie, setting forth facts."

Mayor Peggy Levesque said Resolution No. 266 is tabled until after the hearing on the Temporary Restraining Order, which is scheduled for January 4, 2006.

2) Resolution No 268 -- Reappointing Robert W. Hamilton to serve as Municipal Court Judge from January 1, 2006 through December 31, 2009:

"A Resolution of the Town of South Prairie, Pierce County, Washington reappointing Robert W. Hamilton to serve as Municipal Court Judge from January 1, 2006 through December 31, 2009."

- ❖ **Councilor Robert Stanbary** moved to approve Resolution No. 268. **Councilor Laura Heideman** seconded the motion. **Motion carried unanimously.**

3) Virginia Thompson -- Requested Council discussion on changing the Council Meeting back to the first Tuesday of the Month:

Councilor Virginia Thompson said she works and she would prefer to have Mondays free. She said it would be more convenient to go into a Tuesday meeting than a Monday. **Mayor Peggy Levesque** said there have been issues with the Monday meetings anyway, and we did change it at one time to benefit another Councilperson's schedule. Monday was better for him. But, Monday's are a little difficult because we initially had difficulty getting the Town Attorney here. **Michael J. Reynolds** said that is correct. He said he has Enumclaw on some Mondays, but they are now on the second Monday, so it works out. **Mayor Peggy Levesque** asked Michael Reynolds if Tuesdays were okay with him. **Michael J. Reynolds** said Tuesdays were fine. **Mayor Peggy Levesque** said a lot of the Monday Council meetings fall on a holiday, like the holiday yesterday. She asked the Town Attorney what the Council needed to do? **Michael J. Reynolds** said he needed direction from the Council. Council Member Dave Lykstad arrived. Discussion followed.

- ❖ **Councilor Laura Heideman** moved to change the Regular Council Meeting to the first Tuesday of the month at 7:00 PM at the South Prairie Town Hall. **Councilor Virginia Thompson** seconded the motion. **Councilor Robert Stanbary** and **Councilor Chandra Hairston** said they have trouble with a Tuesday night meeting. **Three ayes and two nays, motion carries.** (Councilors Robert Stanbary and Chandra Hairston opposed the motion).

FORMALLY SWEAR IN NEWLY ELECTED OFFICIALS:

Michael J. Reynolds, Town Attorney, formally swore in the newly elected Council Members as follows: Virginia Thompson, Council Position #1, Dave Lykstad, Council Position #3, and Laura Heideman, Council Position #5.

Appointment of Mayor Pro-Tem:

Mayor Peggy Levesque asked for nominations for the appointment of Mayor Pro-Tem. **Councilor Laura Heideman** nominated Dave Lykstad. **Mayor Peggy Levesque** requested that Laura make the nomination in the form of a motion.

- ❖ **Councilor Laura Heideman** moved to nominate Dave Lykstad as Mayor Pro-Tem. **Councilor Chandra Hairston** said she would like to nominate Bob Stanbary. **Mayor Peggy Levesque** asked the Town Attorney how this procedure should be handled? **Michael J. Reynolds** said first of all you take a motion at a time, and see if that motion is seconded. Then you vote on that motion. If the motion were successful, Dave would be appointed to the position of Mayor Pro-Tem. If the motion were not successful, then you would go to the next nomination. **Mayor Peggy Levesque** asked if there was a second on the motion to nominate Dave Lykstad as Mayor Pro-Tem? **Councilor Virginia Thompson** seconded the motion. **Three ayes and two nays, motion carries.** (Councilors Robert Stanbary and Chandra Hairston opposed).

OLD BUSINESS

None.

CITIZENS' COMMENTS:

Flatbed Truck on Highway 162 is a Safety Hazard:

Theresa Downs said the flatbed truck parked on Highway 162, west of Emery Avenue, is a safety hazard and requested that it be removed, and she asked whom she would contact to get it moved. **Marla Nevill** said she talked to the police officer again today about getting the truck removed. **Mayor Peggy Levesque** suggested that Theresa contact the police department or the Wilkeson Police Department. **Marla Nevill** said to contact Buckley Dispatch. **Mayor Peggy Levesque** said we could give Theresa the number for Buckley Dispatch. She said she spoke to Officer Carsey the other night and he said he had tagged the vehicle, but he's run into some problems in getting it removed, but you're right it is a hazard. **Theresa Downs** said she would hate for an accident to occur. Discussion followed.

Request Schedule for Municipal Court:

Barbara Hansen, Gazette Reporter, asked for the schedule for the Municipal Court. **Michael J. Reynolds, Town Attorney**, said the Municipal Court is held the first Tuesday of the month at 9:00 AM in Wilkeson. Discussion followed.

***Amend Agenda:** **Mayor Peggy Levesque** requested an amendment to the Agenda so the Town Attorney could address Resolution No. 271.

Resolution No. 271:

"A Resolution of the Town of South Prairie, Pierce County, Washington to declare Resolution No. 270 as null and void and/or repeal Resolution No. 270. Resolution No. 270 was a resolution that three Councilpersons attempted to enact at an alleged Special Meeting of the Town Council on December 29, 2005 and setting forth facts."

Michael J. Reynolds, Town Attorney, said Resolution No. 271 was prepared to address another issue that exists in Resolution No. 270, which was enacted by three members of the Council on December 29, 2005. The pre-amble sets forth essentially factual information and sites State law in which the action taken, at that time, would not be valid. The resolution would be void on its face. The reason for Resolution No. 271 is to clarify that historically. What we have to look at is that all the ordinances I generate become a historical document for the Town. We assign them numbers, regardless whether or not they were passed and then they are logged in. So, we happen to know over time what happened to them, what were the facts behind it, and why they went into or out of existence. And, this one actually gets into more facts on the "Whereas" provisions and "Findings of Fact," that indicate why it would be taken out of existence. So, with that said, I'll read the resolution because it actually gets into the facts. **Michael J. Reynolds** read Resolution No. 271 into the record. (See Exhibit "A" attached). **Councilor Chandra Hairston** said first of all under your page two here, about half way down the page, "three members of the Town Council called for a Special Meeting... and provided a copy of a draft unnumbered resolution that directed legal counsel to dismiss the Town's Declaratory Judgment lawsuit and settle the lawsuit brought by the RV Park against the Town..." She said you didn't emphasize that also Mr. Partin drops all of his litigation as well. The Town drops their litigation, he drops his litigation and across the board everything is dismissed. There is no money involved whatsoever, so I don't see how it's violating that Temporary Restraining Order according to my attorney. Second of all... **Michael J. Reynolds** asked if he could respond to that issue and address one question at a time? If you look at the last sentence of the Title and Paragraph, that says dismiss with the policyholders insurance carrier. So, you take our policy with our policy limits at \$1,000,000 that means you would have to settle it for a million dollars. **Councilor Chandra Hairston** said the policy limits... Where does it say that, in the restraining order? **Michael J. Reynolds** said on the draft un-numbered resolution, which was initially provided to the Town for the purposes of settling... That incidentally you'll notice is a different resolution. It's more of a graduated Resolution No. 270, which the three members apparently acted upon. With the major difference being, the last sentence was omitted on the policy limits. **Councilor Chandra Hairston** said so, that is not stated on the one that was passed, anything about policy limits. **Michael J. Reynolds** said on the one that three Council Members acted on, it did not. However, the one that requested the Special Meeting, which is what the Mayor, Mayor Ross at that time, was acting on did say that what the Council intended to do was dismiss upon the payment of the policy limits of the insurance carrier. That definitely would be a financial impact. That would be the limits of our policy. **Councilor Chandra Hairston** said what was passed though is not talking about anything having to do with policy limits. **Michael J. Reynolds** said when you set a Special Meeting; you have to set it based upon the specifics of what the Council Members are requesting the meeting for. The specifics that were given to Mayor Ross at that time contained that ordinance or that resolution. That might not have been the resolution you folks passed, but that was the resolution that he had before him that was the basis for the Special Meeting. That resolution on its face violated that Temporary Restraining Order. **Councilor Chandra Hairston** said so my next question is here too, you have in here on this page three "Chandra Hairston is a councilperson and manager of the South Prairie RV Park." **Michael J. Reynolds** said and that is what I am led to believe. **Councilor Chandra Hairston** said no I am not the manager. I told you since December 6, 2005, I resigned. I have not worked in that office. I have not got a paycheck, nothing. **Michael J. Reynolds** said you told me you were on a leave of absence. **Councilor Chandra Hairston** said I resigned. I said I resigned on December 6, 2005, during an Executive Session. How interesting that that got out, you were here and Chuck was here. I said I resigned. **Michael J. Reynolds** said I do know that telephone calls were made to the South Prairie RV Park asking for you, and they said you were not there but they would relay the information to you to return the call. If that was the case and you had resigned, generally that doesn't occur. **Councilor Chandra Hairston** said I did resign, and whatever the manager or person is telling them now doesn't concern me. I don't work at that office. I haven't been in that office. I left the 6th and that was it. As a matter of fact, I'm about to move out of that Park. **Mayor Peggy Levesque** asked if there were any more questions. **Councilor Chandra Hairston** said I'm fine with whatever else you need to check, see if I've gotten a check. Go check with the accountant to see if I've gotten a check. You really think I'm going to sit over there and work for nothing. And, we did what we were supposed to do legally. We came in here and you told us we had to sit up here and write down that we were having a meeting, and three Councilpersons had to sign it. Since when does the Mayor have the authority to cancel a meeting that three Council Members asked for, and then we turned around and we posted everything twenty-four

hours... They were taken down; after that we posted it again and they were taken down. **Michael J. Reynolds** said the specific topic for the meeting was that the copy of the resolution that you provided to the administration, that resolution said that you intended to settle the litigation by paying the maximum amount of the insurance policy. That is a financial ramification, which is in violation... **Councilor Chandra Hairston** said how many times did I talk to you Mike Reynolds, and I told you there is no money involved period? This dismisses everything. This not only dismisses the Town against Partin, it dismisses Partin against the Town, and it dismisses all individuals listed in that lawsuit, everything across the board. As a matter of fact, the Town just gained \$31,000 that is setting at Mt. Rainier Bank that is blocked RV that he had already won in attorney fees, and the Town gets that \$31,000 on top of it. **Michael J. Reynolds** said but what it does though... Let's just assume, take that one out of it, assuming you're not paying the policy limits. One of the issues in the case itself is the fact that Resolution 151 gives the RV Park priority to all the new sewer connections. **Councilor Chandra Hairston** said of which he has to pay for. **Michael J. Reynolds** said the difficulty is... **Councilor Chandra Hairston** said twenty-five hundred, three thousand, what is it now? He has to pay for each and every one of them. **Michael J. Reynolds** said a sewer improvement project would cost you at the minimum of over a million dollars. The difficulty is that any town such as ours to afford that you would have to obtain a grant. By virtue of the fact that the first hook-ups would go to the RV Park probably would eliminate any possibility of the Town in the future to obtain a grant. If they could not obtain a grant and they ever want to fix the sewer treatment plant, then the only thing that could happen they would have to pass the fees on to all the ratepayers. And, without... **Councilor Chandra Hairston** said we just had a grant for two hundred and some thousand and all this litigation and everything was going on and they were still disputing about "fricking" sewer hook-ups then and we got a grant. And, it's getting worked on now. **Michael J. Reynolds** said we're talking about a multi-million dollar grant. **Councilor Chandra Hairston** said this town would never get a multi-million dollar grant to fix that sewer plant. It should have been fixed when it was broke, however when you get locked out you can't fix it. **Michael J. Reynolds** said if it's appropriate... First of all the other issue is, and it is enunciated in here, the fact that we are being defended by an insurance carrier. The insurance carrier is the one that employed Mike Tierney, the attorney. We cannot direct him, under the policy of our insurance. The insurance carrier has the direction over the attorney representing them, we don't. Now, if it's really a good deal for the Town, if the dismissal for example is a good deal, I'm sure the insurance carrier would recognize that and they'll instruct their attorney to do exactly what you're proposing. And, that is to enter into an agreement to dismiss it, if in fact, that is in all of their best interests. But, that is their decision, because they're defending the case. **Mayor Peggy Levesque** asked if there were any other questions. **Barbara Wigton** said she had a question. She said she just got through reviewing Resolution No. 271, and it was her understanding that the Temporary Restraining Order prohibited the Council from passing a resolution at its Special Meeting of December 22, 2005. She said it is my understanding that it was not limited to that date. Since I am a party that's interested, I would like to have been noticed if you were going to call a Special Meeting, because I am one of the parties that are involved along with the Town. It did not restrict it to December 22, 2005; it restricted it in passing any monetary value at any time until the hearing. And, the hearing is not until January 4, 2006. **Councilor Chandra Hairston** said and we did not pass anything... **Councilor Robert Stanbary** said with money. **Barbara Wigton** said I'm still talking. I am quite concerned, because I did not get notice. I should have been notified by mail. I was one of the persons named in the litigation... I do not know why. If you could explain to me why you are taking this on and out of the insurance carrier and the attorney that is handling this for the city that would have our best interest in place. Why are you trying to take this out of his hands to try to get this solved? What is the agenda? Is it a personal agenda or why are you trying to go around your legal advice, which Mr. Bonato last week said he wanted to get independent counsel? Mr. Reynolds is... **Chuck Bonato** said it is up to the attorney... **Barbara Wigton** said I am still talking. Several people were speaking at the same time. **Mayor Peggy Levesque** said Ms. Wigton is talking right now. **Barbara Wigton** said that's all well and good, but I don't think the town's people should have to pay for that when you have an independent counsel here that is on the city's behalf and he is hired and paid monthly to advise you correctly. But, everybody, no three people are going around what Mike Reynolds has advised you and what Mike Tierney and the insurance carrier has advised you to do. So, what is the agenda here? There is money costs due here if this insurance company cancels us and we have to pay the attorney fees, where do you think those fees are coming from? They're coming out of everyone of our pockets, because they come out of property taxes. If the insurance company doesn't cover it, they cancel us or it goes over the insurance, the townspeople are going to pay this through rates, water and sewer. And, that's where it's going to come from, if everybody doesn't understand that. I think I am very upset to the fact that three people could stand on a step, when their Mayor told them that they were going to be in violation of or be in Contempt of Court, and I would hope that this city would take you to the judge tomorrow and say, "They were in Contempt of Court." And, you would have to answer to the judge, because the judge does not like people going around a decision. And, I don't know where you think, if you're doing this personally or Dwight or who, but you represent the Town of South Prairie. You represent everybody that lives in this town, not just the one property owner, and if you're going to have a Special Meeting, it needs to be posted in a timely fashion and those people named in the litigation need to be advised that there is going to be a meeting. The only reason I found out about the meeting tonight is because someone told me, but I thought it was going to be next week, otherwise I would not be here. But, if you have the citizens at

heart, why don't you just leave it rest and go by the court decision and let the judge decide this. **Councilor Chandra Hairston** said are you done, I don't want to interrupt you. **Barbara Wigton** said no, I might have a few more questions, but go ahead. I would like some answers to that. **Councilor Chandra Hairston** said first of all when I was elected two years ago everything everybody kept telling me was "man, we want this litigation done." I can't tell you how many people came and told me that when I was running for office, first of all. So, contrary to what you might think there are people in this town who want it over. As far as me not listening to Mike Reynolds, if I am correct after one of our conversations we had, we wouldn't be in this mess if you guys would have listened to Mike Reynolds. And, that came out of his mouth personally. So, right there is where all this mess started, because you guys didn't listen to Mike Reynolds to begin with. Second of all, Mike Reynolds has also told me that he represents the Mayor. He gets his direction from the Mayor, okay. He doesn't represent us. I have my own attorney whom I have talked to and whom Mike Tierney has talked to. So, I knew where we stood and I'm not going to go into that because that's attorney/client privilege. But, I knew where I was standing after talking to my attorney, before standing on that porch. I know what direction Tierney is taking, because he's already discussed it with my attorney. So, I already had a "heads up." **Barbara Wigton** said do you believe you're in violation of that Court Order? **Councilor Chandra Hairston** said no, and I'll tell you why. The Temporary Restraining Order stated we couldn't do anything to pass money. This is not passing any money; there is no money involved here, none. And, I would think, you know, you guys would have been happy. Not only does it set up there and the Town and Partin, but it eliminates you from everything too. You can go on to 2006... **Barbara Wigton** said ...to eliminate money when you are paying an insurance company... **Councilor Chandra Hairston** said the insurance company is paying for all the defense of this case. They would not pay damages. **Barbara Wigton** said we don't know that. **Councilor Chandra Hairston** said they don't know that! I got the letter from Meredith Baxter from St. Paul Insurance, out of Texas, personally saying they would not pay damages. The only thing that insurance company would do is pay for the defense of the case, that's it. If we lose in court, we... And, you want to talk about sewer and water rates going up, oh it would skyrocket when we've got to pay this man 4.8 million dollars. What do you want to do then? This is eliminating this whole mess, the whole mess. Several people were talking at the same time. **Mayor Peggy Levesque** said let's let Mr. Reynolds talk. **Michael J. Reynolds** said ... just to clarify another issue on the financial side of this. If you go back, and I tried to touch upon that here, the Town was successful in a partial Summary Judgment. Before you get to trial what you try to do is weed out some of the issues... The Town was successful in obtaining a partial Summary Judgment; that the RV Park failed to comply with some of the provisions already in Resolution No. 151. Okay, that is a done deal. That then becomes a major defense for the Town. The insurance carrier is requesting that they be reimbursed their attorney fees in defending the case from the RV Park. If you dismiss the case, which the resolution would in effect do, you have dismissed their ability to get their attorney fees back again, that's financial. That's a lot of money. **Councilor Chandra Hairston** said so why didn't we get a letter stating that would happen? **Michael J. Reynolds** said that is in the pleadings for the case, they're seeking that in the event they are successful with the litigation to get that back. Now I would like to comment on one thing further too, what Chandra said is correct. I did advise the Town back in the mid-1990's not to enact Resolution No. 151. Yes, I did do that, and that is what is subject to the whole mess that came forward. **Councilor Chandra Hairston** said the Council did not listen to you then. **Michael J. Reynolds** said that is true, but... **Barbara Wigton** said some of the Council did not listen to Mr. Reynolds. **Bill Thurston** and I would like to clarify that. **Bill Thurston** and I did not vote for that. **Michael J. Reynolds** said just so the citizens know, yes I did recommend against it at the onset. And, the reason essentially is the same reason we're in this big *brawl* right now, because it got into this troublesome part of giving priority for the sewer hookups. At that point in history, I thought that was very problematical and would be a contested issue later on. And, obviously it is. **Sybil Thurston** said I just have a question. Chandra don't you think that that... is problematic in your mind. That Resolution No. 151 is so lopsided this little town of four hundred... have two hundred people over there. You know, it makes it very difficult. I am sure you could understand the reason for, you know, telling the Council not to do it. **Councilor Chandra Hairston** said the other thing is too... Several people were talking at the same time. **Sybil Thurston** said you are actually giving him all the stuff that he wants. **Councilor Chandra Hairston** said let me say this. The main issue is the ninety-three sewer hookups. It's going to take forever to get that plant fixed, and we had discussed before, at other meetings, that he could just put in his own sewer. And hookup to his own sewer, and not have to hookup these other ninety-three hookups. And, that is what he is considering now. He'll just put in his own sewer. Then he would not have to worry about ninety-three hookups. And, ten years from now, or whenever it finally gets fixed of trying to get it... So, he could not do that now? I mean you could not dismiss it, and he go put in his own sewer plant and let him run off his own plant. **Anthony Caldwell** said whom in the hell do you represent? **Sybil Thurston** said yes, Chandra. **Councilor Chandra Hairston** yelled whom are you cussing at? Whom are you cussing at? Whom are you cussing at? **Anthony Caldwell** said whom are you representing? **Councilor Chandra Hairston** said I am representing the Town, and don't you even start about oh, you representing a damn thing in this town. Because, let me talk about how many complaints I got off your butt to begin with. **Mayor Peggy Levesque** said we need to settle down. **Michael J. Reynolds** said Barbara mentioned the fact that the hearing on the Temporary Restraining Order is tomorrow. **Bill Thurston** filed the Temporary Restraining Order against the Town. I am at a dilemma on this one. You have seen the facts I've... the resolution on this.

I really don't... I don't like professionally to be put into a dilemma where I have to go and argue against my own Town in a hearing... I have talked to the attorney that represents Mr. Thurston, and our initial reaction is... This is not pleasant for me, one way or another... Because, what am I supposed to do, run into court and state that, "well I think that three members of the Council possibly violated the Restraining Order?" Under that then bingo, what does the judge do? Well, that's great that is Contempt of Court. This is an uncomfortable position to be in. I think the best solution at this instant in time... I don't want to be in that position. I think that the three Councilpersons... I have to believe that what is really happening is, I believe down deep, they really have the interests of the Town at heart. It wasn't the right way to go about it, and we went through that. Okay, but the interests were there to try to get out of the litigation. And, I could appreciate that. I mean, litigation is a mess to start with and it should never have been in the first place, but it's there. But, that was the wrong way to do it. But, I don't want to get into a position of going in there and having people possibly be fined and go to jail for trying to do something. But, I need a direction on what I am supposed to do with this because I represent the Town. My first reaction, when I was talking to the attorney is say okay, "not knowing what to do with this at this time, let's just continue it for a couple of weeks and see what happens." I would like to know your input on this. What are my instructions? **Barbara Wigton** said what was the reason for meeting so quickly? Was it viciously done? Do they know that they were going to be held in Contempt, or was it because they were going to be out of office and not be able to vote? **Michael J. Reynolds** said I don't believe that anybody would deliberately take an action that could hurt the Town. Several people were talking at the same time. **Michael J. Reynolds** said I have to be optimistic on that. People who generally serve in a position of a Councilperson in a town like this do so because they care about it. That is generally the motivation behind everybody. And, you don't like getting into a position where it becomes a problem. This town is kind of divided a little bit anyway. Now, we start going to court and asking people to go to jail or to fine them heavily it tends to make things worse. I am not enthusiastic about that concept. **Mayor Peggy Levesque** said the option was to prolong it for a little while and let everything cool off. **Michael J. Reynolds** said just continue it... Where does it go? I mean, what will the insurance people and Mr. Partin's people get together and get resolved in the face of all of this? **Mayor Peggy Levesque** said and all Mr. Partin needs to do is bring this or any other solution to our... **Michael J. Reynolds** said our normal solution to all litigation is that his attorney goes to the attorney in the case, which is Mr. Tierney, not me. And, they work out the settlement. Unfortunately the way this is normally done is that, because of the time restraints on all attorneys, they wait until the pressure of the trial. Low and behold... **Mayor Peggy Levesque** said we're getting there. **Michael J. Reynolds** said their attention is finally drawn with that and you have got to do something with it. Perhaps this one would work that way too. But, the first thing I would want instruction on is insofar as the hearing is scheduled for tomorrow, what am I supposed to do with it? **Councilor Dave Lykstad** said are you saying we could postpone it? **Michael J. Reynolds** said I can. I have already talked to the attorney on the other side, and I have indicated professionally to him my dilemma on this. I am trying to represent a town and trying to not blow it apart. Could we continue this thing to see where it comes out? **Councilor Dave Lykstad** said you mean extend the restraining order for a couple of weeks? **Michael J. Reynolds** said as far as the restraining order is concerned, I mean if you pass this resolution here, that puts you back at ground zero. So, if you want to settle a case or the attorney wants to settle the case he could settle the case, but it doesn't have this in existence. In fact, it set forth a mandate, which essentially was impossible to carry out. They told the insurance council they had to settle it within one day. Really folks they are getting instruction from the St. Paul Insurance Company, and there was no mechanical way you could have done that. Although I did once Marla got, she was great, she got me the information immediately the next day. I immediately called Mr. Tierney, who is our attorney, and advised him of it, because I felt I had a duty to do that. But, I couldn't even get a hold of him for hours, and then I finally got a cell phone call from him and he said he had no way of getting a hold of St. Paul. **Mayor Peggy Levesque** said do you need a motion to the effect to just kind of let it cool off? **Michael J. Reynolds** said yes to continue it for a couple of weeks. **Mayor Peggy Levesque** asked if we would still be under the restraining order, and nobody would get fined or jailed or anything? **Michael J. Reynolds** said nothing is going to happen. The restraining order stays in existence, which says we don't settle it, but that is where we are at anyway. **Mayor Peggy Levesque** said right, so it just gives it a cooling off period. **Michael J. Reynolds** said I hope everybody understands what my thinking is on this. I know a lot of people want some sort of retribution and things like that, but in a lot of cases sometimes if you let some time go by and let cooler heads prevail it works out better.

- ❖ **Councilor Dave Lykstad** moved to direct the Town Attorney to postpone the hearing on the Temporary Restraining Order for a couple of weeks. **Councilor Laura Heideman** seconded the motion. **Motion carried unanimously.**
- ❖ **Councilor Dave Lykstad** moved to approve Resolution No. 271, which makes Resolution No. 270 null and void. **Councilor Virginia Thompson** seconded the motion. **Three ayes and two nays, motion carries.** (Council Members Chandra Hairston and Robert Stanbary opposed).

Barbara Wigton said on Resolution No. 271, the third "Whereas" sounds like it was limiting it only to that December 22, 2005. I don't think that is... **Michael J. Reynolds** said that is what I was advising Council. What I tried to indicate as we went through it and what I was telling Council... **Barbara Wigton** said that is not going to limit it to that time? **Michael J. Reynolds** said no. That is just very specific on that one. **Mayor Peggy Levesque** said it is sort of a history of the events. **Barbara Wigton** said I did not want it to only that time. Discussion followed. **Michael J. Reynolds** said the resolution itself is null and void. Again, for tracking purposes within the Town, that is why I wanted to set it forth so we knew what happened to that resolution number. Discussion followed.

***Amend Agenda:** **Mayor Peggy Levesque** requested an amendment to the Agenda so the Town Engineer could provide an update on the Wastewater Treatment Plant Project and the Water Comp Plan Update.

ENGINEERING REPORT:

Nate Mozer, Parametrix - Wastewater Treatment Plant Project Update:

Nate Mozer presented an update on the Wastewater Treatment Plant Improvement Project. He said they are reconfiguring the recirculating gravel filter, to fully utilize the entire filter medium, and installing a drum filter on the effluent side of the recirculating gravel filter. He said the construction project is going very well, even though they got a late start. A Change Order was approved to extend the actual construction time, because the lead-time on the drum filter was longer than expected. The projected completion of the project is early February. Then there would be a 30-day operational testing period, to monitor the system and improvements. During that time, the Town would be required to do all the maintenance and operations, but during that time, the contractor would still be under contract to fix or calibrate the system. **Mayor Peggy Levesque** thanked Nate for the update on the project.

Jennifer Dvorak, Parametrix – Water System Plan Amendment:

Jennifer Dvorak distributed two handouts to the Mayor and Council. She explained where the water service area was located with respect to the Town's corporate limits, as well as the Urban Growth boundary. (See Exhibit "A" attached). **Barbara Hansen, Gazette Reporter**, requested that Jennifer state her name and title for the record. **Jennifer Dvorak** stated her name and title and said she is working on updating the Town's Water System Plan. She said the Department of Health requires that every six years the Water System Plan be reviewed for current water usage, projected growth and a plan to meet the demands of that growth. They also recommend different projects to consider during the growth. She referenced Exhibit "B" and said the graph basically shows the pumping capacity for the town's current usage versus projected future usage. She said the town is well below their pumping capacity, which means there is ample water to meet the projected growth of the town. She said assuming the sewer moratorium is lifted by 2012, they would anticipate significant growth for the town, which could nearly double in size by 2022. At that point, it would start to level out. She said your water rights are perfectly capable of sustaining the growth that you have right now, reference Exhibit "A." She said the map (Exhibit "A") shows the service area, which is indicated by the red boundary. What that means is the Town has told the Department of Health they are going to provide water for any new development in that area. The service area is much larger than the town's corporate boundaries. She indicated the town's corporate boundaries were outlined in blue. She said one concern is that Pierce County Code restricts urban level services, such as water, outside the Urban Growth Area, because they want to preserve the rural character. When you have a service area that is much bigger than your Urban Growth Area (UGA) you are required by the Department of Health to provide water. She said Parametrix is recommending the Town keep their service area, but provide some type of policy for the drilling of wells for new development until such time that the town could provide water service to the area. She said it largely depends on whether or not the Town really wants to grow. **Nate Mozer** said based on the size of the area, it doesn't seem feasible with the town's limited capital to extend the infrastructure to the far reaches of the service area. He said it is not advisable, at this time, to give up any of that service area, with Tacoma City Water and another water purveyor adjacent to the service area. He said it would be helpful if someone could explain how the current town's service area boundaries originated. He said this information came from the Hedges & Roth and Cosmopolitan plans. **Councilor Dave Lykstad** asked how long had that service area been like this? **Jennifer Dvorak** said the Interlocal Agreement that South Prairie signed with the City of Tacoma and Clearwater, before they were bought out, was in 1998 or 1999. She said it's required by Pierce County Code that you sign an agreement indicating your service area to all neighboring water purveyors. She said there has not been any updates since 1999, as far as we know, what's on the books is what is shown here. **Mayor Peggy Levesque** asked what steps to take that would be beneficial to the Town. **Nate Mozer** said the Town is obligated to develop a service area policy as part of the Water System Plan, and those issues would be addressed with the Town Council. He said he believed the Town was obligated to provide water to those parcels within the service area. **Michael J. Reynolds** said yes, the Town was obligated to provide service. **Nate Mozer** said we would have to develop a policy that is bulletproof enough that it could not be contested, and the developer would be required to extend the infrastructure to build any new homes. He said when the town's infrastructure was in place, they would be required to connect to the town's system. Discussion followed. **Mayor**

Peggy Levesque asked what the downside would be if Tacoma City Water took over the service area? Jennifer Dvorak said as Larry indicated, you would lose the ability to expand your infrastructure into that area and the collection of those revenues from that service area. Discussion followed. Nate Mozer said we have also been in contact with Mart Kask, Town Planner, to make sure the Water System Plan is consistent with the Comprehensive Land Use Plan. Discussion followed regarding the service area. Nate Mozer said the Town would have to decide whether they wish to retain their service area. Mayor Peggy Levesque said it sounds like it would be a good idea to retain that service area. Michael J. Reynolds said in the event the Town started servicing that area, you might want to consider an ordinance requiring the developer to pay the cost of infrastructure, but put in a provision for a latecomers agreement. Nate Mozer said the Town Council should discuss the policies before they approve and adopt the Water System Plan. Michael J. Reynolds explained what latecomers agreement meant. Discussion followed. Mayor Peggy Levesque asked whether the Town would still have the water capacity with the new arsenic level requirements? Jennifer Dvorak said the Town would have to address that issue. She said by the middle of January, the Town of South Prairie would be out of compliance on the maximum allowable limits for arsenic on Well # 1. She said the Town would have to blend with the other well, use a filtration system or take that well off line. Discussion followed. She said the high level of water that is unaccounted for in the system is another issue that would also have to be addressed. She said the Department of Health is starting to require that we take action to reduce water loss. She said her last recommendation is that we explore the option of tying in with another water purveyor, since you have very little capacity for reserve in the event of an emergency. Discussion followed. Mayor Peggy Levesque thanked Jennifer Dvorak for her presentation.

MAYOR'S REPORT:

Mayor Peggy Levesque said she would like to see our town move forward in a really positive way in the next four years and come together as a community. Anything she could do, she would like to be very open to the public. She said she hopes to have the kind of community we all want to live in.

PUBLIC WORKS' REPORT:

Councilor Robert Stanbary said he didn't have anything to report at this time.

CLERK'S REPORT:

Marla Nevill requested the Council recess this meeting to January 19, 2006 for the approval of the Budget Document and the final bills for 2005.

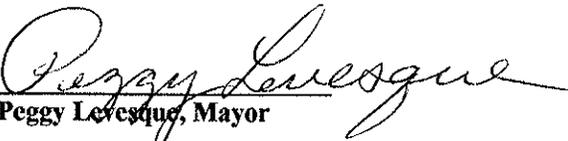
Marla Nevill said the office would be closed on January 17, 2006, so Judy and she could attend a training class on records management.

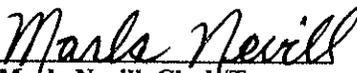
COUNCIL MEMBERS' REPORT:

Councilor Dave Lykstad asked for the information on the Newly Elected Officials Workshop they would be attending on Saturday. Marla Nevill said she would get the information to him.

RECESS:

- ❖ Councilor Robert Stanbary moved to recess the Regular Council Meeting to January 19, 2006, 7:00 PM. Councilor Dave Lykstad seconded the motion. Motion carried unanimously.


Peggy Levesque, Mayor


Marla Nevill, Clerk/Treasurer



— South Fenwick Street Ave

EXHIBIT "A"

11/3/06

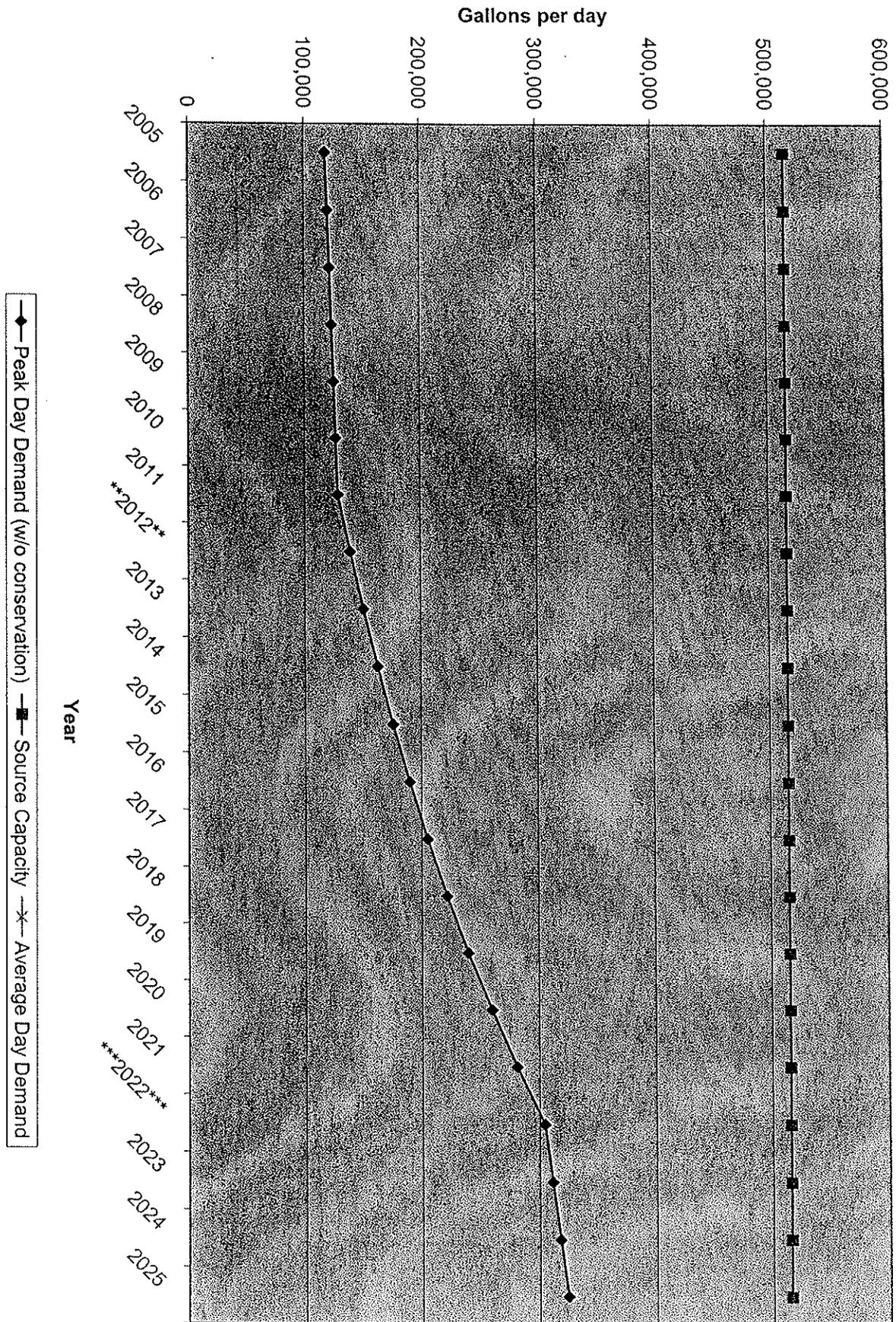


EXHIBIT "B"

1/3/06