

**TOWN OF SOUTH PRAIRIE
RECESSED COUNCIL MEETING/PUBLIC HEARING
TUESDAY, FEBRUARY 10, 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:

At 7:00 PM, **Mayor Tony Caldwell** called to order and presided over the Recessed Council Meeting/Public Hearing of Tuesday, February 10, 2015.

ROLL CALL:

Council Members: Stu Terry, Roy Hanson and Vicky Watkins were present. Barb Wigton arrived late.
Also in attendance: Leslie Clark, Tom Inglin, Joe Mills, Chuck Sundsmo and Janyce Twardoski citizens; Jay Schulkin, Town Attorney; 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 FEBRUARY 10, 2015:

❖ **Terry/Hanson** moved and seconded the approval of Agenda for February 10, 2015. **Mayor Tony Caldwell** stated under New Business, Item #2, the Council does not intend to adopt the Comp Plan, Development Regulations and Critical Areas Code at this time; and only the draft Comp Plan would be forwarded to Washington Department of Commerce for a preliminary review. Discussion followed. **Motion carried unanimously.**

SWEAR IN COUNCIL MEMBER TO POSITION NO. 3:

Marla Nevill administered the Oath of Office and swore in Janyce Twardoski to Council Member Position No. 3.

OPEN PUBLIC HEARING – COMPREHENSIVE PLAN, DEVELOPMENT REGULATIONS AND CRITICAL AREAS CODE:

❖ At 7:05 PM, **Terry/Twardoski** moved and seconded to open the Public Hearing for the Comprehensive Plan, Development Regulations and Critical Areas Code. **Motion carried unanimously.** **Mayor Tony Caldwell** stated the Public Hearing was being recorded. He asked that those individuals that wanted to speak during the Public Hearing should step forward; so we can hear you on the recorder. Make sure you mention your name so it’s on the recorder. He said good evening and welcome to the Town of South Prairie Public Hearing regarding the draft Development Regulations. He said the Development Regulations is the Town’s way to guide and control development or Land Use activity within the town. Development Regulations must be consistent with the Town Comp Plan. The Town received a grant from the Department of Commerce to help cover the costs of updating the Development Regulations. The purpose of this hearing is for the public to share any feedback you may have about the draft Development Regulations. The Council and I will not respond to your questions or comments during this hearing. Each speaker will be limited to five minutes; and like I said make sure you state your name. All comments must be related to the draft Development Regulations. Any dispute or interruption, the individual could be asked to leave the Council meeting. Thank you. It’s open for the first person to comment.

Leslie Clark introduced herself and stated she is a Land Use Attorney out of the Tacoma office of Phillips Burgess, PLLC. She is here tonight representing the South Prairie RV Park. She stated their

request is a simple one. When you review these draft regulations, remove Chapter 14.95 pertaining to Recreational Vehicle Parks. She stated if you pass a motion tonight to “Intend to Adopt” these Development Regulations, you clarify that you are not adopting Chapter 14.95. Then when you forward the Development Regulations together with your proposed Comprehensive Plan Update, you not include that chapter. She stated two reasons for her request: 1) The Development Regulations for RV Parks are not necessary. The Town has one RV Park. It’s in existence; and as far as she knew there is no immediate threat of any new RV Park coming in, so you don’t need regulations to apply to a new RV Park. The existing RV Park operates under a development agreement that has been in place between the Town and the RV Park for many years. There are a full set of Development Regulations within that agreement and it is solid and lasting for two principal reasons: 1) the agreement itself describes development regulations within the agreement that are to last, and I quote “in perpetuity;” and 2) it has already been the subject of litigation; and the RV Park prevailed. Meaning the development agreement was upheld by a court to be valid. So my first point is that the Development Regulations that are draft in this packet are not necessary. My second point is that they are not legal. Now this also relates to the existence of the development agreement that is in place that applies to the South Prairie RV Park. As a development agreement that has been subject to litigation and that in itself has an agreement between the Town and the RV Park that it would last in perpetuity. It is not subject to interference with conflicting development regulations. And that is exactly what these Development Regulations would do. It would conflict with that development agreement. Now it’s possible that the Town is anticipating a challenge to these development agreements by adding in a provision to the RV Park regulations that would give the RV Park 24 months to comply with the new Development Regulations. That is not sufficient. A so called amortization period like that does not overcome the unconstitutionality and the illegality of adopting Development Regulations that would interfere with the development agreement. So, what we would ask the Council to do tonight is to make clear in every motion that it passes that Chapter 14.95 of the Development Regulations pertaining to RV Parks be carved out. Move forward on the Development Regulations the Town needs. Move forward on the Development Regulations that are not subject to legal challenge; but do not pass regulations on RV Parks. Thank you. **Mayor Tony Caldwell** said thank you very much.

Chuck Sundsmo introduced himself and stated he is a Land Use Attorney. He said he is here for the RV Park as well. He said most of what the attorney said is what he would have to say as well. He distributed a handout that explained Growth Management Planning Goals. He stated the legislature found that the lack of certainty in approval of development projects, the RV Park is a development project; can result in a waste of public and private resources. He said the State also went on to find that assurance to develop a project the applicant, upon government approval, the project may proceed in accordance with existing policies and regulations and subject to conditions of approval as set forth in the development agreement. He said that is really what this thing is all about. We have a development agreement that has been tested by fire already. And, the Growth Management Board, we believe, will uphold that, if it’s tested. So, what I’m asking tonight is not that you strike the whole RV section; because who knows South Prairie may be the mecca for RV Parks. But, strike Section 14.95.110, which is Nonconforming Recreational Vehicle Parks. He said if for some reason, like Ms. Clark said, you approve this; it will be appealed through the Central Board of Growth Management. He said he thought they would strike it down. He said you can’t build something that’s permitted and have no predictability. He used the analogy that if the Mayor built his house somewhere; and you all decided to change the setbacks. You can’t force him to move his house to conform to the new setbacks. He said that’s as simple as it gets. Thank you. **Mayor Tony Caldwell** said thank you very much.

Joe Mills introduced himself and stated you guys all know me and have seen me before. He said good to see you guys. He said congratulations Jan. **Councilor Jan Twardoski** said thank you. **Joe Mills** stated he would like to go on record to request that you do not include the 14.95 provision in

the code, as well. Because, we are operating under a development agreement that has gone through the court process; and has been confirmed by the court. He said he fears that if it does continue and it is something that the Town tries to enforce, it will just cause litigation and cost the Town and the RV Park an extra ordinate amount of money. He stated he would also request that that part of the code be left out; and you guys would do that. Thank you. **Mayor Tony Caldwell** said thank you very much.

Tom Inglin introduced himself and stated he is representing the Inglin Family Trust. He stated he is concerned with Code changes that there would be any chance of losing their current Use assessment that they have on their land right now. He stated they have enough land that maybe one of these days they could build an RV Park. So, there might be some rules that need to be included that he might need to know; so it might be a good idea to have them around. Thank you. **Mayor Tony Caldwell** said thank you very much.

Mayor Tony Caldwell said is there anyone else that cares to speak. If not, he would entertain a motion to close the Public Hearing.

CLOSE PUBLIC HEARING:

❖ At 7:15 PM, **Hanson/Watkins** moved and seconded to close the Public Hearing. **Motion carried unanimously.**

ENGINEERING REPORT:

None

PLANNER REPORT:

Mart Kask stated he has been working on the updates for the Comprehensive Plan, Critical Areas Code and Development Regulations. He stated he has also been working on finalizing the Shoreline Master Program. He stated at the last Council meeting we agreed on a Buffer Zone width. He said in the first part of March, we would submit this to Washington Department of Ecology (WDOE) for final approval. He said we also need to add the Shoreline Master Program changes to our Critical Areas Code. Discussion followed.

CITIZENS' COMMENTS:

None

UNFINISHED BUSINESS:

None

NEW BUSINESS:

1) Council "Intent to Adopt" the Comprehensive Plan, Development Regulations and Critical Areas Code:

Mayor Tony Caldwell stated we are not adopting these documents at this time; and the motion is to send the draft Comp Plan to Department of Commerce for preliminary review.

❖ **Terry/Hanson** moved and seconded to forward the draft Comp Plan to Washington Department of Commerce (WDOC) for preliminary review. **Motion carried unanimously.**

2) Authorize forwarding the Comp Plan, Development Regulations and Critical Areas Code to Washington Department of Commerce for sixty-day review:

❖ **Watkins/Twardoski** moved and seconded to authorize sending the draft Comp Plan to WDOC for preliminary review. **Motion carried unanimously.**

MAYOR'S REPORT:

1) Authorize Mayor to Sign Agreement with Puget Sound Energy (PSE) for Street Light Arm Extension and Change Light Bulb at Cross Creek Court and Highway 162:

- ❖ **Terry/Hanson** moved and seconded to authorize the Mayor to sign the agreement with PSE for a Street Light arm extension and change the light bulb at Cross Creek Court and Highway 162. Discussion followed. **Motion carried unanimously.**

2) Authorize Mayor to Sign Agreement with Colorscapes for Landscaping Services:

- ❖ **Terry/Twardoski** moved and seconded to authorize the Mayor to sign the two-year agreement with Colorscapes for Landscaping Services. Discussion followed. **Motion carried unanimously.**

3) Mayor Tony Caldwell said there have been some break-ins in town and asked everyone to be watchful for strange activities. Discussion followed.

PUBLIC WORKS' REPORT:

1) Mayor Tony Caldwell stated the installation of the alarm systems at the Wastewater Treatment Plant and the Water Reservoir are coming along; but everything has to be calibrated. He said we had an incident when a power pole was hit; and knocked out the power to the Water Reservoir for about sixteen hours. He said luckily the chlorine was already mixed in the tank. Discussion followed.

CLERK'S REPORT:

None

COUNCIL MEMBERS REPORT:

1) Councilor Jan Twardoski stated she is very happy to be on Council and thanked the Council Members for accepting her. **Councilor Stu Terry** stated he was glad to see Jan on Council.

2) Councilor Vicky Watkins stated she would get estimates for "Bus Stop Ahead" signage and bring the information to the March Council Meeting. Discussion followed.

Mayor Tony Caldwell stated we will recess to an Executive Session for approximately thirty minutes to discuss potential litigation.

OPEN EXECUTIVE SESSION: **Potential Litigation (Approximately 30 Minutes)**

- ❖ At 7:30 PM, **Terry/Twardoski** moved and seconded to open Executive Session for approximately thirty minutes to discuss potential litigation. **Motion carried unanimously.**

At 8:00 PM, **Mayor Tony Caldwell** announced to those individuals waiting outside the Town Hall that the Executive Session would be extended another fifteen minutes.

CLOSE EXECUTIVE SESSION:

- ❖ At 8:15 PM, **Terry/Twardoski** moved and seconded to close the Executive Session. **Motion carried unanimously.**

ADJOURNMENT:

- ❖ At 8:14 PM, **Terry/Twardoski** moved and seconded to adjourn the Recessed Council Meeting of February 10, 2015. **Motion carried unanimously.**

Date Approved: March 3, 2015