TOWN OF SOUTH PRAIRIE
REGULAR COUNCIL MEETING/PUBLIC HEARING
TUESDAY, JANUARY 13, 2015, 7:00 PM
South Prairie Town Hall
121 NW Washington Street

The following is a condensation of the proceedings and is not a verbatim transcript.

CALL TO ORDER:
Mayor Tony Caldwell called to order and presided over the Regular Council Meeting/Public Hearing of Tuesday, January 13, 2015, at 7:00 PM.

ROLL CALL:
Council Members: Stu Terry, Roy Hanson and Barb Wigton were present. Vicky Watkins was absent.
Also in attendance: Sarah Cassal and Tim Gates, Washington Department of Ecology; Jim Frank, Jim and Patty Lamb, Karen Leming and Joseph Mills, citizens; Mart Kask, Town Planner, and Marla Nevill, Clerk-Treasurer.

FLAG SALUTE:
Mayor Tony Caldwell requested everyone stand for the "Pledge of Allegiance."

REVIEW AND APPROVAL OF AGENDA FOR JANUARY 13, 2015:
- **Councilor Stu Terry** moved to approve the Agenda for January 13, 2015. **Councilor Roy Hanson** seconded the motion. Discussion followed. **Motion carried unanimously.**

OPEN PUBLIC HEARING – SMP – VEGETATIVE BUFFER WIDTH:
Mayor Tony Caldwell said the public hearing would be recorded and said we are on tape at the present time and called for a motion to open the public hearing.
- At 7:04 PM, **Councilor Barb Wigton** moved to open the Public Hearing for the Shoreline Master Program (SMP) Vegetative Buffer Width. **Councilor Stu Terry** seconded the motion. **Motion carried unanimously.**

Mayor Tony Caldwell said the public hearing is open and he would call on the Town Planner first. He's going to make a short presentation first and explain what we've been up to with the Department of Ecology; and right after, I'm calling on Tim Gates and Sarah Cassal, Washington Department of Ecology, to present and then the question and answers will be after that. I just want to lay the groundwork so we know where we are at. There are a lot of rumors going around. I want a clear picture so everybody understands where we are at. **Mart Kask** said the Town has been working on the updates of the Shoreline Master Program for quite some time; and about a year ago, the Watershed Company submitted their draft report. The Town Council looked it over and had some changes they would like to make. One change was that the entire shoreline is designated as "Shoreline Residential;" and they asked the consultant to change the shoreline buffer from one hundred (100) feet to fifty (50) feet. Those requests were made to the consultant and the consultant made those changes. The Council accepted that and forwarded the report as a draft to the Department of Ecology. The Department of Ecology received and reviewed it; and they wrote a draft comment section. The comment section has two parts to it. The first part is the "Required Changes" and the second part was the "Requested Changes." We came to an agreement with Ecology on the "Requested Changes," and there were no objections to making those changes to the document as requested by the Department of Ecology. When it came to "Required Changes," one of the required changes was that we go back to the one hundred (100) foot buffer. The Town Council asked for a meeting with the Department of Ecology officials and Sarah was there and some other people from Ecology. There was a discussion and it was suggested by Ecology and we came

to an agreement to form a working group to try to work out the fifty (50) to one hundred (100) foot buffer change. After that, we had two meetings or maybe three; to try to work out the differences. At our last meeting which took place, I believe on December 15th, where an agreement was reached on the buffer width throughout the South Prairie Creek, in the Town limits of South Prairie. You have a map in front of you prepared by the Department of Ecology; and that shows... And, also I have a map here that you can identify your specific property, if you have any questions. These are the shoreline buffer lines. The red one is the ordinary high water mark. This is plotted from the aerial photography and may vary over here because it's very hard to determine. Sometimes the Creek runs this way and sometimes it runs this way. And, who knows, it might be somewhat different. The Federal Emergency Management has plotted it as being here. The red is the high water mark from which the buffer distance is measured. Over here we came to an agreement that the north side of the creek from the Town boundary to the Highway 162 Bridge is fifty (50) feet, and you can see that in yellow. Also, on the south side of this section of South Prairie Creek from Highway 162 to the northwest Town boundary is fifty (50) feet and shown in yellow. Then, the section from Highway 162 to the Foothills Trail is one hundred (100) feet and this covers most of the Pioneer Park and also part of the parking lot and that is shown in white. Also, a one hundred (100) foot buffer was laid out and agreed upon for the RV Park property and also the Cross Creek subdivision, those three houses. That agreement was reached three, four or five years ago with the Department of Ecology that the buffer would be one hundred (100) feet; and that is staying the same as it is currently on the books. Then, the big change was instead of using fifty (50) or a one hundred (100) foot buffer from the Foothills Trail to the southeast Town limits; instead of arguing whether it is fifty (50) or one hundred (100) or something else, it was agreed that the buffer should run along the top of the bluff, shown in black here. Again, the plotting is from the aerial photography and it could be off a few feet this way or that way; but in principle it's on the top of the bluff and that's shown in black here. If you want to step closer and look at your particular property, you may do so. Now this is an agreement reached between the Town, Mayor and the Department of Ecology. **Mayor Tony Caldwell** said it is a proposal at this time. **Mart Kask** said yes. There is one thing I need to point out. The fifty (50) foot buffer in here holds everything harmless except one property here, where it encroaches into the fifty (50) foot buffer. And, we wrote this specific piece, as a draft, into the regulations that the property was there before the buffer zone came into existence, which I believe was the 2002 Legislative Mandate. Therefore, they have to be considered for special consideration. We wrote into the code that residential structures that are less than fifty (50) feet from the high-water mark are considered legitimate development and they are approved construction. If the property owner wants to expand its property, they cannot expand on the water side or the shoreline side; they could make expansions on the back side. If the property owner wants to tear down and rebuild, they can rebuild on the existing footprint. If the property owner wants to abandon that site and build at a new site, the entire new site has to be outside the fifty (50) foot buffer. That's part of our regulations; and that is covered in a number of chapters and sections. And, so initially we showed, when we talked about the fifty (50) foot and one hundred (100) foot buffer, there were a number of properties here in this section, between the Second and Third Avenues, that fell within the fifty (50) foot buffer. But, going with the criteria that the buffer zone there is on the top of the bluff, we have no problem here as the buffer zone running across the existing structures. Everything here is in conformance. **Mayor Tony Caldwell** said Mart I would kind of like to have Department of Ecology tell their side of it; because we've gone through quite a bit I think and the citizens understand it. So, I would like to have the Department of Ecology give their presentation about the discussion we had. The map I passed out to you was sent to us by the Department of Ecology to share with the citizens. So, it's a proposed agreement; and I'm going to call on Tim and Sarah at this time to explain their side of it and how they feel about this whole situation. It's been over two years that we've tried to resolve this problem; and we finally came to, I think, a happier agreement. We gave and they gave too; so I think we're working toward a goal. He said Tim. **Tim Gates** said thank you, thank you Mayor Caldwell. Great job Mart explaining what we talked about. We basically were interested in having criteria that was fairly applied across the entire town. So, the idea of a one hundred (100) foot buffer was based on the Characterization Report that was prepared for the Town's Update. So, that is why Ecology initially...

When we saw the change, because it was originally at one hundred (100) and it was changed to fifty (50), we looked at the report and said wait your report recommended one hundred (100). You are supposed to follow the criteria. We went out and looked at the properties, and we walked on all the shorelines. We looked at the air photo. Mart did a great job. He took each parcel; and he showed the exact location from the ordinary high-water mark to the structure. What you have here is clear evidence that if you follow the criteria of wanting to protect existing vegetation, a fifty (50) foot buffer is a good meaningful average that stays away from existing structures but protects existing vegetation, when you get in the downstream portion of Highway 162. Upstream of Highway 162 the story changes; so, if you're going to follow the criteria consistently of following the vegetation line, the one hundred (100) foot, if you're looking downstream, seems like it captures most of the existing vegetation within shoreline jurisdiction that we are concerned about. The bluff is a distinct topographical feature that anybody could easily find on the ground; so it's easy to define and it's easy to administer and there would be no question about where it is located. So, I thought it was a great job; and I really don't have anything to add to Mart's explanation. It captures the issue. I guess I would just say this Master Program actually has a lot of working parts to it and the fact that we're like 98% there. This was the one issue. This was the only issue; and really the reason it took so long was we kind of took a break. Mayor Caldwell said there is a bunch of other stuff going on; and it wasn't like we were fighting the whole time we just weren't even communicating. You guys were busy and we were busy. We weren't like "hey, where's your SMP?" So, it really was just a matter of once we got down to it, it was very quick. It was just a matter of let's be realistic. Let's look at common interest. Let's look at criteria; and apply it fairly and come up with something to throw out to the public and see what you guys think. So, that is pretty much where we are at. I would say, just as another introductory comment, that the Department of Ecology is directed by statute to work cooperatively with local governments. It's right there in the statute. It says the Shoreline Management Act is a cooperative program between local governments and the State; and that is always our intent. When we wrote that draft letter that said you should make it one hundred (100) feet, it wasn't meant to be like "hey, we are going to cram this down your throats whether you like it or not." It was a response and it was more a draft; and we appreciate the way it was written. We talked about it and realized maybe it was conveyed sort of legalistically and looked like we were playing hardball. It was meant to be starting of a conversation; and as soon as we picked up the conversation with the Mayor and your Planner, we pretty much quickly realized there's an easy solution here, at least is seemed like to us, to address both the State and the local interest. And, as you plan for the shoreline, change over time that you are preserving important values. You are preserving important values. You can't say enough about the importance, from a scientific perspective, of vegetation along the shorelines of rivers. The river, as you know, everyone we went and talked to kept talking about that river moving all over the place. It's because the river functions as a unit. It's not where you see it right now. It's the river and the trees along side of it. They are sort of a unit. So, acknowledging those trees and trying to preserve them as you grow is an important value; and as we discussed, it seems like it's a shared value. Basically, I'll shut up and hear what people have to say; because right now, as you say, it is a proposal. We don't have an absolute. There are no absolutes in the way the shoreline is supposed to be managed. It's supposed to be tailored to local circumstances. It's supposed to reflect the goals and aspirations of the community; as well as keeping an eye on the big picture of how all the different shorelines work together. **Mayor Tony Caldwell** said Tim could you explain the justification of the Department of Ecology. Could you explain that to the citizens, please? You have to justify when you allow certain things to happen. **Tim Gates** said the Town of South Prairie is just one (1) of two hundred sixty (260) local governments that are updating their Shoreline Master Programs right now. It is directed by the Legislature. It's a one-time comprehensive rewrite of all these Master Programs. As part of that process, Ecology is representing the State's interests. So, when we make a decision on approving a local Shoreline Master Program, we are actually buying off as a partner to helping manage it. And, part of that responsibility is defending it, in case of an appeal. So, in all of our decisions, we need to be very cognizant of the fact that we have to defend the decision to approve this Master Program. So, we're always looking to try to be consistent with the criteria we have in our rules. I don't know if that's the explanation you're looking for. **Mayor Tony**

Caldwell said that is what you explained to me. **Tim Gates** said the rules say... It's kind of a mysterious sounding phrase; but the standard we're looking for is "No Net Loss of Ecological Functions." What that means is, as you develop over time, you preserve the important values that are there now. It starts with existing conditions and says as you develop you protect those existing functions. It doesn't say don't do nothing nowhere. It says protect the functions. So, sometimes you can change things; but you mitigate to make sure you preserve what's there. So, in this case, you have a really... Really, I think it's actually pretty ease to meet the standard if you avoid clearing trees within the buffer area; because that is where all the action is happening. **Mayor Tony Caldwell** said thank you Tim. **Tim Gates** said I also want to say it's not just the buffer. We're only talking about the buffer; but the buffer has exceptions within it. So, there is actually an administrative variance you can get to reduce the buffer by 25% (twenty-five percent) without going through huge long hoops. There are allowances for view clearing; and there are active use area exceptions. So, it's not an absolute no touch buffer; but it is about protecting what is there primarily. **Mayor Tony Caldwell** said thank you. He asked Sarah Cassal if she had anything to add. **Sarah Cassal** said no. **Mayor Tony Caldwell** said let's open it up to the public to ask questions of the Town Planner and my two Department of Ecology representatives. **Jim Frank** said which way do you want to start? **Mayor Tony Caldwell** said you can start. He said this is Jim Frank. **Jim Frank** said I would like to thank the Council and the Town Planner. You've worked really hard on this. A couple of things for me are; you mentioned the State's interest. Any time that the State considers their interest over a homeowner, that's kind of a scary thing right there, you know. So, that's always on my mind. And, also one question to the Council is I'm concerned on how thorough, because we're all working people and these are part-time positions in here... How much time and how thorough the Council really proofread the SMP and assured that the buffer zone of fifty (50) feet would not be rescinded at a later date? What guarantees, if any, do exist? Then, another question, as a follow-up on this, is who is going to have the burden of a variance? Will that be the land owner or the Department of Ecology? If I want to do something on my property, do I have to bring the variance to you and go through this variance and that variance? I could get tied up for a long time trying to prove my case if I have that burden. But, if you have the burden to prove me wrong, it's a little different story, you see. A homeowner could get hung up in the variances. You could spend thousands of dollars, thousands and literally thousands of dollars, and never get that variance. You could get hung up for many many years. So, what kind of guarantees do we have here? Again, maybe the Council could follow up on part of the question; and perhaps Sarah could follow up. Maybe you would like to start. **Sarah Cassal** said the city issues Shoreline Permits; so you need to demonstrate that to the city; and then Shoreline Variance Permits go to Ecology for approval as well. So, that would be demonstrated to the Department of Ecology as well. It is the applicant's burden to prove the need and their specific criteria. **Jim Frank** said that is the way it is written at this time? **Sarah Cassal** said that is the way it is written. It's actually in the Washington Administrative Code (WAC); so that is not going to change. **Jim Frank** said not even if I kick and scream? **Sarah Cassal** said no, sir. **Mayor Tony Caldwell** said Sarah; could you give the numbers... There was some mix up there of the number of permits that were approved compared to permits that were denied. The numbers were flip-flopped. Remember, I had the wrong impression that you approved very little variances. **Tim Gates** said we deny very little. There is about 4% (four percent) statewide. **Sarah Cassal** said that are denied. **Jim Frank** said 4% (four percent) of the variances were approved. **Sarah Cassal** said no, permits that were denied. **Tim Gates** said 95% (ninety-five percent) approval. We sent the Mayor the stats. I don't remember the exact numbers. **Mayor Tony Caldwell** said but it was flip-flopped; and the public thought that it was... **Tim Gates** said here we go; statewide over a ten (10) year period from 2005 through 2014, out of 934 (nine hundred thirty-four) variances, 45 (forty-five) were denied. That's 4.8%; so 95.2% were approved. **Jim Frank** said Mart; is this the data you had? **Mart Kask** said it came from Ecology. **Jim Frank** said how do you feel about that, Mart? **Mart Kask** said those are the numbers; and they speak for themselves. **Jim Frank** said are you comfortable with this? **Mart Kask** said I can't change it one way or another. Whether I am or not... **Joe Mills** said is that number based on variances that already meet the criteria of a variance though? **Tim Gates** said that's the... **Joe Mills** said do you accept the variance request that doesn't meet the requirement of your criteria? **Sarah Cassal** said we can

only deny a variance upon the criteria. **Joe Mills** said so; essentially what that number says is that we have approved variances that meet our rules that we've already written about variances. That number is skewed to the point that if the variance that is being requested is outside of the rules you have already written; it is not even going to be accepted because it doesn't meet the criteria. **Tim Gates** said what that means is that 934 (nine hundred thirty-four) times someone came to a permit counter in a county or city in Washington state in a ten-year period. Ninety-three (93) times a year. They came in and said at their own request... They said I want to do something where it's a variance from a _____ or dimensional standard. The city or county reviewed it and made a decision; and then that was passed on to Ecology. And, less than 5% (five percent) of the time Ecology denied that request. That's all there is to it. It is not a skewed. **Joe Mills** said I understand what you are saying. But, I guess what my point is I have been at a lot of city and county counters; and they won't even accept the application unless it already meets the standard that is laid out... **Tim Gates** said there are people that don't even ask. **Joe Mills** said there are people that bring in the request and they don't accept the request, because it doesn't meet the guidelines that are already written of what it can be. That's the point that I am making. So, that number looks good; but it might not be accurate compared to the people that actually want a variance on their property that don't even get to the point of submitting a variance. **Tim Gates** said that's a good point. One reason why we like the idea of having a tailored buffer is that you have in your comprehensive action, your comprehensive Update; you have reduced very significantly anyone ever needing to request a variance by not including an existing built environment in the vegetative buffer zone. So, especially when you look at the environment and you see what happens right after that... You look at all of that fifty (50) foot area; you look at the edge of the yard; and in every case there is a river. There are some trees, there is a slope, and there is a river. There is not a lot of room to go. The other thing I would say is that you did build in an administrative variance. So, you can vary the standard; so you can get to thirty-seven and a half (37.5) feet without going through the variance process. So, that's another little built in bit of flexibility. That is a 25% (twenty-five percent) reduction. And, the other thing is, what do you need the variance for? That is a good question you raised about looking through the whole thing and making sure it all adds up. If you look through there, you will see exceptions for certain activities that you do not have to ask for a variance. **Jim Frank** said the other part of my question. **Councilor Stu Terry** said I actually wanted to address that if I could, Jim. As far as any language that's in the current SMP about Ecology's ability or desire to change the buffer zone; there was nothing in the previous language that said anything about it either. We had the fifty (50) foot buffer and then Ecology decided to change it. It wasn't the standard obviously. I believe you were setting on Council when we started with this. So, that was something that was kind of brought to us; it was proposed that this would be the new numbers we would have to meet. Similar to the arsenic numbers we were made to conform to with the well at Third Street Park. It's a number that Ecology comes up with; so consequently we have to try to meet or beat that number. And, hopefully we can beat it back down to that fifty (50) feet where it should be; but all in all the idea is to protect what is there. I realize that the trees have a lot of effect on temperature of the creek, etc. But, once you're protecting that fifty (50) feet, there's pretty much nothing that is going to develop near that. So, to encroach further on people's property, in my mind, is unnecessary. So, as a Council Member, I don't think the Council would try to arbitrarily change the shoreline. **Jim Frank** said I know there was some language before that was difficult to understand the language with the way that it was written. And, there really wasn't… You really couldn't see any guarantees that it wouldn't change in the future. You were grandfathered in; but you had to almost turn it sideways to read it. And, I think we brought that point up that we wanted to clarify this language; because it was difficult to understand. You almost had to read between the lines, in a way. And, I want to thank all of the Council for their hard work and time involved in proofreading this. **Councilor Stu Terry** said I think a lot of the concerns you had back when all of this came up was the fact that if something came up, even if you were grandfathered in… If something happened to your house, you would be precluded from rebuilding. **Jim Frank** said right. It didn't really say that; but… So, we've gone through these and proofread it and clarified these issues? **Mayor Tony Caldwell** said I need to clarify one thing here Jim. The actual buffer zone was two hundred (200); and then it was reduced to one hundred (100). The Department of Ecology considered one hundred

(100). So, that's why we got stuck on the one hundred (100). A one hundred (100) foot buffer zone would impact the area where you live and also Karen's. So, we have been working very closely the last week or two now to try to resolve this problem. **Mayor Tony Caldwell** said I see you shaking your head. Did you have something to add to this, please? **Sarah Cassal** said yes. **Jim Frank** said do you recall what we were talking about? **Sarah Cassal** said yes, absolutely. **Jim Frank** said it was kind of a gray area about what was grandfathered in and… **Sarah Cassal** said you're talking about the "Non-Conforming Use Regulations." And I proposed a recommended change to those to clarify what those were, because it was confusing as written. And, that came from the Watershed Company writing not from the Department of Ecology. It was really from the Town, because that was their consultant. But, the process I think is a little confused; because what is existing for the buffer and what isn't existing for the buffer is a little bit gray with people's memories. So, what is currently on the books in the Critical Areas Ordinance is a two hundred (200) foot buffer. Currently in your town, right now, today. That Master Program and the comprehensive Update, which has been the last five years; went through the "Inventory and Characterization," identified the critical fresh-water habitat in the town, the ecological functions of the creek, the existing built environment. And, the Shoreline Management Act calls for a balance between development and environmental protection. So, the Department of Ecology with that report; and the Watershed Company came out with information from that report and said a one hundred (100) foot buffer was adequate to protect the existing ecological functions of the town and was the mean. It was the median setback is what the report said. So, that is what we thought… It was in the drafts; up until the final draft that was submitted for the Department of Ecology. That final draft reduced the buffer to fifty (50) feet before it was submitted. So, it was kind of a surprise for us. So, that draft has never been approved; and that is what we are talking about now with those buffers. So, you currently have a two hundred (200) foot buffer on the stream; and we are trying to make a compromise to meet everybody's needs. And, I think what is being proposed is appropriate and it meets our needs by looking after the vegetation and the habitat of the creek and flooding issues; and it meets the Town's needs by looking after their citizens and their property and protecting it, because I thing flooding and erosion of the bluff is also an issue for the Town. I think those are shared interests; and vegetation protects further erosion and flooding. It has been proven. So, just to set the record straight, the fifty (50) foot buffer has never been approved. It has never been in effect. What you have is a two hundred (200) foot buffer, right now; and we are proposing a fifty (50) foot buffer, a one hundred (100) foot buffer and one that varies along the slope. That would be effective after we approve the Master Program and the city agrees to those changes; and then we take a final action and it would be fourteen (14) days after that final action. So, that is the only way you can amend a Master Program if it comes from a Town. The Town or the local government submits it to Ecology for approval; and Ecology has to respond back to the local government. There is no other way to change the regulations on the books. **Jim Frank** said thank you, I have a better understanding. **Sarah Cassal** said okay. **Mayor Tony Caldwell** said Karen Leming you're next. **Karen Leming** said thank you for working on this issue. So, you kind of touched on some of the questions I had. I was wondering if this is going to be re-evaluated sometime in the future, this whole buffer zone thing; and, if so, how; and how many years from now? **Sarah Cassal** said the statute was changed in 2002 that there is an eight-year review. So, that doesn't mean a new comprehensive Update. It's not a three-year grant funded update again. But, the local government, South Prairie would have to review their Master Program and see if it needs changes. **Karen Leming** said you were talking about the variance. But, I wanted to know if that paperwork that you gave me, those pages and pages and pages of paperwork, in order to help with the erosion that I would have to submit. Is that what you were talking about with the 95% (ninety-five percent) acceptance rate? Is that one in the same thing Tony? **Mayor Tony Caldwell** said no, that paperwork I gave you was from the Corps of Engineers that you have to submit to them and the Fisheries. **Sarah Cassal** said was it a Joint Aquatic Resource Permit Application? **Marla Nevill** said yes a JARPA. **Mayor Tony Caldwell** said the bank was eroding and they wanted to put in some type of rocks or something to keep the bank from eroding. There is actually a permit form you have to submit to the Corps of Engineers, which is what I shared with you; and also the Fisheries have to sign off. Any time you enter a stream or do any kind of work around it, you have to be permitted

to enter that. And, because of the Fisheries, there is only a window in August that you actually can go in to the South Prairie Creek. **Karen Leming** said I got that paperwork and I looked at it; and I thought there is no way they are going to buy off on this. There were the Fisheries, and the Tribes… So many entities; and I was like they are not going to buy off on this. So, my question is; because of the erosion that is happening on that river… It's not a creek; it's a river. How many people in this room have the same problem that we have? We have lost a lot of footage. So, honestly if I submit that paperwork, am I going to be successful in being able to come up with something that is natural and is acceptable to protect my bank? **Sarah Cassal** said probably… **Mayor Tony Caldwell** said you really are not… You are part of it. I think the Corps and the Fisheries are the ones that mainly control the action that takes place with putting riprap into the creek. I know you're part of the system; but I think the main parties that Karen needs to touch base with are the Corps of Engineers and the Fisheries. They will talk with you; but I don't think you're the one to give the go ahead on the creek. I might be wrong. **Sarah Cassal** said it would be the Town under the Shoreline Management Act, for the Shoreline Permit. But, you need a whole bunch of other permits to work in the river; that is the bottom line. You are correct. **Mayor Tony Caldwell** said they just can't send it to the Department of Ecology and expect you to say it is okay; because there are a lot of entities involved in this. **Sarah Cassal** said the Shoreline Permit would be issued through the Town. It is their responsibility to issue Shoreline Permits. But, for you to work in the river, you need a whole bunch of other approvals; and that would be with other… **Karen Leming** said am I wasting my time? That is why I haven't done it; because I thought they are not going to accept it anyway. **Sarah Cassal** said to save your house, I don't think so. I think it's probably worth your time. **Karen Leming** said I don't think it is that critical or emergent. It's a proactive… **Mayor Tony Caldwell** said it is a garage issue. **Sarah Cassal** said where are you at? **Karen Leming** said *the 200 block of Emery Avenue North.* **Sarah Cassal** said oh right there. Discussion followed. **Councilor Barb Wigton** said if Karen's issue is the same as a property on SE Third Street; where the river is trying to cut through the back. I don't know where you are… **Jim and Patty Lamb** said that is where we are. **Councilor Barb Wigton** said it's nice to meet you. **Jim Lamb** said the area of concern we have is our road. If that river should come along and take out a piece of our road, what do I have to do to change the route of my road? We are obviously within that buffer; so who is going to let me rebuild it so we can get to our house. **Mayor Tony Caldwell** said Mr. Lamb; after we had the meeting with you and your wife, we came back to the office and came up with using the bluff instead of the actual fifty (50) feet. The fifty (50) foot buffer zone would have been on the south side of your road. We talked about it with the Department of Ecology; and we are using the bluff, which would actually be where the erosion part is located. That is the buffer zone right now; instead of taking in your road in the buffer zone. That is what you are seeing on that map now. **Jim Lamb** said that makes me feel a lot better. **Mayor Tony Caldwell** said when I came to you; I was going to clarify that. Karen, do you have any more on your part? **Karen Leming** said no. **Mayor Tony Caldwell** said Lambs? **Jim Lamb** said the only questions I had is about the erosion and my road; and wondered what was going to happen with that. **Mayor Tony Caldwell** said right now your road is out of the buffer zone. That is what we are proposing. We are using the bluff, which would be where the water has actually taken out… We can't guarantee that it's not going to take out the road. **Patty Lamb** said we could build a new one to the side, right? **Mayor Tony Caldwell** said yes; because you are out of the buffer zone. And, that's why we came back to the office here and really started brainstorming what we had and looking at the bluff, the house and outside your gate there. The bank came in there; and if we took the fifty (50) foot buffer zone, it would have put it halfway into his house. If we took a one hundred (100) foot buffer, it would have taken his house completely, in that buffer zone. So, we sat down with the Department of Ecology; and really started brainstorming this and we're using the bluff in your particular area; and fifty (50) feet in Karen's area; and fifty (50) feet in Jim's area; and Joe, when we get to you, your area is one hundred (100) feet. Just so we could clarify, for the people that are sitting here, where your buffer zones are located. **Councilor Barb Wigton** said mine from the Lambs, it is? **Jim Lamb** said yes. **Councilor Barb Wigton** said so all the way north to the Highway Bridge. **Marla Nevill** said just to the Railroad Bridge. **Councilor Barb Wigton** said it's just to the Railroad Bridge? I thought they said… **Marla Nevill** said no, between the Railroad Bridge and the

State Highway Bridge that is one hundred (100) feet. Discussion followed. **Mayor Tony Caldwell** said between Highway 162 and the Railroad Bridge it is one hundred (100) feet on both sides of the creek or river. Cross Creek was originally a one hundred (100) foot buffer zone; when Ecology set that up way back when we wanted to put those houses in there. So, we are maintaining that one hundred (100) foot buffer zone in that area. On the RV Park, that will be a one hundred (100) foot buffer zone, which would be on the east side of the creek. And, on the west side of the creek, which is the Lamb's, McGehee's and Wigton's properties, the bluff would be the buffer zone. Again, this is only a proposal. I don't see any big changes or stumbling blocks. I think we can go away from this meeting with a comfortable feeling that what we have proposed here will go into action. The only thing that would change is if they get questioned why they allowed this to happen. The Department of Ecology is going to have to defend their approval; saying why they allowed us to change the buffer zone widths. They feel comfortable at this point; but they cannot guarantee that it will not be challenged down the road. In talking about this subject, we did get a letter today from Puyallup River Council and they are basically requesting we use a one hundred (100) foot buffer throughout the Town. It is just a letter stating they would like to have it that way. They do not have the final say. It is between the Town and the Department of Ecology to recognize this request. But, it is on record that they did submit a request for a one hundred foot (100) buffer zone to be maintained. Someone asked what entity was that? **Mayor Tony Caldwell** said it is the Puyallup River Watershed Council. Someone asked if that was the Tribe? **Mayor Tony Caldwell** said no, it's a private group. Discussion followed. **Mayor Tony Caldwell** said the final decision is up to the Council and the Department of Ecology. **Jim Frank** said but Mart has demonstrated "No Net Loss of Ecological Functions." Is that correct? **Mayor Tony Caldwell** said correct. The way he is stating it, and looking at it… Really, unless you were completely torn down or decided you wanted to move your house, Jim; within twenty-five (25) feet you would be stepping into the buffer zone. He's in Olympic Manor. **Jim Frank** said if my house were to burn down right now, I could rebuild in the same spot? **Mart Kask** said no problem. Discussion followed. **Mayor Tony Caldwell** said most of the people that would be impacted are in the room. I think we are on a good path. **Jim Frank** said we're in a good place. **Mayor Tony Caldwell** said Lambs? **Jim and Patty Lamb** said we're good. **Mayor Tony Caldwell** said Joe Mills, please? **Joe Mills** said I just have one quick question. Setbacks off of the buffer; is the Town setbacks in addition to the buffer or do the setbacks meet the buffer, where a buffer applies on a property? **Mayor Tony Caldwell** said the area that you're talking about Joe, is probably in a wetland. **Joe Mills** said I am not talking about the Park property; I'm talking… **Mayor Tony Caldwell** said, in general. **Joe Mills** said in town. **Mayor Tony Caldwell** said I'll call on the Town Planner to answer that. **Mart Kask** said the setback… **Sarah Cassal** said there is not a setback from the buffer zone. **Joe Mills** said you could build right up to the buffer zone? **Sarah Cassal** said that is what is in the Draft. **Mart Kask** said yes; and our position has been that that applies only to new development. That would not apply to existing structures. **Joe Mills** said with a new plat, it would apply that you would setback off of the buffer as well? **Mart Kask** said yes. **Mayor Tony Caldwell** said let's clarify that. The plan has not been approved right now. Until the Department of Ecology stamps it; it is still roughly a two hundred (200) foot buffer zone. **Joe Mills** said that is the interpretation the Town is going to take on this? **Mayor Tony Caldwell** said right. **Jim Frank** said could I ask one quick follow-up question? Is this fifty (50) foot or one hundred (100) foot; are these from the one hundred year mark, from the mean? **Sarah Cassal** said it's from the ordinary high water mark. So, roughly what Mart has delineated in the "red" is roughly where the ordinary high water mark is located. **Jim Frank** said it's been a while since I read the language and couldn't recall if it was from the ordinary or the mean. **Joe Mills** said is there any official marking of that line? **Sarah Cassal** said actually by statute, it's defined that it is a mark upon the land; and you need to identify it when there is a development proposal that comes in. **Joe Mills** said you would have to have surveyors actually mark it on your proposal then? **Tim Gates** said it doesn't have to be a surveyor. **Sarah Cassal** said usually the local governments either they take the training that we provide or they ask for assistance. We have technical assistants that come out and mark it for you. **Tim Gates** said it's a field indicator. Discussion followed. **Mayor Tony Caldwell** said okay, I have one last citizen that would be involved in this. It's Barb Wigton. Do you have any questions? **Barb Wigton** said

looking at the maps and everything, my understanding is; and, for all of you who are right next to… The Lamb's, I guess, are the only ones here; because you guys are down the other direction. The bank is the setback part. **Mayor Tony Caldwell** said the top of the bluff. **Barb Wigton** said the top of the bluff. The bluff, to my understanding, is where the mark is. I don't know. I think everybody has worked together with our staff really well; and hopefully all of your questions have been answered. It's been a long time and people were really worried that if you take fifty (50) feet, that is a lot. You've just taken a lot off of the property taxes; because you can ask for that consideration. But, people don't want to lose their land either; and they would like to enjoy the creek, when it's down instead of flooding. With the erosion issues that are there… I grew up in the town, except for six years out of here; and we used to play on your edge over there. And, it's moved; but not nearly as much as I thought it would over the years. Discussion followed. **Barb Wigton** said I only remember a very few really bad floods; during one flood it took the bridge out. But, if you guys are all happy, I seem to be okay with it. **Jim Frank** said my concern is with clarification of language, gray areas and making sure everything is clear, proofread; so we don't go "huh, if only I had seen that." And, we could have made an adjustment. Me personally, I normally gain land. Discussion followed. **Sarah Cassal** said certainly if there are typos or other further language clarifiers that we haven't found, we can put those into the recommended changes. **Jim Frank** said there is a lot of language in there; and for the person that works all day and just comes home and they try to get through it quickly. And, all of a sudden they're freaking out because it's not clear. And, say "I'm going to lose all of my land; it says right here they're taking everything." It just causes a panic. **Councilor Barb Wigton** said I have my trust in Mart. Mart has done us well over the years. **Jim Frank** said Mart does a terrific job. **Barb Wigton** said I'm sure you with the Department of Ecology do too. But, Mart has been with us for a long time; and I trust his decision. **Mayor Tony Caldwell** said do I have any further questions for the Department of Ecology or my Town Planner? If not, I'd like to have a motion to close the Public Hearing.

CLOSE PUBLIC HEARING:

- At 7:52 PM, **Councilor Stu Terry** moved to close the Public Hearing. **Councilor Roy Hanson** seconded the motion. **Motion carried unanimously.**

ENGINEERING REPORT:

None

PLANNER REPORT:

1) Comprehensive Plan, Development Regulations and Critical Areas Code:

Mart Kask said the Comp Plan, Development Regulations and Critical Areas Code would be addressed at the February Council Meeting; and we would have the Council approve the "Intent to Adopt" for these updates. He said we need the input from the Town Attorney. He said the current code was adopted in 1999. With the new draft, we need attorney input in order to send to the Washington Department of Commerce (WDOC) for the sixty-day review. **Joe Mills** asked if the documents had been totally revised since the August 2014 meeting. **Mart Kask** said the WDOC format is a bit different. He said we would get the comments from WDOC and then do the final draft. **Joe Mills** asked at what point the Council would allow citizen input. He said you are wasting a step if this is not addressed before you vote. **Councilor Stu Terry** asked if it is required to have a Public Hearing. **Mart Kask** said it is up to the Council. Discussion followed.

APPROVAL OF REGULAR COUNCIL MEETING MINUTES OF DECEMBER 2, 2014:

- **Councilor Barb Wigton** moved to approve the Regular Council Meeting Minutes of December 2, 2014. **Councilor Roy Hanson** seconded the motion. **Motion carried unanimously.**

APPROVAL OF BILLS FOR DECEMBER 4, 2014 IN THE AMOUNT OF $70,061.54:

- **Councilor Barb Wigton** moved to approve the Bills for December 2014 in the amount of $70,061.54 (seventy thousand sixty-one dollars fifty-four cents). **Councilor Stu Terry** seconded the motion. **Motion carried unanimously.**

APPROVAL OF BILLS FOR JANUARY 2015 IN THE AMOUNT OF $21,607.32:

- **Councilor Stu Terry** moved to approve the bills for January 2015 in the amount of $21,607.32 (twenty-one thousand six hundred seven dollars and thirty-two cents). **Councilor Roy Hanson** seconded the motion. **Motion carried unanimously.**

APPROVAL TO PAY THE MART KASK BILL IN THE AMOUNT OF $1,485.75:

- **Councilor Barb Wigton** moved to approve the Mart Kask bill in the amount of $1,485.75 (one thousand four hundred eighty-five dollars and seventy-five cents). **Councilor Stu Terry** seconded the motion. **Motion carried unanimously.**

CITIZENS' COMMENTS:

Jim Frank said to Joe Mills that he's seeing a potential Council Member. **Mayor Tony Caldwell** said he does not live in town. Discussion followed.

UNFINISHED BUSINESS:

1) Update on Council Member, Position No. 3 Vacancy:

Mayor Tony Caldwell said we had a Council vacancy for ninety days; and we had one person submit a "Letter of Interest;" but the Council was not interested in appointing her to the Council due to a possible conflict of interest. It went to Pierce County Council; and they did not get anyone so now it's in the Governor's hands. Discussion followed.

2) Ordinance No. 543 – An Ordinance of the Town of South Prairie, Pierce County, Washington, Repealing, Superseding and Replacing Ordinance No. 542 Related to Utility Connections, Regulations, Rates and Charges:

- **Councilor Barb Wigton** moved to table Ordinance No. 543 until the February Council Meeting. **Councilor Stu Terry** seconded the motion. **Motion carried unanimously.**

3) Resolution No. 334 – A Resolution of the Town of South Prairie, Pierce County, Washington, authorizing the Mayor to enter into an Agreement with Pierce County for Road Maintenance Services:

- **Councilor Stu Terry** moved to approve Resolution No. 334; "A Resolution of the Town of South Prairie, Pierce County, Washington, authorizing the Mayor to enter into an Agreement with Pierce County for Road Maintenance Services." **Councilor Roy Hanson** seconded the motion. **Motion carried unanimously.**

NEW BUSINESS:

1) Resolution No. 335 – A Resolution of the Town of South Prairie, Pierce County, Washington, authorizing the Mayor to sign an Interlocal Agreement with East Pierce Fire and Rescue for Fire Protection, Emergency Medical Services, and Use of the Fire Station:

- **Councilor Stu Terry** moved to approve Resolution No. 335; "A Resolution of the Town of South Prairie, Pierce County, Washington, authorizing the Mayor to sign an Interlocal Agreement with East Pierce Fire and Rescue for Fire Protection, Emergency Medical Services, and Use of the Fire Station." **Councilor Barb Wigton** seconded the motion. **Motion carried unanimously.**

2) Ordinance No. 546 – An Ordinance of the Town of South Prairie, Pierce County, Washington, amending Ordinance No. 531 relating to eligibility for Elective Office:

- **Councilor Stu Terry** moved to approve Ordinance No. 546; "An Ordinance of the Town of South Prairie, Pierce County, Washington, amending Ordinance No. 531 relating to eligibility for Elective Office." **Councilor Roy Hanson** seconded the motion. **Councilor Barb Wigton** said the previous ordinance could not be found. She said she would like to change the residency requirement from one year to three years. **Councilor Stu Terry** said after one year they have put down roots and have a feel for the Town. Unless they come to the Council meetings, they really don't have a feel for the Town. Discussion followed. **Councilor Stu Terry** said he would like to enable people and not discourage them. He thought one year was sufficient. **Councilor Roy Hanson** said he agreed with Stu. Discussion followed. **Councilor Barb Wigton** said we have had issues in the past. She said she does not want the town overrun by people that do not have the best interest of the town. **Joe Mills** said if there is a "write-in" for a specific person, you could not override that. Discussion followed. **Joe Mills** said you can't control it; and that provision would not stop it. **Councilor Stu Terry and Councilor Roy Hanson voted to approve Ordinance No. 546. Councilor Barb Wigton voted to oppose Ordinance No. 546. Motion carried.**

3) Approval of Final 2015 Budget Document and Authorization to Forward the Document to the Required Agencies:

- **Councilor Barb Wigton** moved to approve the final 2015 Budget Document and authorized forwarding the document to the required agencies. **Councilor Roy Hanson** seconded the motion. **Motion carried unanimously.**

4) Authorize Replacement of Frames for the Pictures at the Community Center:

- **Councilor Stu Terry** moved to authorize replacement of the frames for the pictures at the Community Center, estimated amount is $263.34 (two hundred sixty-three dollars and thirty-four cents). **Councilor Barb Wigton** seconded the motion. Discussion followed. **Councilor Stu Terry** moved to amend his motion that the money to replace the frames at the Community Center would come out of the General Fund not the Veterans Memorial Fund. **Councilor Barb Wigton** seconded the amended motion. **Motion carried unanimously.**

5) Authorize Purchase and Installation of Alarm System at the Wastewater Treatment Plant and the Water Reservoir (Estimate is $7,121.40):

Mayor Tony Caldwell said we received an estimate for the alarm systems at the Wastewater Treatment Plant (WWTP) and the Water System for around $10,000, which includes travel, etc. He said the operator would be able to pull it up on the computer; and he would receive text messages if there was a problem.

- **Councilor Barb Wigton** moved to authorize the purchase and installation of alarm systems for the Wastewater Treatment Plant (WWTP) and the Water Reservoir for approximately $10,000 (ten thousand dollars). **Councilor Stu Terry** seconded the motion. Discussion followed. **Motion carried unanimously.**

6) Appoint New Mayor Pro-Tem for February through July 2015:

- **Councilor Barb Wigton** moved to appoint Stu Terry as Mayor Pro-Tem for February through July 2015. **Councilor Roy Hanson** seconded the motion. **Motion carried unanimously.**

Mayor Tony Caldwell said all Council Members have to file for office May 11 – May 15, 2015. He said the last day to withdraw is May 18, 2015. He said some of the positions would be a two-year unexpired term and some of the positions would be a four-year term. Discussion followed.

***Mayor Tony Caldwell** requested an amendment to the agenda to add Item #7; approval of replacement windows at the Town Hall.

7) Approval of Replacement Windows at the Town Hall with an Estimate of $2,765.44:

- **Councilor Barb Wigton** moved to authorize the replacement of windows at the Town Hall; in the estimated amount of $2,765.44, if the estimate includes installation. **Councilor Stu Terry** seconded the motion. Discussion followed. **Motion carried unanimously.**

MAYOR'S REPORT:

1) Mayor Tony Caldwell said it was previously approved quite a while ago to replace the carpet at Town Hall. And, we need to clean up, paint and then replace the carpet. Discussion followed.

2) Mayor Tony Caldwell said we need to look at adding a street light at Highway 162 and South Prairie Road, for safety reasons. **Councilor Barb Wigton** said we also need a street light at Rainier and Highway 162. Discussion followed. **Mayor Tony Caldwell** said we would get estimates.

3) Mayor Tony Caldwell said he spoke with the Pierce County Sheriff's Department about enforcement of bicyclers running the stop sign on the Trail. Discussion followed.

PUBLIC WORKS' REPORT:

Mayor Tony Caldwell said the WWTP is running good. We had to purchase a Windows program for the Utilities Department. He said there are no violations and things are running smoothly. Discussion followed.

CLERK'S REPORT:

1) Veterans Memorial Fund:

Marla Nevill said we heard back from the Auditor; and we cannot turn the Veterans Memorial Fund and money over to a private party or it could be considered a gift of public funds. Discussion followed.

TOWN PLANNER REPORT CONTINUED:

1) Shoreline Buffer Zone Amendments:

Mart Kask said we had the Public Hearing; but the Council did not make a decision to approve the changes. He said he thinks this requires Council action to approve the map and text amendments.

- **Councilor Stu Terry** moved to approve the proposed map and text amendments for the Buffer Zones for the Shoreline Master Program, see attached Exhibits "A" and "B". **Councilor Roy Hanson** seconded the motion. **Motion carried unanimously.**

2) Comprehensive Plan, Development Regulations and Critical Areas Code:

Mart Kask said the Council should hold a Public Hearing at the March Council meeting; before the documents are sent to the Department of Commerce for their sixty-day review. Discussion followed. The Council talked about holding the Public Hearing on February 10, 2015, 7:00 PM. **Joe Mills** suggested sending the documents to Department of Commerce first and holding the Public Hearing at the March Council meeting. **Mart Kask** said Department of Commerce wants us to be thorough.

- **Councilor Barb Wigton** moved to schedule the public hearing for the Comprehensive Plan, Development Regulations and Critical Areas Code on February 10, 2015, 7:00 PM; and send the documents to the Department of Commerce for their sixty-day review before the end of February. **Councilor Stu Terry** seconded the motion. **Motion carried unanimously.**

COUNCIL MEMBERS REPORT:

1) Councilor Stu Terry said he thought the Council/Mayor should get paid per gathering not per meeting; and he would like to review this issue further. Discussion followed. **Mayor Tony Caldwell**

said this would not take effect until after the next election. **Councilor Stu Terry** requested that something be drawn up for the next meeting.

2) Councilor Barb Wigton said she contacted PSE and they have a program to retrofit lights for businesses. She said she would try to put something together for the March meeting. Discussion followed.

3) Councilor Barb Wigton asked about the Veterans Memorial Fund. **Mayor Tony Caldwell** said the Town has control of the Fund; and that is what the Auditor wants. Discussion followed.

4) Councilor Barb Wigton said she would like to look into a moratorium on marijuana. **Mayor Tony Caldwell** said the majority of the constituents voted for I-502. Discussion followed. **Councilor Barb Wigton** said she would like to have the attorney draft an ordinance for a moratorium that covers a certain period of time. Discussion followed.

5) Councilor Barb Wigton said with the money we are saving in the Utility Department, we should set priorities for street repairs. **Marla Nevill** said you cannot use the money you are saving in the Utility Department for street repairs. Discussion followed. **Councilor Barb Wigton** said we need to follow up on a lot of issues.

ADJOURNMENT:

- At 9:51 PM, **Councilor Stu Terry** moved to adjourn the Regular Council Meeting of January 13, 2015. **Councilor Roy Hanson** seconded the motion. **Motion carried unanimously.**

Date Approved: February 3, 2015