

Next Ord: 1753-12
Next Res: 870-12

VISION STATEMENT

SEDRO-WOOLLEY IS A FRIENDLY CITY THAT IS CHARACTERIZED BY CITY GOVERNMENT AND CITIZENS WORKING TOGETHER TO ACHIEVE A PROSPEROUS, VIBRANT AND SAFE COMMUNITY

MISSION STATEMENT

TO PROVIDE SERVICES AND OPPORTUNITIES WHICH CREATE A COMMUNITY WHERE PEOPLE CHOOSE TO LIVE, WORK AND PLAY

CITY COUNCIL AGENDA

October 10, 2012

7:00 PM

Sedro-Woolley Municipal Building

Council Chambers

325 Metcalf Street

1. Call to Order
2. Pledge of Allegiance
3. Consent CalendarPages 1 - 40

NOTE: Agenda items on the Consent Calendar are considered routine in nature and may be adopted by the council by a single motion, unless any Councilmember wishes an item to be removed. The Council on the regular agenda will consider any item so removed after the Consent Calendar.

- a. Approval of Agenda
 - b. Minutes from Previous Meeting (Including October 3, 2012 Work Session)
 - c. Finance
 - Claim Checks #75327 to #75406 in the amount of \$88,922.12.
 - Payroll Checks #54047 to #54155 in the amount of \$252,834.61.
 - d. Interlocal Public Safety Technology Service Agreement with Skagit County (SPSS)
4. Public Comment (Limited to 3-5 minutes)

UNFINISHED BUSINESS

5. CUP 1-11/Swett, Closed Record Appeal of HEX.....Pages 43-56

NEW BUSINESS

6. Ordinance - Business License Title Update.....Pages 57-62

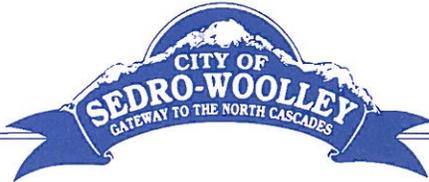
COMMITTEE REPORTS AND REPORTS FROM OFFICERS

EXECUTIVE SESSION

There may be an Executive Session immediately preceding, during or following the meeting.

OCT 10 2012

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 1-3



DATE: October 10, 2012
TO: Mayor Anderson and City Council
FROM: Patsy Nelson, Finance Director
SUBJECT: 1) CALL TO ORDER; 2) PLEDGE OF ALLEGIANCE; 3) CONSENT
CALENDAR

1. CALL TO ORDER - The Mayor will call the October 10, 2012 Regular Meeting to Order. The Finance Director will note those in attendance and those absent.

 ___ Ward 1 Councilmember Kevin Loy
 ___ Ward 2 Councilmember Tony Splane
 ___ Ward 3 Councilmember Thomas Storrs
 ___ Ward 4 Councilmember Keith Wagoner
 ___ Ward 5 Councilmember Hugh Galbraith
 ___ Ward 6 Councilmember Rick Lemley
 ___ At-Large Councilmember Brett Sandström
2. PLEDGE OF ALLEGIANCE - The Mayor will lead the City Council and citizens in the Pledge of Allegiance to the United States of America.
3. CONSENT CALENDAR - Mayor will ask for Council approval of Consent Calendar items.

OCT 10 2012

CITY OF SEDRO-WOOLLEY

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 3b

Regular Meeting of the City Council
September 26, 2012 – 7:00 P.M. –City Hall Council Chambers

ROLL CALL: Present: Mayor Mike Anderson; Councilmembers: Kevin Loy, Tony Splane, Tom Storrs, Keith Wagoner, Hugh Galbraith, Rick Lemley and Brett Sandström. Staff: Recorder Brue, Finance Director Nelson, City Supervisor/Attorney Berg, Acting Planning Director Coleman, Fire Chief Klinger and Police Chief Wood.

The Meeting was called to order at 7:00 P.M.

Pledge of Allegiance

Consent Calendar

- Approval of Agenda
- Minutes from Previous Meeting
- Finance
 - Claim Checks #75225 to #75326 in the amount of \$622,593.71
 - Payroll Checks #53936 to #54046 in the amount of \$189,286.53 (Voided Check #54042)
- Professional Services Agreement – Wallace & Associates
- Skate Park
 - Ordinance 1751-12 – Prohibiting Smoking
 - Ordinance 1752-12 – Establishing Rules
- Amendment – 2012-PW-03 Aaction Excavating, Inc. On-Call Construction Services Contract Total and Task Order #3 Total

Councilmember Sandström requested to pull Item E – Skate Park from the consent calendar.

Councilmember Storrs moved to approve the consent calendar Items A through F, with E the exception. Seconded by Councilmember Splane. Motion carried (7-0).

Councilmember Sandström questioned the difference in the park hours between the Skate Board Park and other City parks. He stated that all parks should have equal hours.

City Supervisor/Attorney Berg reviewed the closing time for City parks is at 10:00 P.M. The proposed rules of the Skate Board Park is recommended for seasonal hours June 1st through September 15th 8:00 A.M. to 10:00 P.M. and September 16th to May 31st 8:00 A.M. to 8:00 P.M. Berg stated this was recommended out of deference to the neighbors.

Discussion ensued regarding respect of neighbors, closing hours of other parks, winter closing of the RV Park, most parks being in neighborhoods, change of hours for all parks,

Skate Board opening date and deadline approaching for signage, consistency of hours and code language.

Councilmember Sandström moved to approve Ordinance No. 1751-12 An Ordinance Prohibiting Smoking at the Skate Park. Seconded by Councilmember Lemley. Motion carried (7-0).

Councilmember Sandström moved to approve Ordinance No. 1752-12 An Ordinance Establishing Rules for the Skate Park with the elimination of P. Seconded by Councilmember Lemley.

Further discussion ensued regarding respect for neighbors, uniformity of hours, enforcement of the laws and consideration for extended hours for weekends.

Police Chief Wood addressed the Council regarding the operating hours of the Skate Board Park which he noted can be controlled with lights. He requested consideration of longer operating hours on weekends.

Motion failed (3-4 Councilmember Splane, Storrs, Wagoner and Galbraith opposed).

More discussion ensued regarding extended hours for weekends and closure subject to abuse or misconduct.

Councilmember Lemley moved to adopt Ordinance No. 1752-12 An Ordinance Establishing Rules for the Skate Park with the change to P as stated by the City Attorney Seconded by Councilmember Wagoner. Motion carried (6-1 Councilmember Sandström opposed).

Proposed Language as stated by City Supervisor/Attorney Berg:

["Skate Park is closed to any and all users from 10 P.M. to 8 A. M. from June 1st to October 15th and Friday and Saturday year round, from October 16th to May 31st the Skate Park is closed from 8 P.M. to 8 A.M. Monday through Thursday"].

Public Comment

No Public Comment

UNFINISHED BUSINESS

CUP-1-11 Closed Record Appeal *(please refer to audio recording for the full detail of the hearing)*

Mayor Anderson stated the agenda item is a closed record appeal of CUP-1-11 in the matter of the appeals of the hearing examiner's decision on reconsideration from January 19, 2012. Presentations were heard in the following order:

Procedural Background from the City Attorney;
The Planning Department's recommendation from Acting Planning Director
Coleman; and
Discussion by the full Council.

Mayor Anderson noted the Council is setting in its quasi-judicial capacity, as judges reviewing the decision of the hearing examiner and making a decision on the appeals filed by Reverend Coursen and Mr. Shewmaker. The decision shall be based solely upon the evidence and testimony in the record.

City Supervisor/Attorney Berg questioned the Council and the Mayor with appearance of fairness questions as follows:

- a). Does any member of the council have knowledge of having conducted business with either the proponents or the opponents in this proceeding?
- b). Does any member of the council have either a pecuniary or non-pecuniary interest in the outcome of this proceeding?
- c). Does any member of the council know whether or not his/her employer has a financial interest in this matter, or has an interest in the outcome of this proceeding?
- d). Does any member of the council live or own property within 300 feet of the area which is the subject of this proceeding?
- e). Does any member of the council have any special knowledge of the substance or merits of this proceeding which would or could cause the Board member or prejudice the outcome of this proceeding?
- f). Is there a member of the council who believes that he cannot sit and hear this matter fairly and impartially, both as to the respective positions of the proponents and the opponents in this proceeding?

Councilmember Lemley disclosed that he had at one time rented a storage locker at the site and he lived within the neighborhood of the subject property.

Councilmember Loy disclosed that he had visited the site.

All other Councilmembers and the Mayor answered NO to all questions.

Mayor Anderson then asked if there were any members of the audience who, because of the appearance of fairness doctrine wished to disqualify any member from hearing the matter at hand. There was no response from the audience.

City Supervisor/Attorney Berg reviewed the procedural history, this issues before the Council and the role and responsibility of the Council. He stated the appeals filed were interpreted by the judge and reviewed the judge's order. He spoke of the importance of any references must be within the record. Per the judge's order the only questions under consideration from the Council are:

- 1). Whether the proposed marijuana gardening is “low intensity agriculture,” and;
- 2). Whether the proposed use would be an asset to the community.

City Supervisor/Attorney Berg stated there are four possible actions available to the Council.

1. Find that no substantial error in fact or law exists and move to **affirm and uphold the hearing examiner’s decision** and authorize the Mayor to sign Findings of Fact.
2. Find that no substantial error in fact or law exists but move to **modify the hearing examiner’s decision** (describe modification) and authorize the Mayor to sign Findings of Fact.
3. Find that a substantial error in fact or law exists and move to **reverse the hearing examiner’s decision** and authorize the Mayor to sign Findings of Fact.
4. Find that additional evidence is required and move to **remand the matter back to the examiner** for reconsideration and receipt of additional evidence and authorize the Mayor to sign Findings of Fact.

City Supervisor/Attorney Berg reviewed the issues before the Council reminding them that any decision must be supported by the record and that the burden of proof is on the appellants, not the applicant. He also stated Council is limited to what can be considered as set by the Judge.

Acting Planning Director Coleman presented information regarding the original Planning Department recommendation, the Hearing Examiner’s original decision, the request for reconsideration by the applicant and revised Hearing Examiner’s decision and the two issues to be considered raised by the appeals. The recommendation by the Planning Department focuses on whether the proposed use would be an asset to the community. Coleman cited numerous statements within the record and noted the Planning Department’s recommendation is that the evidence does not support the Hearing Examiner’s finding that the proposal is an asset to the community and the approval be reversed.

City Supervisor/Attorney Berg noted the Planning Department’s recommendation is to be given no greater weight than anything else in the record. Berg also stated he missed reporting in the procedural list an issue raised at Judge Cook’s level was that the applicant was denied an opportunity to respond to the appeals because the appeals were vague. After the Judge defined the scope of the appeals, we went through the code and reset the process at the point where the applicant had an opportunity to comment on the appeals. Notice was given to the applicant. He also noted there are a number of lined out information based on legal advice that the information was not allowable at this stage of the process. Redacted information is believed to be new facts. He noted also a letter for Attorney Pat Hayden redacted as untimely.

Mayor Anderson turned the hearing over to the Council for discussion with a final reminder that the appeals are limited and any decisions of the Council must be based

solely upon the record. He requested Council reference specific pages of the record for the record of the deliberations.

A healthy discussion and debate by all Councilmembers ensued with the focus being whether the proposed use would be an asset to the community [*full detail available in audio format*].

Councilmember Wagoner moved to reverse the decision of the hearing examiner in CUP-1-11 and to task staff with preparing findings and conclusions consistent with our decision for our review at the next meeting. Councilmember Galbraith seconded.

Further discussion was held by the Council regarding the contents of the Conditional Use Permit application.

Mayor Anderson restated the motion. City Supervisor/Attorney Berg noted that the motion made by Councilmember Wagoner was slightly different than the motion articulated by the Mayor.

The motion by Councilmember Wagoner included acceptance of the staff recommendation.

Motion carried (6-1 Councilmember Loy opposed).

COMMITTEE REPORTS AND REPORTS FROM OFFICERS

Police Chief Wood – reported the Police Department continues to be busy targeting low level drug houses in town. They have been very effective and are making a great difference.

City Supervisor/Attorney Berg – reported being close to selling more of the drug forfeiture property, including the mobile home. Berg also reported on behalf of Engineer Freiburger about a surplus flatbed pick up truck out of the cemetery that was used in the winters as a small plow and sanding truck. The flatbed had a number of safety and mechanical defects and was scrapped instead of sold which puts us down one snow removal vehicles. A recommendation to Council is being requested to utilize the ERR fund to purchase equipment for one of the 5-7 yard dump trucks in the Waste Water Treatment Plant. The purchase would be identical gear to the one in the Street department and would give the City two fully equipped, full size plow/sander combination rigs. The purchase would be from North End Truck for a state DOT spec, state contract pricing for a V-Hopper Sander body with an 11 foot Hopper, Top Screens and all the gear. The total cost is \$27,716.00 plus sales tax. Berg noted there are sufficient funds in the ERR fund and it is believed to be prudent to order the equipment right away in order to have it in our inventory in case there is a snowstorm and to be able to continue to offer the best level of service possible.

Councilmember Storrs moved to approve the purchase of snow removal equipment for the truck at the Sewer plant. Councilmember Lemley seconded.

Discussion ensued on the purchase price, the purpose of the ERR Fund and possible use of the equipment from the surplussed vehicle.

Motion carried (7-0).

City Supervisor/Attorney Berg reported on an upcoming tour of the SCORE Jail facility in South King County. He noted the facility is a multi-jurisdictional misdemeanor jail facility.

Finance Director Nelson – reported working on the 2013 budget with all department requests having been received. She also stated the State Auditors have arrived. They will be sending all Councilmember's an invitation to the entrance conference scheduled for Monday, October 1st at 8:30 A.M. She requested Councilmember's notify her if they plan on attending.

Councilmember Storrs – made reference to the downtown street project.

Councilmember Sandström – commented on the Envision 2016 decision made by Council. He spoke of the unfair process for public input as noted by a member of the Planning Commission.

Some discussion ensued on the process.

Councilmember Galbraith moved to adjourn. Seconded by Councilmember Splane. Motion carried (7-0).

The meeting adjourned at 9:20 P.M.

OCT 10 2012

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 36

CITY OF SEDRO-WOOLLEY

Council Worksession

October 3, 2012 – 7:00 P.M. – Public Safety Training Room

The worksession was called to order at 7:00 P.M. by Mayor Mike Anderson.

Flag Salute

ROLL CALL: Present: Mayor Mike Anderson, Councilmembers: Kevin Loy, Tony Splane, Tom Storrs, Keith Wagoner, Hugh Galbraith, Rick Lemley and Brett Sandström.
Staff: City Supervisor/Attorney Berg and Finance Director Nelson

Public Comment

- Pola Kelly and Elizabeth Fernando discussed the Tourism Promotion Area proposition and responded to Council concerns and questions. A formal presentation at a November Council meeting will be scheduled.

Audit Update

- Finance Director Nelson reported that the State Auditor's Office audit is almost completed with only minor recommendations for Finance, Police and Fire, to date.

Projected Revenues for 2012, 2013 and Estimated 2013 Expenditures

- City Supervisor/Attorney Berg and Finance Director Nelson presented a pre-preliminary report on 2012 revenues and the 2013 budget.

Roundtable Discussion

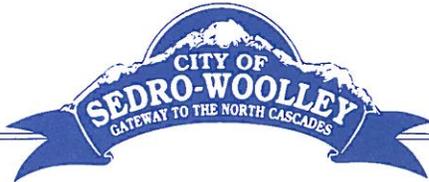
- Councilmember Wagoner requested to change Council meetings from Wednesdays as high school wrestling is the same evening. The general consensus was to remain as is.
- Councilmember Sandström brought up the trestle sign, sending tourists down the "new" Metcalf Street. Costs and possible funding was discussed.

Councilmember Wagoner moved to adjourn. Seconded by Councilmember Galbraith. Motion carried (7-0).

The worksession adjourned at 8:18 P.M.

OCT 10 2012

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 3c



DATE: October 10, 2012
TO: Mayor Anderson and City Council
FROM: Patsy Nelson, Finance Director
SUBJECT: FINANCE - CLAIMS

Attached you will find the Claim Checks register proposed for payment for the period ending October 10, 2012.

Motion to approve Claim Checks #75327 to #75406 in the amount of \$88,922.12.

Motion to approve Payroll Checks #54047 to #54155 in the amount of \$252,834.61.

If you have any comments, questions or concerns, please contact me for information during the working day at 855-1661. This will allow me to look up the invoices that are stored in our office.

WARRANT	VENDOR NAME	DESCRIPTION	AMOUNT
75327	SKAGIT COUNTY TREASURER	REPAIRS AND MAINT	20.00
		WARRANT TOTAL	20.00
75328	SKAGIT COUNTY TREASURER	REPAIRS AND MAINT	209.72
		WARRANT TOTAL	209.72
75329	A WORKSAFE SERVICE, INC.	PROF SERVICE-MEDICAL EXAMS FD	52.00
		WARRANT TOTAL	52.00
75330	ALL-PHASE ELECTRIC	OPERATING SUPPLIES SWR	57.08-
		OPERATING SUPPLIES SWR	46.07
		OPERATING SUPPLIES SAN	135.03
		WARRANT TOTAL	124.02
75331	ALPINE FIRE & SAFETY	REPAIR/MAINTENANCE-EQUIP LIB	14.01
		WARRANT TOTAL	14.01
75332	AQUA AZUL CORP.	PROFESSIONAL SERVICES SWR	800.00
		WARRANT TOTAL	800.00
75333	ARAMARK UNIFORM SERVICES	MISC-LAUNDRY ST	5.60
		MISC-LAUNDRY ST	10.98
		LAUNDRY SWR	12.74
		LAUNDRY SWR	31.59
		WARRANT TOTAL	60.91
75334	ASSOC PETROLEUM PRODUCTS	AUTO FUEL CS	69.76
		AUTO FUEL CS	136.69
		AUTO FUEL PD	82.44
		AUTO FUEL PD	1,693.57
		AUTO FUEL/DIESEL FD	902.60
		AUTO FUEL/DIESEL PK	142.91
		AUTO FUEL/DIESEL PK	77.07
		AUTO FUEL/DIESEL CEM	375.61
		AUTO FUEL/DIESEL CEM	125.84
		AUTO FUEL/DIESEL ST	247.35
		AUTO FUEL/DIESEL ST	147.66
		AUTO FUEL/DIESEL ST	259.05
		AUTO FUEL/DIESEL ST	240.10
		AUTO FUEL/DIESEL SWR	123.68
		AUTO FUEL/DIESEL SWR	162.88
		AUTO FUEL/DIESEL SAN	2,199.93
		AUTO FUEL/DIESEL SAN	15.92
		AUTO FUEL/DIESEL SAN	68.70
		AUTO FUEL/DIESEL SAN	487.03
		AUTO FUEL/DIESEL SWTR	157.41
		WARRANT TOTAL	7,716.20
75335	AT & T	TELEPHONE JUD	.59
		TELEPHONE EXE	.59
		TELEPHONE FIN	10.67
		TELEPHONE LGL	8.30

WARRANT	VENDOR NAME	DESCRIPTION		AMOUNT
		TELEPHONE	IT	2.37
		TELEPHONE	PLN	2.37
		TELEPHONE	ENG	11.85
		TELEPHONE	PD	67.56
		TELEPHONE	FD	2.37
		TELEPHONE	INSP	2.37
		TELEPHONE	ST	2.37
		TELEPHONE	LIB	2.37
		TELEPHONE	SWR	3.56
		TELEPHONE	SAN	1.19
		WARRANT TOTAL		118.53
75336	BAY CITY SUPPLY	OPERATING SUP - LIBRARY	PK	167.32
		OPERATING SUP - HAMMER SQ	PK	24.51
		WARRANT TOTAL		191.83
75337	BLUMENTHAL UNIFORM & EQUIP	UNIFORMS/ACCESSORIES	PD	5.68
		UNIFORMS/ACCESSORIES	PD	36.21
		WARRANT TOTAL		41.89
75338	CARDIAC SCIENCE CORP.	OPERATING SUPPLIES	FD	183.94
		WARRANT TOTAL		183.94
75339	CARL'S TOWING INC.	PROFESSIONAL SERVICES	PD	191.51
		WARRANT TOTAL		191.51
75340	COLLINS OFFICE SUPPLY, INC	SUPPLIES	FIN	87.71
		WARRANT TOTAL		87.71
75341	COMCAST	INTERNET SERVICES	IT	137.90
		WARRANT TOTAL		137.90
75342	HSBC BUSINESS SOLUTIONS	EMPLOYEE WELLNESS	EXE	97.00
		OFFICE/OPERATING SUPPLIES	PD	111.70
		REPAIRS/MAINT-DORM	FD	470.02
		WARRANT TOTAL		678.72
75343	E & E LUMBER	REPAIR/MT-MEMORIAL PARK	PK	16.97
		SMALL TOOLS/MINOR EQUIP	ST	15.08
		WARRANT TOTAL		32.05
75344	EDGE ANALYTICAL, INC.	PROFESSIONAL SERVICES	SWR	1,039.00
		PROFESSIONAL SERVICES	SWR	232.00
		PROFESSIONAL SERVICES	SWR	37.00
		PROFESSIONAL SERVICES	SWR	35.00
		WARRANT TOTAL		1,343.00
75345	ENTERPRISE OFFICE SYSTEMS	SUPPLIES	JUD	43.46
		OFFICE/OPERATING SUPPLIES	PD	43.06
		OFFICE/OPERATING SUPPLIES	PD	43.06
		WARRANT TOTAL		43.46

WARRANT	VENDOR NAME	DESCRIPTION		AMOUNT
75346	FEDERAL CERTIFIED HEARING	PROF SERVICE-MEDICAL EXAMS	FD	20.00
		PROFESSIONAL SERVICES	PK	20.00
		WARRANT TOTAL		40.00
75347	FRONTIER	TELEPHONE	PD	54.25
		TELEPHONE	PD	46.45
		PUBLIC UTILITIES-CITY HALL	PK	55.52
		PUBLIC UTILITIES-CITY HALL	PK	108.48
		TELEPHONE	CEM	63.07
		TELEPHONE	LIB	110.51
		TELEPHONE	SWR	213.26
		TELEPHONE	SAN	82.15
WARRANT TOTAL		733.69		
75348	GALE	LIBRARY INFO DATABASES	LIB	11.36
		WARRANT TOTAL		11.36
75349	GLACKIN, JAMES	REPAIRS AND MAINT		1,240.00
		WARRANT TOTAL		1,240.00
75350	GREAT AMERICA LEASING COR	REPAIR/MAINTENANCE-EQUIP	LIB	139.63
		WARRANT TOTAL		139.63
75351	GUARDIAN SECURITY	PROFESSIONAL SERVICES	PD	126.00
		FIRE/THEFT PROTECTION	FD	84.00
		OPERATING SUP - COMM CENTER	PK	81.00
		OPERATING SUP - SENIOR CTR	PK	147.00
		OPERATING SUP - CITY HALL	PK	168.00
		OPERATING SUPPLIES	SWR	126.00
WARRANT TOTAL		732.00		
75352	H.B. JAEGER CO. LLC	MAINTENANCE OF LINES	SWR	370.95
		MAINTENANCE OF LINES	SWR	1,006.84
		WARRANT TOTAL		1,377.79
75353	HONEY BUCKET	UTILITIES-PORTABLE TOILETS	PK	75.00
		UTILITIES-PORTABLE TOILETS	PK	42.50-
		WARRANT TOTAL		32.50
75354	INGRAM LIBRARY SERVICES	BOOKS, PERIOD, RECORDS	LIB	36.43
		BOOKS, PERIOD, RECORDS	LIB	61.48
		BOOKS, PERIOD, RECORDS	LIB	264.74
		BOOKS, PERIOD, RECORDS	LIB	69.33
		BOOKS, PERIOD, RECORDS	LIB	20.84
		BOOKS, PERIOD, RECORDS	LIB	180.61
WARRANT TOTAL		633.43		
75355	INT'L INST. OF MUNICIPAL CLERKS	MISC-DUES/SUBSCRIPTIONS	FIN	135.00
		WARRANT TOTAL		135.00
75356	LJF DOCUMENT IMAGING SERVICES	PROFESSIONAL SERVICES	ENG	180.00
		WARRANT TOTAL		180.00

CITY OF SEDRO-WOOLLEY
 SORTED TRANSACTION WARRANT REGISTER
 10/10/2012 (Printed 10/05/2012 09:10)

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WARRANT	VENDOR NAME	DESCRIPTION		AMOUNT
75357	LAKESIDE INDUSTRIES	REPAIR/MAINT-STREETS	ST	12,452.96
		REPAIR/MAINT-STREETS	ST	147.15
		WARRANT TOTAL		12,600.11
75358	LASLEY, RHONDA	AUTO FUEL	PD	39.41
		WARRANT TOTAL		39.41
75359	LITHTEX NW	SUPPLIES/BOOKS	PLN	39.48
		SUPPLIES	ENG	39.47
		OFF/OPER SUPPS & BOOKS	INSP	39.47
		WARRANT TOTAL		118.42
75360	MARTIN MARIETTA MATERIALS	CONST-TIB PAVING	AST	318.49
		CONST-TIB PAVING	AST	900.76
		WARRANT TOTAL		1,219.25
75361	MICRO DATA	PRINTING/PUBLICATIONS	PD	407.96
		WARRANT TOTAL		407.96
75362	MOORE, JACK R.	PROFESSIONAL SERVICES	INSP	127.16
		PROFESSIONAL SERVICES	INSP	99.86
		PROFESSIONAL SERVICES	INSP	1,120.44
		WARRANT TOTAL		1,347.46
75363	NELSON, PATSY	EMPLOYEE WELLNESS	FIN	90.00
		MEALS/TRAVEL	FIN	536.53
		WARRANT TOTAL		626.53
75364	NESHEIM, TERESA	EMPLOYEE WELLNESS	FIN	60.00
		WARRANT TOTAL		60.00
75365	NETWORK COMPUTING ARCHITECTS INC	NETWORK HARDWARE	IT	1,363.53
		WARRANT TOTAL		1,363.53
75366	NEW PIG CORPORATION	OPERATING SUPPLIES	SAN	219.09
		WARRANT TOTAL		219.09
75367	OLIVER-HAMMER CLOTHES	SAFETY EQUIPMENT	PK	142.80
		SAFETY EQUIPMENT	PK	167.00
		WARRANT TOTAL		309.80
75368	ORCA PACIFIC INC.	OP SUPPLIES-CHEMICALS	SWR	674.95
		WARRANT TOTAL		674.95
75369	OSBORNE, ROBERT	PROFESSIONAL SERVICES	INSP	300.00
		WARRANT TOTAL		300.00
75370	PARTSMASTER	SMALL TOOLS & MINOR EQUIP	SWR	32.10
		WARRANT TOTAL		32.10
75371	PETTY CASH-DEBRA PETERSON	SUPPLIES	LIB	16.94
		TRAVEL	LIB	12.00

WARRANT	VENDOR NAME	DESCRIPTION	AMOUNT
		EARLY LITERACY LIB	66.57
		WARRANT TOTAL	95.51
75372	PUBLIC UTILITY DIS. NO.1	PUBLIC UTILITIES PD	18.10
		UTILITIES-TRAIN PK	18.10
		UTILITIES-HAMMER SQUARE PK	80.44
		UTILITIES-BINGHAM & MEMORIAL P	45.90
		UTILITIES - OTHER PK	61.60
		PUBLIC UTILITIES-CITY HALL PK	530.33
		PUBLIC UTILITIES CEM	62.06
		PUBLIC UTILITIES ST	39.62
		PUBLIC UTILITIES LIB	93.46
		PUBLIC UTILITIES SWR	241.92
		PUBLIC UTILITIES SAN	49.04
		WARRANT TOTAL	1,240.57
75373	PUGET SOUND ENERGY	PUBLIC UTILITIES PD	18.95
		PUBLIC UTILITIES FD	100.08
		UTILITIES-RIVERFRONT PK	706.16
		UTILITIES-COMMUNITY CTR PK	181.66
		UTILITIES-SENIOR CENTER PK	454.55
		UTILITIES-TRAIN PK	30.72
		UTILITIES-HAMMER SQUARE PK	205.70
		UTILITIES-BINGHAM & MEMORIAL P	56.02
		UTILITIES - SHOP PK	53.21
		UTILITIES - SHOP PK	13.05
		UTILITIES - OTHER PK	11.25
		PUBLIC UTILITIES-CITY HALL PK	2,103.85
		PUBLIC UTILITIES CEM	48.89
		PUBLIC UTILITIES ST	77.16
		PUBLIC UTILITIES ST	5.60
		PUBLIC UTILITIES ST	83.52
		PUBLIC UTILITIES ST	207.52
		PUBLIC UTILITIES LIB	270.26
		ADVERTISING HOT	30.15
		REPAIRS AND MAINT	16.59
		PUBLIC UTILITIES SWR	9,039.42
		PUBLIC UTILITIES SAN	101.05
		PUBLIC UTILITIES SWTR	76.73
		WARRANT TOTAL	13,892.09
75374	RANGER RICK	BOOKS, PERIOD, RECORDS LIB	33.90
		WARRANT TOTAL	33.90
75375	REICHHARDT & EBE ENG, INC	ENG-METCALF OVERLAY AST	92.34
		CONST-SR20 WIDENING SK COUNTY	1,165.00
		WARRANT TOTAL	1,257.34
75376	SEAMS GREAT EMBROIDERY	UNIFORMS FD	19.48
		WARRANT TOTAL	19.48
75377	SEDRO-WOOLLEY AUTO PARTS	REPAIR & MAINT - AUTO PD	46.07

WARRANT	VENDOR NAME	DESCRIPTION		AMOUNT
		REPAIRS/MAINT-EQUIP	FD	10.81
		SMALL TOOLS/MINOR EQUIP	CEM	6.97
		SMALL TOOLS/MINOR EQUIP	CEM	42.72
		REPAIR/MAINTENANCE-EQUIP	ST	20.02
		OPERATING SUPPLIES	SWR	68.17
		WARRANT TOTAL		194.76
75378	SEDRO-WOLLEY FARMERS MKT	FARMERS MARKET	HOT	1,000.00
		WARRANT TOTAL		1,000.00
75379	SEDRO-WOLLEY VETERINARY CARE	VETERINARY SERVICES	PD	18.46
		VETERINARY SERVICES	PD	17.72
		WARRANT TOTAL		36.18
75380	SEDRO-WOLLEY VOLUNTEER	SALARIES-VOLUNTEERS	FD	9,570.00
		WARRANT TOTAL		9,570.00
75381	SKAGIT CO. DIST. COURT	DISTRICT COURT SURCHARGE	JUD	800.00
		WARRANT TOTAL		800.00
75382	SKAGIT CO. COMMUNITY SERVICES	SKAGIT COUNCIL ON ALCOHOL	ALC	5,641.94
		WARRANT TOTAL		5,641.94
75383	SKAGIT COUNTY TREASURER	CRIME VCTM & WITNSS PROG	LGL	134.40
		WARRANT TOTAL		134.40
75384	SKAGIT FARMERS SUPPLY	OPERATING SUPPLIES-PROPANE	ST	14.34
		WARRANT TOTAL		14.34
75385	SKAGIT HYDRAULICS, INC.	MAINTENANCE OF VEHICLES	SWR	363.28
		WARRANT TOTAL		363.28
75386	SKAGIT SURVEYORS &	CONSTRUCITON-METCALF OVERLAY A		1,231.25
		IMPROVEMENT-METCALF LINE	SWR	1,550.00
		WARRANT TOTAL		2,781.25
75387	SKAGIT RIVER STEEL	CONTAINERS	SAN	84.00
		WARRANT TOTAL		84.00
75388	SKAGIT PUBLISHING	LEGAL PUBLICATIONS	LGS	50.00
		LEGAL PUBLICATIONS	LGS	50.00
		WARRANT TOTAL		100.00
75389	ELECTRONIC DISTRIBUTING INC.	MAINT OF GENERAL EQUIP	SWR	692.76
		WARRANT TOTAL		692.76
75390	STAPLES BUSINESS ADVANTAGE	OFFICE/OPERATING SUPPLIES	PD	31.37
		OFFICE/OPERATING SUPPLIES	PD	51.54
		OFFICE/OPERATING SUPPLIES	PD	27.06
		SUPPLIES		10.77
		SUPPLIES		14.06
		WARRANT TOTAL		134.80

WARRANT	VENDOR NAME	DESCRIPTION		AMOUNT
75391	TASTE OF HOME	BOOKS, PERIOD, RECORDS	LIB	31.98
		WARRANT TOTAL		31.98
75392	TRUE VALUE	OFFICE/OPERATING SUPPLIES	PD	2.37
		OFFICE/OPERATING SUPPLIES	PD	10.14
		OFFICE/OPERATING SUPPLIES	PD	4.53
		OFFICE/OPERATING SUPPLIES	PD	6.48
		OFFICE/OPERATING SUPPLIES	PD	28.12
		MACHINERY & EQUIPMENT	PD	9.19
		OPERATING SUPPLIES	FD	.45
		REPAIRS/MAINT-DORM	FD	12.52
		OPERATING SUP - COMM CENTER	PK	22.71
		OPERATING SUP - BINGHAM PARK		42.19
		SMALL TOOLS & MINOR EQUIP	PK	78.90
		REPAIR/MT-MEMORIAL PARK	PK	2.15
		CAP OUTLAY-GRANT FOR HHS	PKR	17.83
		OPERATING SUPPLIES	SWR	10.58
		OPERATING SUPPLIES	SWR	46.50
		OPERATING SUPPLIES	SWR	10.27
		OPERATING SUPPLIES	SWR	10.05
		OPERATING SUPPLIES	SWR	18.38
		OPERATING SUPPLIES	SAN	8.10
		WARRANT TOTAL		341.46
75393	UPSTART	EARLY LITERACY	LIB	66.08
		WARRANT TOTAL		66.08
75394	USA BLUE BOOK	MAINT OF PUMPING EQUIP	SWR	63.07
		WARRANT TOTAL		63.07
75395	UTIL UNDERGROUND LOC CTR	OPERATING SUPPLIES	SWR	64.93
		WARRANT TOTAL		64.93
75396	VALLEY AUTO SUPPLY	REPAIRS/MAINT-EQUIP	SAN	80.51
		REPAIRS/MAINT-EQUIP	SAN	48.43
		WARRANT TOTAL		128.94
75397	VERIZON WIRELESS	TELEPHONE	EXE	55.33
		TELEPHONE	FIN	57.51
		TELEPHONE	LGL	55.33
		TELEPHONE	IT	55.33
		NEXTEL CELL PHONES		168.17
		TELEPHONE	PD	179.98
		TELEPHONE	PD	470.11
		TELEPHONE	PD	374.48
		TELEPHONE	FD	407.73
		TELEPHONE	FD	70.80
		TELEPHONE	PK	108.51
		TELEPHONE	CEM	38.99
		TELEPHONE	ST	79.97
		NEXTEL CELL PHONES		223.33
		NEXTEL CELL PHONES	SAN	140.82

CITY OF SEDRO-WOOLLEY
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WARRANT	VENDOR NAME	DESCRIPTION		AMOUNT
		WARRANT TOTAL		2,486.39
75398	VISTEN, LESLIE	RETIRED MEDICAL	PD	221.00
		WARRANT TOTAL		221.00
75399	WA ASSOC OF SHERIFFS &	DUES/SUBSCRIPTIONS	PD	75.00
		WARRANT TOTAL		75.00
75400	WA ST DEPT OF NATURAL RES	TAXES & ASSESSMENTS	SWTR	17.40
		WARRANT TOTAL		17.40
75401	WA ST DEPT OF PROF LICEN	INTERGOV SVC-GUN PERMITS	PD	36.00
		INTERGOV SVC-GUN PERMITS	PD	90.00
		WARRANT TOTAL		126.00
75402	WA STATE PATROL	RENTAL TELETYPE	PD	534.00
		WARRANT TOTAL		534.00
75403	WA ST DEPT OF ENTERPRISE SVC	PROFESSIONAL SERVICES	PD	50.00
		PROFESSIONAL SERVICES	FD	50.00
		PROFESSIONAL SERVICES	PK	50.00
		PROFESSIONAL SERVICES	SWR	50.00
		PROFESSIONAL SERVICES	SAN	50.00
		WARRANT TOTAL		250.00
75404	WA ST OFF OF TREASURER	STATE REMITTANCES-COURT		8,098.75
		WARRANT TOTAL		8,098.75
75405	WM. H. REILLY & CO.	MAINT OF GENERAL EQUIP	SWR	1,184.97
		WARRANT TOTAL		1,184.97
75406	WOOD'S LOGGING SUPPLY INC	REPAIRS/MAINT-EQUIP	PD	111.72
		SMALL TOOLS & MINOR EQUIP	PK	119.53
		OPERATING SUPPLIES	CEM	16.21
		SAFETY EQUIPMENT	CEM	41.08
		SAFETY EQUIPMENT	CEM	102.77
		REPAIR/MAINTENANCE-EQUIP	ST	58.80
		REPAIR/MAINTENANCE-EQUIP	ST	34.60
		SMALL TOOLS & MINOR EQUIP	SAN	39.43
		WARRANT TOTAL		524.14
		RUN TOTAL		88,922.12

FUND	TITLE	AMOUNT
001	CURRENT EXPENSE FUND	37,161.26
101	PARK FUND	6,327.61
102	CEMETERY FUND	924.21
103	STREET FUND	14,149.45
104	ARTERIAL STREET FUND	3,707.84
105	LIBRARY FUND	1,502.50
107	PARKS RESERVE FUND	17.83
108	STADIUM FUND	1,030.15
109	SPECIAL INVESTIGATION FUND	1,511.14
401	SEWER FUND	18,528.17
412	SOLID WASTE FUND	3,810.42
425	STORMWATER	251.54
TOTAL		88,922.12

CITY OF SEDRO-WOLLEY
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DEPARTMENT	AMOUNT
001 000 000	8,098.75
001 000 011	100.00
001 000 012	844.05
001 000 013	152.92
001 000 014	977.42
001 000 015	198.03
001 000 017	1,559.13
001 000 018	206.45
001 000 019	41.85
001 000 020	399.49
001 000 021	5,183.41
001 000 022	12,068.52
001 000 024	1,689.30
001 000 062	5,641.94
FUND CURRENT EXPENSE FUND	37,161.26
101 000 076	6,327.61
FUND PARK FUND	6,327.61
102 000 036	924.21
FUND CEMETERY FUND	924.21
103 000 042	14,149.45
FUND STREET FUND	14,149.45
104 000 042	3,707.84
FUND ARTERIAL STREET FUND	3,707.84
105 000 072	1,502.50
FUND LIBRARY FUND	1,502.50
107 000 076	17.83
FUND PARKS RESERVE FUND	17.83
108 000 019	1,030.15
FUND STADIUM FUND	1,030.15
109 000 021	1,511.14
FUND SPECIAL INVESTIGATION FUND	1,511.14
401 000 035	18,528.17
FUND SEWER FUND	18,528.17
412 000 037	3,810.42
FUND SOLID WASTE FUND	3,810.42
425 000 039	251.54
FUND STORMWATER	251.54
TOTAL	88,922.12

OCT 10 2012

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 3c



INTERLOCAL PUBLIC SAFETY TECHNOLOGY SERVICE AGREEMENT BETWEEN SKAGIT COUNTY AND THE CITY OF SEDRO-WOOLLEY

1 PARTIES

This AGREEMENT is made and entered into by and between City of Sedro-Woolley, ("Agency") and Skagit County, Washington ("County") pursuant to the authority granted by Chapter 39.34 RCW, INTERLOCAL COOPERATION ACT.

2 PURPOSE

This agreement shall address Agency access to Public Safety Services which include information derived from the Spillman Public Safety System, hereinafter known as the SPSS. The SPSS shall also include the Mug Shot System, hereinafter known as MSS, and Domestic Violence Protection Orders System, hereinafter known as DVPOS.

3 DEFINITIONS

Current Payment Period - The Current Payment Period shall be the first, second, third or fourth quarter of the year that is accruing expenses when termination notice is given. The first quarter of the year shall be January through March, the second quarter shall be April through June, the third quarter shall be July through September, and the fourth quarter shall be October through December.

Partner Agency - All agencies that have entered into an Inter-local agreement with the County for Public Safety Technology Services.

System Management Plan - A document created by Skagit County Information Services in conjunction with the Partner Agencies that details information management policies, procedures and guidelines regarding the Public Safety Technology Services. The System

Management Plan is based on the Skagit County Information Technology Security Standards and Guidelines and documents management items that are required to exceed the security and management standards. For the purposes of this contract the SPSS Policies and Procedures shall fulfill the function of the System Management Plan.

4 Administration

The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for the administration of this Agreement and for coordinating and monitoring performance under this Agreement.

In the event that such representatives are changed, the party making the change shall notify the other party.

The County's representative shall be Mike Almvig.
The Agencies representative shall be _____

5 GENERAL TERMS AND CONDITIONS

5.1 DURATION

This Agreement commences upon execution by signature of both parties and shall terminate on January, 1st 2014.

5.2 NO JOINT VENTURE

It is understood that this agreement is solely for the benefit of the parties hereto and give no right to any other party. No joint venture or partnership is formed as a result of this agreement.

5.3 USE OF SOFTWARE

Use of the SPSS system shall be in accordance with the licensing terms and conditions of Spillman Technologies, Inc., which are available via Skagit County's public web site or from the Contract Administrator.

To access all agreements between County and Spillman Technology Inc., please use the Contract Search available at the following link:

<http://www.skagitcounty.net/apps/Commissioners/ContractSearch/default.aspx>

Specify "Spillman" in the **Contractor Name** field.

5.4 DATA AVAILABLE

The County shall deliver data derived from the SPSS to network devices accessible to Agency personnel and software applications.

Extent of access shall conform to the SPSS Policies and Procedures and regulations set forth in Chapter 13.50 RCW and other applicable federal, state, and local law.

The Agency will not sell, give, loan, lease or otherwise transfer title, possession, or allow access or use of any of the data or screens by any person, firm, corporation or association without prior written approval of the County or as required by federal, state, or local law.

5.5 PROPRIETARY INFORMATION

Proprietary or confidential information disclosed by either party to the other for the purposes of this Agreement, which is clearly so identified in writing as proprietary, shall be protected by the recipient in the same manner and to the same degree that the recipient protects its own proprietary information. Such information will be disclosed only to those employees of the recipient requiring access thereto in order to perform this Agreement. All information or data on the County network shall be treated as proprietary regardless of ownership.

5.6 PUBLIC DISCLOSURE

As a public agency, the County is bound by the Public Disclosure and Criminal Records laws as declared in Chapter 42.56 RCW, the Washington State Criminal Records Act, Chapter 10.97 RCW and other applicable state and federal laws.

Terms for addressing request for public information shall be as provided dependent on whether the information requested is owned by a Washington State Municipality or a Sovereign Nation.

5.6.1 Applicable to Washington State Municipalities only.

Dissemination of data or information is the responsibility of the agency recording the data or information in accordance with this Agreement and Public Disclosure Act, Chapter 42.56 RCW, the Washington State Criminal Records Act, Chapter 10.97 RCW and other applicable state and federal laws. Other entities will not disclose data except

through specific contracts, court orders or agreements with application and data owners.

Agency and the County agree that all records are owned by the Agency and maintained by the County for the exclusive benefit of the Agency. Nothing in this agreement is intended to create a situation where the County has Agency records in its possession or control for purposes other than maintenance and operation of this agreement. Agency agrees that it is solely responsible for responding to public records requests.

In the event County receives a public records request for Agency information or records covered under this agreement, County will immediately forward such request to Agency. Agency will assume all responsibility for the handling and satisfaction of the forwarded request and agrees to defend, indemnify and save harmless the County, its appointed and elective officers and employees, from and against all loss or expense, including but not limited to judgments, settlements, attorney's fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees related to any requests for Agency records covered under this agreement.

5.6.2 Applicable to Agencies that are Sovereign Nations only.

County is a public agency and as such is required to allow members of the public access to certain materials within Skagit County's control or possession. In the event Skagit County receives a public records request for information clearly belonging to Agency, and not available in other form by other municipalities, within five days of receiving such request and prior to providing any materials to the Requestor, Skagit County will notify Agency of such request for information and will make attempts to provide Agency with adequate time to seek a protective order under applicable law.

5.7 THE COUNTY MAY PRIORITIZE PROVISION OF ACCESS.

The County may limit, control or prioritize the access described herein to any extent necessary to prevent such from unreasonably disrupting the County's operations and to prevent excessive interference with other essential functions of the County and to the extent necessary to provide access to its public records by other members of the public.

This may include scheduled shutdowns for backups or maintenance and unscheduled shutdowns due to hardware or software malfunctions.

5.8 SERVICE AVAILABILITY

The SPSS and Skagit County networks will be available twenty-four (24) hours per day, seven (7) days a week with the following exceptions.

5.8.1 SCHEDULED MAINTENANCE

Skagit County Information Services reserves the right to schedule preventative maintenance on all systems. When possible, preventative maintenance will be scheduled a minimum two weeks in advance and attempt to minimize impacts to each user agency. The Agency will have three (3) business days after getting notification of scheduled maintenance to inform the County if the scheduled maintenance will cause an undue burden on the Agency. County and Agency will discuss the issue and work to resolve a mutually agreeable time to conduct the maintenance if the maintenance can be delayed.

Scheduled maintenance may result in loss of service to the SPSS for a period of time.

5.8.2 SOFTWARE AND HARDWARE UPGRADES

Software and Hardware upgrades differ from normally scheduled maintenance, in that systems will be unavailable for the duration of the upgrade. It is conceivable that an upgrade may take a couple of days. When possible, the Agency will be informed a month prior to the scheduled upgrade time. Skagit County will make every reasonable attempt to schedule the upgrade to minimize impacts to each Agency; however, both parties agree that due to the wide use of this system and the minimal amount of support personnel, there will be Agency impacts.

5.8.3 EMERGENCY MAINTENANCE

Emergency maintenance will be coordinated with the Agency whenever possible.

5.8.4 SYSTEM FAILURE

It is possible that the system may fail due to unforeseen hardware, software or network failure. In the event of a system failure, Skagit County will work to restore service as soon as possible, the County may move service to the backup server if needed.

5.9 AGENCY MAINTENANCE DEMARCATION POINT

Skagit County will repair, configure and maintain the SPSS from each system to the Agency's' Ethernet side of the last network device owned and maintained by Skagit County. Responsibility to repair, configure or maintain Agency workstations, electronic messaging systems, network equipment, network transmission lines, printing devices, smart devices, or any other equipment or software application resident on Agency's network shall be the responsibility of the Agency.

5.10 SUPPORT COVERAGE

5.10.1 SKAGIT COUNTY SERVICE DESK COVERAGE

The Skagit County service desk is staffed approximately 8 hours per day, five days a week, excluding holidays. Support hours are generally from 8:00 AM - 4:30 PM. The phone number is:

(360) 419 - 3338

Guaranteed availability of the Service Desk personnel is not possible due to staffing constraints. The Service desk will log computer and network problems and dispatch problems to the responsible engineer. If the service desk technician is away from the phone for any reason, the caller will be asked to leave a voice mail message. The service desk will return the call as soon as possible.

The Agency may also send electronic mail to us regarding problems at **SUPPORT@CO.SKAGIT.WA.US**.

The Agency is responsible for providing a current contact list to Skagit County Information Services.

5.10.2 After Hours Coverage

After hour basic support is not part of this agreement. Currently the County has no after hours support.

5.11 CONFIGURATION MANAGEMENT

All configuration changes to the SPSS system will be made by Skagit County Information Services or Spillman Technologies Incorporated in coordination with the County. The Agency will provide Skagit County Information Services with a primary and alternate contact name of authorized personnel who can coordinate/request changes to the system.

5.12 DISASTER RECOVERY

Skagit County Information Services shall implement a disaster recovery capability consisting of creating a secondary copy of the SPSS system to alternate media on a nightly basis. Disaster recovery is intended to restore data in the case of a catastrophic event. The secondary copy is only maintained for a short period of time and then refreshed and is intended only to restore SPSS services and data.

5.13 SECURITY AND INTEGRITY

The Skagit County network is protected from the Internet with firewall security to

prevent unauthorized access from the Internet. The Agency is responsible for securing their organization's computer resources against all unauthorized access.

If the Agency determines to disconnect from access to Skagit County's network or Skagit County's RIGN they must notify the County immediately. Such action will terminate this agreement.

The County, in conjunction with the partner agencies shall work to comply with local, state and federal security standards and requirements, inclusive of the federal Criminal Justice Information Systems security requirements, SPSS Policies and Procedures Manual, Skagit County Security Policy, and Information Technology Security Standards and Guidelines. A System Management Plan for the SPSS shall be created to address specific security or system management issues that pertain specifically to the SPSS.

The SPSS Policies and Procedures Manual is available to Spillman Customers through the help link on the Spillman screen.

The Skagit County Security Policy is available on Skagit County's public web site. You may access this document at the URL listed below or by using the Commissioner's ***Ordinance and Resolution Search*** for Resolution Number 20020125.

<http://www.skagitcounty.net/apps/commissioners/ResolutionOrdinanceSearch/SelectedResults.aspx?wc='R20020125'>

The Information Technology Security Standards and Guidelines document is available upon request to the County Information Services department. Please contact the contract administrator for this document.

5.13.1 AUTHORIZED USE

This agreement is intended for use by the Agency's authorized agents only. All accounts must be approved by Skagit County Information Services per SPSS Policies and Procedures.

5.13.2 INDIRECT ACCESS

Agency will take measures to prevent unauthorized third party indirect access to the SPSS system. Examples of this would include but not be limited to gateways, dial-up, or cascaded telnet sessions where the originator is not a Agency authorized user of the RIGN or State Inter-Governmental Network, but whose resultant IP address would appear to the network as being the Agency's address.

5.14 ORIGINATING AGENCY IDENTIFIERS

To accommodate management of the Originating Agency Identifiers (ORI) as required by federal and state law enforcement agencies. Current Federal requirements or technology are subject to change, however, currently It is required that each terminal, workstation, laptop, tablet pc, pocket pc, or other device that will require use the SPSS State Access application to access state or federal criminal history or other information that requires an ORI designation be statically addressed.

The static address must be at the Internet Protocol address level not at the device Ethernet (MAC) level. Please have your technical support staff contact Skagit County Information Services if there are any questions regarding this protocol.

Network devices that do not require access to State or Federal criminal histories or other information delivered by the State Access application do not need an ORI and consequently do not need to be statically mapped.

5.15 AGENCY FIELD OFFICE ENVIRONMENT

The Agency is responsible for providing an acceptable operating environment for all equipment used to access the SPSS. The Agency is responsible for the security, power quality and cleanliness of the equipment environment. Equipment replacement due to damage resulting from, but not limited to, power surges, water damage, improper handling or extremely high temperatures is the responsibility of the Agency.

6 SERVICE OFFERING

6.1 SPILLMAN PUBLIC SAFETY SYSTEM SERVICE

Basic support shall consist of SPSS software administration, server hardware support, operating system administration, and network management and troubleshooting to Agency demarcation point. Support shall include failover server and replication management, Criminal Justice Information System (CJIS) security requirement management, disaster recovery planning, capacity management planning, and SPSS service management, monitoring and reporting.

Basic support shall apply to all public safety personnel who are authorized agents of Agency with access to the SPSS. Public Safety personal are considered Law Enforcement, Prosecutors, Fire Personnel, 911 dispatchers and supporting staff.

Agency is responsible to provide computing devices, for its authorized agents that comply with published Spillman Technology standards for the current SPSS software revision level and published Skagit County MSS/DVPOS technology standards.

7 Service Reliability

The Mean Time Between System Incidents (MTBSI) shall be tracked by County, with a target goal of having no more than 4 system incidents per annum.

A system incident shall be defined as an outage of the system where no agencies can access basic services as defined herein and where the issue is a result of equipment, software, hardware or network that is under the control of County.

Since State Link is dependent on State systems to deliver that service to the SPSS, loss of State Link will be tracked as a separate incident with a target MTBSI of 12 per annum.

8 TERMINATION

8.1 TERMINATION FOR CAUSE

If for any cause, the County or the Agency does not fulfill in a timely and proper manner its performance obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party will give the other party written notice of such failure or violation. The responsible party will correct the violation or failure within 60 working days. If the failure or violation is not corrected, this Agreement may be terminated immediately by written notice from the aggrieved party to the other party. Upon termination of this Agreement, Agency will pay its appropriated share for all services rendered within the current payment period.

8.2 TERMINATION FOR PUBLIC CONVENIENCE

Either the County or Agency may terminate the contract in whole or in part whenever the County or Agency determines, in its sole discretion that such termination is in the best interests of the County or Agency. Whenever the contract is terminated in accordance with this paragraph, County shall be entitled to payment for work performed through the current payment period. No adjustment shall be made for loss of anticipated profit or deleted or uncompleted work. Termination of this contract at any time during the term, whether by default or for convenience, shall not constitute a breach of contract.

The termination date of this agreement shall be the first day after the current payment period expires. A minimum of 30 days notice before the current payment period end shall be provided by Agency or County when terminating this agreement.

8.3 TERMINATION OF AGREEMENT - EVENTS OF DEFAULT.

This Agreement may be immediately terminated without notice upon an event of default, which events of default include but are not limited to the following:

- a. The Agency wrongfully uses the data provided by the County per terms of this agreement including all attachments.
- b. Unauthorized copying of data.
- c. In the event this Agreement is determined to be in conflict with federal or state law, County resolutions or ordinances which are in effect at the time of this Agreement or may be imposed in the future.
- d. The Agency uses or attempts to use information provided in such a manner as to violate a taxpayer's right to privacy or to create an unfair competitive disadvantage for a taxpayer.
- e. The Agency sells, gives, leases, or loans access to the screens or the data contained therein to any person or in any way, directly or indirectly, allows copies to be made by any person without the express written approval of the County.
- f. If the vendor of the SPSS changes its support, architecture, licensing, policy or creates any other condition that would create a situation where Skagit County could no longer meet the scope of work as defined in appendix A.
- g. The agency violates the account management terms as provided in the SPSS Policies and Procedures.

9 PAYMENT FOR SPSS SERVICES

9.1 SERVICE CHARGES

Charges for products and services provided by the County will be based on actual costs incurred by County. All billing will be on a quarterly basis based on the actual expenditures for the previous quarter.

9.2 CALCULATIONS FOR PUBLIC SAFETY TECHNOLOGY SERVICES

The current metric utilized to determine cost per agency is based on the type of access to the SPSS. As an example, fire personal do not have the same access to the SPSS as law enforcement personal so a different rate will be applied that more fairly distributes actual costs. This metric can be changed if needed by the partner agencies under the following conditions:

- 1) a quorum of the partner agencies agree to the metric change.

- 2) the metric is relatively easy to determine by Skagit County Information Services
- 3) the metric is applicable to all partner agencies
- 4) the metric may only be changed 30 or more days before the next quarter billing period and shall apply to the next billing period and beyond.

Upon a change of metric, the form of the metric shall be documented and notification shall be sent to each of the agency representatives.

The formula for Public Safety Technology Services Billing shall be:

$$(TEQ - S) * AM/TM$$

Where;

TEQ = Total cost of support for systems required to support Public Safety Technology Services inclusive of Help Desk Expenditure within a fiscal quarter.

S = Other external revenues (including grants)

AM = Number of items used to calculate the Metric for an Agency

TA = Total number if Metric items of all Agencies.

This formula is applied to each type of Account, based on the use of the Public Safety System by that account type.

9.3 SPILLMAN PUBLIC SAFETY TECHNOLOGY SYSTEM LICENSING COSTS AND REQUIREMENTS

The Agency shall be responsible to pay for licensing costs required by Spillman Technologies, Inc. This may additionally include a separate license agreement with Spillman Technologies, Inc. Agency also agrees to comply with all terms and conditions of any Spillman License agreement Agency as separately negotiated and signed with Spillman.

County requests to review license terms and conditions between Agency and Spillman Public Safety systems to ensure no conflict in license terms arise.

9.4 AGENCY EQUIPMENT COSTS AND MANAGEMENT

The Agency shall be totally responsible and liable for all costs incurred in the acquisition of its own equipment, including telephone lines and other supplemental equipment and the costs of connecting that equipment with the County's equipment. The Agency will be responsible for trouble shooting, maintaining and managing their equipment and network to the County demarcation point.

Equipment that is resident in County facilities shall be tagged with an inventory tag identifying that equipment as Agency owned.

9.5 TAXES

9.5.1 COUNTY PAYMENT OF TAXES

If the County is required to pay sales or use tax in order to provide service under this Agreement, such taxes will be added to the TEQ (Total cost of support for systems required to support Public Safety Technology) as defined in section 10.2.

9.6 INVOICES AND LATE PAYMENT

The County will invoice Agency quarterly detailing charges for services rendered during the preceding quarter. Payment is due upon receipt of invoice by Agency and becomes delinquent 30 days thereafter.

A late payment charge may be applied to any remaining balance 60 days after invoice. Late payment charges, if any, will be imposed on the unpaid balance at the rate of 1% per month. Agreements with balances more than 90 days past due may be terminated under the TERMINATION FOR CAUSE provision of this Agreement, and services discontinued.

Amounts disputed by Agency under Section 8.2 are not subject to late payment charges.

10 LIMITATION OF LIABILITY

10.1 NON-CONFORMING SERVICES

For any services which fail to conform to the specification of this Agreement and such failure is caused solely by the negligence of Skagit County, the County's liability shall be limited to not charging the Agency for the quarter period in which the service failed to conform. If both parties are negligent, they agree to apportion between them the damage attributable to the actions of each. Agency is solely responsible for any damage caused in whole or in part by inaccurate or inadequate data, programs, or software furnished to the Agency by County.

Neither party will be liable for any failure to comply with or delay in performance of this Agreement where failure or delay is caused by or results from any events beyond its control, including but not limited to, fire, flood, earthquake, accident, civil disturbances, acts of any governmental entity, war, shortages, embargoes, strikes (other than those occurring in the workforce of the party claiming relief, or the workforces of its subcontractors), transportation delays, or acts of God.

County is not liable for system failure, power loss, software system failure or other unforeseeable conditions that result in the unavailability of service to Agency.

10.2 LOSS OR DAMAGE TO AGENCY SUPPLIED DATA

For any loss or damage to Agency supplied data or programs due to negligence of the County, Agencies liability shall be limited to the replacement or regeneration of lost or damaged data from the County's supporting material up to a maximum of \$5,000 per year.

10.3 EQUIPMENT DAMAGE

For any equipment damaged as the result of negligence by either party, that party will be obligated to pay for repair or replacement of that equipment. If both parties are negligent, the parties agree to apportion between them the damage attributable to the actions of each. Liability for equipment shall be limited to the actual replacement cost.

10.4 SOFTWARE

Computer applications programs and other software systems furnished to Agency by the County at no charge to Agency are furnished on an "as is" basis with no representations or warranties regarding use or results.

10.5 DAMAGES

Neither party will seek damages, either direct, consequential, or otherwise against the other in addition to the remedies stated herein.

10.6 THIRD PARTY CLAIMS

In the event that either party is found liable for damages to third parties as a result of the performance of services under this Agreement, each party will be financially responsible for the portion of damages attributable to its own acts and responsibilities under this Agreement.

11 SOVEREIGN NATION RESOLUTION WAIVING SOVEREIGN IMMUNITY

Further, County cannot process this agreement without a resolution from the Sovereign Nation Council waiving sovereign immunity.

12 CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS

The Agreement may be changed, modified, amended or waived only by written agreement executed by the parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

13 SEVERABILITY

In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications of this Agreement which can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.

14 TREATMENT OF ASSETS

No fixed assets or personal or real property will be jointly or cooperatively, acquired, held, or disposed of pursuant to this agreement.

14.1 PROPERTY TITLE

Title to all property furnished by the County shall remain with the County. All property furnished by the Agency shall remain with the Agency.

14.2 USE OF PROPERTY

Any property furnished by the County to the Agency shall, unless otherwise provided in this contract, or approved by the owner, be used for the performance of this contract.

14.3 LOSS OR DAMAGE

The Agency shall be responsible for any loss or damage to property of the County which results from negligence of the Agency or which results from the failure on the part of the Agency to maintain and administer the property in accordance with sound management

practices.

14.4 PROPERTY LOSS NOTIFICATION

If any County property is lost, destroyed, or damaged, Agency shall promptly notify the County and shall take all reasonable steps to protect the property from further damage.

14.5 SURRENDER OF PROPERTY

Both parties shall surrender to the other all property owned by the other prior to settlement upon completion, termination, or cancellation of this Agreement.

14.6 AGENCY EMPLOYEES OR AGENTS

All reference to the Agency under this clause shall include any employees or agents of Agency.

15 OWNERSHIP OF ITEMS PRODUCED

All writings, programs, data, public records or other materials prepared by the County and/or its consultants or subcontractors, in connection with performance of this Agreement shall be the sole and absolute property of the County.

Spillman Technologies, Inc. shall retain all intellectual property rights for programs, documentation or other optional materials provided by Spillman Technologies, Inc. to County or Agency.

16 SIGNATURE BLOCKS

The parties acknowledge that they have read, understand and accept this Agreement, including any supplements or attachments, and that this Agreement constitutes the entire agreement between them and supersedes all other communications, written or oral, relating to the subject matter of this Agreement.

GOVERNMENT AGENCY:

Title of Signatory
(Date _____)

Print Name of Signatory

Mailing Address:
(Street address required
in addition to P.O. Box)

DATED this _____ day of _____, 2012.

**BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**

Kenneth A. Dahlstedt, Chairman

Sharon D. Dillon, Commissioner

Attest:

Ron Wesen, Commissioner

Clerk of the Board

For contracts under \$5,000:
Authorization per Resolution R20030146

Recommended:

County Administrator

Department Head

Approved as to form:

Civil Deputy Prosecuting Attorney

Approved as to indemnification:

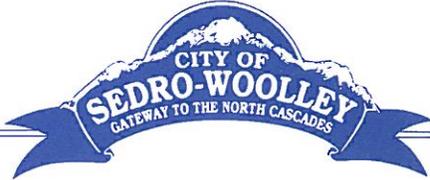
Risk Manager

Approved as to budget:

Budget & Finance Director

OCT 10 2012

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 4

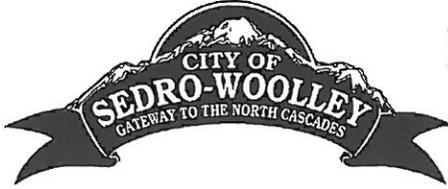


SUBJECT: PUBLIC COMMENT

Name:
Address:
Narrative:

CITY COUNCIL AGENDA
REGULAR MEETING

OCT 10 2012



7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 5

CITY OF SEDRO-WOOLLEY
Sedro-Woolley Municipal Building
325 Metcalf Street
Sedro-Woolley, WA 98284
Phone (360) 855-9922
Fax (360) 855-9923

Eron M. Berg
City Supervisor/City Attorney

MEMO TO: City Council
FROM: Eron Berg & John Coleman
RE: CUP 1-11/Swett, closed record appeal of HEX
DATE: October 10, 2012

This item comes to you for follow up action following your closed record hearing on September 26th.
Updates to this memo are in italics.

PROCEDURAL HISTORY: CUP 1-11 was denied by the hearing examiner, approved by the hearing examiner upon reconsideration, appealed to the city council where the hearing examiner's decision was reversed and appealed to superior court where Judge Cook remanded it back to the city council for reconsideration. This item comes to you tonight for *final action in the form of findings, conclusions and an order.*

ISSUE BEFORE THE COUNCIL: Two appeals of the hearing examiner's decision on reconsideration were timely filed. SWMC 2.90.090 requires the party(ies) making the appeal to identify the issues being raised and places the burden of proof on the appellant(s). Judge Cook has remanded this case to the City Council for further proceedings consistent with her opinion dated August 13, 2012. In that opinion, she makes clear that the issues raised by the appellants are limited to two issues:

1. Whether the proposed marijuana gardening is "low intensity agriculture," and;
2. Whether the proposed use would be an asset to the community.

CLOSED RECORD PROCESS: SWMC 2.90.090(E) establishes the process for appeals of hearing examiner decisions. Once an appeal is timely filed (appeals are Exhibits 12 and 13, P213-230), the applicant and other parties of record are allowed to provide letters in support of their positions (Exhibits 14 and 15, P231-237). Because Judge Cook clarified the scope of the appeals in her opinion, the city accepted an additional response from the applicant (Exhibit R-2, REMAND 8-14). The portions of the applicant's response that are lined were lined out by counsel as they appear to present new evidence or testimony which is not part of the record and therefore may not be the basis for your decision-making. Attorney Pat Hayden submitted additional comments which counsel also advises should not be the basis for decision-making as were submitted outside of the timeframe for consideration (Exhibit R-3, REMAND 15-17).

The city council's review and decision on the appeals which raised the two issues identified above, is limited to the record developed at the open public hearing held by the hearing examiner on

December 2, 2011, any written submittals, the applicant's application and related submittals, and other information in the attached exhibits (Exhibits 1-15, P1-237). See. SWMC 2.90.090(E)(6).

After reviewing the record and considering the issues raised by the appeals, the city council has the following options:

1. Find that there were no substantial errors in fact or law in the record and **deny the appeals**;
2. Find that there were substantial errors in fact or law in the record and **remand the decision** to the hearing examiner for reconsideration;
3. Find that there were substantial errors in fact or law in the record and **modify the decision** of the hearing examiner; or
4. Find that there were substantial errors in fact or law in the record and **reverse the decision** of the hearing examiner.

The Council's decision must be in writing and shall specify any modified or amended findings and conclusions other than those set forth in the report of the hearing examiner. Each material finding by the City Council must be supported by substantial evidence in the record. SWMC 2.90.090(E)(9).

On September 26th, we recommended that the Council review the appeals as interpreted by Judge Cook, discuss the issues raised in the context of the record and provide staff with direction to develop a written decision consistent with the Council's discussion for possible action at the October 10, 2012 meeting. You did that and attached are those findings for your consideration tonight.

DISCUSSION:

Is the proposed marijuana gardening "low intensity agriculture"?

The hearing examiner found in his reconsideration (Finding 4, P205-206) that, "...indoor cultivation of plants does fall within the low-intensity agriculture use category."

The examiner's finding references SWMC 17.04.030 and the definition reads as follows: "'Low-intensity agriculture' means the production, raising or keeping of any form of crops, ornamental plants or animals; provided, that any animal, excluding household pets such as dogs and cats, such as horses, cattle, hogs, pigs, goats, sheep, bovine animals, chickens, fowl or any other animals, poultry or fowl, shall not be raised, kept or maintained on a lot or ownership of less than forty thousand square feet, except as permitted under Chapter 6.20."

There is no definition of "high intensity agriculture" or "medium intensity agriculture" in the code. The question of whether indoor hydroponic marijuana gardening in individual rented storage units or group rental lockers falls within the definition of "low-intensity agriculture" is a legal conclusion for the Council to consider on appeal.

Is the proposed use an asset to the community?

The hearing examiner found that the proposal is compatible with the surrounding area, has no unreasonable adverse impacts and is well planned (Findings 5 & 6, P206-207). In Finding 5, the

examiner found, “that the other potential impacts identified by staff can be adequately mitigated, and that the primary issue came down to traffic.”

In Finding 6, the examiner accepted the applicant’s statements in his reconsideration that he was substantially compliant with the requirements with the prior CUP 2569. He further found that any remaining issues could be adequately mitigated. In his original decision, (Finding 8.C., P173), the examiner found, “In that there is much of that still not in place it is difficult to find that the facility is currently an asset to the community.”

In his appeal, Mr. Shewmaker raised this issue of impacts including, “burglaries associated with the cash and marijuana maintained on the site, or an increase of other illegal activities, such as drug use, within the vicinity of any and all marijuana grow operations.” (Record at P216). In his appeal, Rev. Coursen states, “We already have a large marijuana concern in our city. In fact, our church borders property that regularly spills over into our parking lot with illegal marijuana activity.” (Record at P229).

The record contains many statements regarding the proposed use that address the issue of whether the proposed use is an asset to the community. For example:

Chief Wood (P153) states that the “bigger amounts... may be problematic for us”, talking about the security risks of the larger collective grow rooms versus the smaller, individual grow cabinets.

Mr. Schumaker (P154) addresses security concerns and related issues of drug use and violence. “Is Mr. Swett going to guarantee 24 hour armed guard against these gangs? Is he going to provide cameras? Is he going to provide entry/exit laws[,] is he going to provide extra lighting or security fencing?” He asks several times, who is going to pay for the extra costs of this proposal, will it be the community or the applicant?

Mr. Thornton (P155) talks about the risks of home invasions and the need to protect children from marijuana in homes.

Ms. Wellborn (P157) expressed concern about the impacts of marijuana use on neighbors, “There was a pot drug party a half mile from our home that led to thievery and fear for senior women in our neighborhood several months ago. This resulted in stolen property from many neighbors, a stolen vehicle that was driven into a tree...”

Mr. Castilleja (P159) stated the he and his wife live and operate a licensed daycare facility less than 100 feet from the proposal and that “...the parents that bring their child to our day care are talking about leaving because they don’t want their children near this.”

None of this information would appear to support a finding that the proposal would be an asset to the community. There are additional statements in the record that allowing a safe place for medical marijuana users to grow would be a benefit (P155-156, 161-162 for example). The examiner did not appear to reference specific details of the record in making his findings on this issue; he appears to have focused on the exterior of the building rather than the concerns raised about the new use.

RECOMMENDATION: *After discussion and any modification requested by the Council, MOTION to adopt the attached findings, conclusions and order in the remand of the appeals of CUP 1-11.*

**CITY OF SEDRO-WOOLLEY CITY COUNCIL
STATE OF WASHINGTON**

In the Matter of: Appeals of Hearing
Examiner Decision for Conditional Use
Permit Application – Tom Swett –
File No. CUP-1-11

FINDINGS OF FACT
CONCLUSIONS AND ORDER
CUP-1-11

This matter having come before the City of Sedro-Woolley City Council for a closed-record public hearing on September 26, 2012 under a remand order from the Skagit County Superior Court to re-hear appeals of the Hearing Examiner’s decision to approve a conditional use permit (CUP) application. The appeals were filed with the City of Sedro-Woolley Planning Department by appellants Karl Shewmaker and Richard Coursen. The appellants have appealed the Hearing Examiner’s decision to approve Conditional Use Permit CUP-1-11, an application to allow a portion of an existing storage building to be converted from traditional self-storage units to 90 hydroponic marijuana growing units. Metal cabinets and rooms would be used by individuals for growing medical marijuana inside an existing building. A second building on site containing eleven self-storage units will continue to be used for its previous self-storage use. The property is located at 1230 State Street, Sedro-Woolley; Skagit County parcel no. P77224.

City Council reviewed the files and records, held a closed-record hearing in accordance with Chapter 2.90 SWMC, now therefore; the City Council hereby enters the following:

FINDINGS OF FACT

A. Procedural Background:

1. The Comprehensive Plan and Zoning designation for this property is Residential 5 (R-5), single family residential zone.
2. On July 12, 2011, the applicant Tom Swett of A-1 Storage submitted a Conditional Use Permit (CUP) application to modify the existing CUP for the property.
3. Two prior CUPs have been issued for the property; one in 2002 (CUP-1-02, AKA CUP #172) and a second CUP in 2005 (CUP #2569). As a result of those CUPs, the property is allowed to operate as a self-storage facility with as many as 130 individual storage units.
4. The conditions of approval for the CUP as modified in 2005 by CUP #2569 are as follows:
 - Since the site is in a residential area, operating hours shall be limited to 7 a.m. to 8 p.m.;
 - Completion of drainage-facilities as per plan approved by city engineer;
 - All lighting to be directed downward and away from neighboring properties. No light pole to be installed at eastern end of site;
 - Signs, whether on site or off-site, are limited to a combined total of 20 square feet;
 - Applicant shall comply with all conditions of the MDNS:
 - a. Evaluate and clean up any soil or water contaminants to city standards before building permits are issued.
 - b. Provide a drainage plan and report prepared in compliance with the 1992 Department

of Ecology Stormwater Management Manual for Puget Sound.

- Applicant shall install slats in the fence to screen the facility from the neighbor's property to minimize visual impacts;
 - Applicant shall plant landscaping on the south side of the property as required and instructed by the Planning Department;
 - Access road standards to be approved by City Engineer; and
 - A stormwater management plan must be completed using the 1992 Stormwater Manual standards.
5. At the time the staff report for the December 2, 2011 hearing was prepared, the above hours of operation were still in effect; the drainage facility had been approved; neighbors have continued to complain about site lighting; the facility had adhered to the signage requirements; the soil clean-up has been completed; access road standards have been satisfied; slats had not been installed in the perimeter fence, and landscaping had not been installed on the south perimeter.
 6. The operator of A-1 Storage is applying for a CUP because the use of the property was found by the Planning Department to be different than the allowed use on the property under CUP #172 and CUP #2569.
 7. The use that is now occurring on the property is as follows: the storage units in the northern building have been converted into smaller units (lockers) equipped with hydroponic equipment for growing marijuana. It is unclear how many hydroponic units exist, and the existing hydroponic units have been installed without Planning Department approval. The installation of hydroponic units is not in compliance with the previously issued Conditional Use Permits. Each locker/room is rented by an individual; the property owner has no affiliation with any marijuana or other crops grown in each of the lockers. The operator of A-1 Storage rents out individual lockers similarly to the way self-storage units are rented to an individual. A-1 Storage rents the mechanical equipment within each locker as well as technical advice on cultivating cannabis. The smaller building at the southeast corner of the property is still used as personal storage units. There are 11 units in the southeastern building. Some outdoor storage of boats and RVs is also allowed, however CUP #2569 does not specify how many trailers and/or RVs may be stored outdoors.
 8. A code enforcement case was opened for the purpose of bringing the property into compliance with the approved CUPs and the underlying zoning of the property, which is Residential 5 (R-5). The property owner has an option to either cease the business of providing hydroponic gardening units (and resume the use as previously approved) or seek approval of the new use through the CUP process. The operator of the facility chose to seek a modification of the previously approved CUPs. So long as the operator was seeking approval for his proposed use (i.e., working to become compliant with the code enforcement case), he was not required by the city to cease that use, even though he was and is continuing to operate without approval from the city.
 9. The CUP application as received on July 12, 2011 was missing required materials, thus it was determined to be administratively incomplete. A letter outlining the outstanding application materials was sent to the applicant on the same day. A portion of the outstanding materials were submitted on July 18 (payment of CUP fees and the Affidavit of Correct

Names and Addresses), but there were still outstanding items from the July 18 letter. A narrative explaining the proposal in detail was received on July 25, however the title report was still not submitted. A reminder letter was sent to the applicant on August 24. The applicant submitted a title report on September 8. According to the title report, the applicant is not the owner of the property; the owner is listed as Jean Swett. Because Mr. Tom Swett is acting as agent for the property owner, Mr. Tom Swett was required to submit a letter from the property owner acknowledging that he was authorized to act as agent for property and make modifications to the existing CUP. This requirement is on the CUP application form and without it the application is incomplete. On September 21, a letter was sent to the applicant reminding him of the requirement for written confirmation that the property owner is aware of and supports the proposed CUP application. Written confirmation was received on October 11, and notice that the applicant was determined to be administratively complete was sent to the applicant on October 24, 2011.

10. The proposed modification is for property in the R-5 zone. According to SWMC 17.12.010, use restrictions in the residential R-5 zone shall be as follows:

A. Permitted Uses.

1. One single-family residence per lot;
2. Low-intensity agriculture;
3. Home occupations in compliance with Chapter 17.68;
4. Child day care centers meeting state requirements;
5. Adult or family day care facilities meeting state requirements.

B. Conditional Uses.

1. Planned residential developments;
2. Group homes;
3. Dependent relative cottages;
4. Mobile and manufactured home parks in compliance with Chapter 17.48;
5. Personal services;
6. Professional offices with no outside storage;
7. Outdoor recreation facilities;
8. Public utilities, excluding wireless communication facilities;
9. Quasi-public uses;
10. Public uses.

C. Prohibited Uses. All uses not listed above, including adult entertainment and wireless communication facilities.

11. Title 2 and Title 17 SWMC apply to this project.

12. SWMC section 2.90.050 regulates the procedures for the required public hearing.

13. On November 14, 2011 a Notice of Application and Public Hearing was mailed to property owners within 500 feet of the project area.

14. On November 16, 2011 the Notice of Application and Public Hearing was published in the Skagit Valley Herald and the applicant posted the notice at the entrance of the property.

15. The Notice of Application and Public Hearing also gave notice of a public comment period during which written public comments can be submitted. The comment period was open from November 16, 2011 until December 2 at 10:00 AM. Further comments were heard at the Hearing Examiner hearing held at 10:00 AM on December 2, 2011.

16. A conditional use permit application is subject to the review criteria of SWMC 17.56.060. The criteria upon which a conditional use permit application is judged shall be the extent to which it:
 - A. *Conforms to the Comprehensive Plan;*
 - B. *Is compatible with the surrounding area, that is, causes no unreasonable adverse impacts; and*
 - C. *Is well planned in all respects so as to be an asset to the community.*
17. The CUP application form instructs the applicant to explain how the proposal addresses the three above questions. A Narrative submitted by the applicant on July 25, 2011 explains the proposal, but does not specifically address the three questions in SWMC 17.56.060. A second narrative was submitted November 18, 2011. The second narrative further explains the merits of the proposal, but does not specifically address the three questions.
18. A Transmittal & Report Memorandum (Staff Report) was prepared ahead of the December 2, 2011 hearing. The applicant submitted further information including a “Supplemental Clarification Memo” and revised answers to the questions on page 2 of the CUP application form on November 30, 2011 as a response to the Staff Report. The applicant’s November 30 submittal effectively modified the applicant’s proposal. The November 30 submittal was addressed in a Memo to the Hearing Examiner dated December 2, 2011.
19. The Staff Report and the Memo to the Hearing Examiner includes staff’s analysis of the proposal in relation to the City’s Comprehensive Plan and municipal code. The Staff Report includes a recommendation to deny the application. In addition, staff found that there is insufficient information provided by the applicant to determine that the proposed project has been thoughtfully planned.
20. The scheduled public hearing was held on December 2, 2011. Two written comments opposing the CUP application were received.
21. Twelve members of the public spoke during the public comment period of the Hearing Examiner. Eleven spoke in opposition of the CUP application. One spoke in support of the CUP application.
22. After considering the application materials, public comments, and City Comprehensive Plan, the Hearing Examiner denied the CUP application – file# CUP-1-11.
23. Notice of Decision was sent to the parties of record and published in the Skagit Valley Herald on December 23, 2011.
24. SWMC 2.90.080(G)4 allows for a reconsideration of the Hearing Examiner’s decision: “Any interested person who believes that the decision of the examiner is based on an erroneous procedure, errors of law or fact, error in judgment, or the discovery of new evidence which could not be reasonably available at the prior hearing may make a written application for review by the examiner within fourteen days after the written decision of the examiner has been rendered or within fourteen days of the publication of decision, if required. The application shall set forth the specific errors relied upon by such appellant, and the examiner may, after review of the record, take further action as the examiner deems proper. The examiner may request further information which shall be provided within ten days of the request. The examiner’s written decision on the request for consideration shall be transmitted to all parties of record within ten days of receipt of the application for reconsideration or receipt of the additional information requested, whichever is later.”

25. On December 27, 2011, in accordance with SWMC 2.90.080(G), the applicant submitted a reconsideration request for the Hearing Examiner's decision on CUP-1-11.
26. On January 4, 2012 the Hearing Examiner requested additional information from the applicant as allowed in SWMC 2.90.080(G)4.
27. The applicant submitted the requested information on January 9, 2012.
28. Upon review of the materials submitted prior to the Hearing Examiner's original decision and after reviewing the supplemental information submitted with the applicant's reconsideration request and the additional information submitted on January 9, 2012, the Hearing Examiner approved the Application with the following conditions:
 - a. All lighting shall be directed downward and away from neighboring properties;
 - b. The business hours shall be limited to 7:00AM to 8:00PM;
 - c. Signs, whether on site or off-site, are limited to a combined total of 20 square feet;
 - d. Applicant shall submit a landscaping plan that includes landscaping at the entrance to the facility and on the south side of the property. The plan must be approved by the Planning Department and the landscaping shall be installed within 3 months of CUP approval; and
 - e. The applicant shall limit the number of outdoor storage of RVs and trailers to a maximum of eight units.
29. The Hearing Examiner's decision clarified the scope of the applicant's proposal, as that scope was altered by the applicant as the application process progressed. The clarified scope is: "allowing for 40 cultivation units and 15 traditional storage units, is approved" subject to the above conditions.
30. The Notice of Reconsideration Decision was sent to the parties of record and published in the Skagit Valley Herald on January 20, 2012.
31. An appeal of the decision to the City Council is allowed in accordance with SWMC 2.90.090(D)7: "Appeal of Examiner's Decision to Council. Unless a specific section or state law providing for review of decision of the examiner requires review thereof by the superior court or other body, any interested party aggrieved by the examiner's written decision or recommendation may submit a notice of appeal to the city council, subject to subsection (C) of this section."
32. The procedure for an appeal of the Hearing Examiner's decision to the City Council is found in SWMC 2.90.090(E).
33. On January 27, 2012 an appeal of the Hearing Examiner's decision to approve CUP-1-11 was received by the Planning Department. A second appeal of the same decision was received on February 3, 2012. Those appeals were consolidated into one appeal.
34. In accordance with SWMC 2.90.090(E) a closed-record hearing was scheduled for February 22, 2012. A notice of appeal was mailed to all parties of record on January 30, 2012.
35. The Planning Department forwarded to the members of the City Council all of the pertinent documents, including the written decision, findings and conclusions contained in the Hearing Examiner's report, the notice of appeal, and additional letters submitted by the parties. The complete package of materials that the City Council reviewed is herein referred to as the "Record".
36. The closed-record hearing was held at the regularly scheduled City Council meeting February 22, 2012. No public hearing was held by the City Council. Per SWMC

- 2.90.090(E)5, no new or additional evidence or testimony shall be accepted by the City Council unless a showing is made by the party offering the evidence that the evidence could not reasonably have been available at the time of the hearing before the Hearing Examiner.
37. SWMC 2.90.090 requires the party(ies) making the appeal to identify the issues being raised and places the burden of proof on the appellant(s).
 38. At the hearing the City Council discussed the materials found in the Record to determine if the Hearing Examiner reached his reconsideration decision in error as inferred by the appellants.
 39. A motion that a substantial error in fact or law exists and that the Hearing Examiner's decision be reversed and to authorize the mayor to sign findings of fact consistent with the Council's action was passed five (5) in favor to two (2) opposed.
 40. A Notice of City Council Decision was issued on March 9, 2012 in accordance with SWMC 2.90.075(F). The Notice was sent to the parties of record and published in the Skagit Valley Herald on the same day.
 41. The Notice contained the procedure for appealing City Council decisions to the Superior Court as specified in SWMC 2.90.090(F).
 42. The applicant filed a timely appeal of the City Council decision to the Superior Court on March 29, 2012.
 43. Skagit County Superior Court Judge Susan K. Cook presided over oral arguments from representatives of the applicant (Swett) and the city on August 13, 2013.
 44. Judge Cook issued an opinion dated August 13, 2012 that Council deprived the applicant due process by considering issues that were not raised in the appeal paperwork and shifting the burden of proof from the appellants to the applicant. Judge Cook remanded the case to the City Council for further proceedings consistent with her August 13 opinion.
 45. A closed-record hearing in front of the City Council to re-hear the appeal of the Hearing Examiner's decision to approve CUP-1-11 was scheduled for September 26, 2012. Notice of Remand and Closed-Record Hearing was published in the Skagit Valley Herald on September 7 and mailed to all parties of record on September 10, 2012.
 46. Staff explained the background and process that the re-hearing of CUP-1-11 may follow to assure compliance with Judge Cook's decision.
 47. The applicant was given an opportunity to respond to the appeals in writing. The applicant submitted that response on September 18, 2012.

B. Remand Hearing:

48. Judge Cook's opinion identifies two issues that were raised by in the appeal documents and makes clear that the City Council may only address those two issues during the re-hearing of the appeal:
 - a. Whether the proposed marijuana gardening is "low-intensity agriculture," and;
 - b. Whether the proposed use would be an asset to the community.
49. The Planning Department reviewed the history of the application and highlighted multiple comments and concerns that the Hearing Examiner did not address when considering whether the proposed use would be an asset to the community. Specifically the Hearing Examiner appeared to have focused on the impacts the proposed use would have on the exterior of the facility, not the impacts the interior use would have on the community. The Hearing Examiner determined that because there is no substantial change to the exterior of

the building, if the new use meets the same conditions of the old CUP, then there should be no additional impact on the neighborhood. The Hearing Examiner did not appear to reference specific details in the record that address the numerous comments and concerns submitted during the open record public hearing that indicated that the proposed interior use may impact the neighborhood.

50. Comments identified in the record that the Hearing Examiner did not appear to address in his approval include: security and burglaries; drug use in area; larger amounts of marijuana in each room than originally proposed is a problem for police; shifting of possible burglaries from small locations throughout city to the site of the proposal; impacts of drug use on neighbors; loss of clients for day care business nearby; and impacts on the nearby school.
51. The Planning Department suggested that the Hearing examiner appeared to have erred by ignoring the numerous concerns raised during the public hearing. Because of this error, the Planning Department argued that the Hearing Examiner made substantial errors in fact or law in his decision to approve CUP-1-11 and recommended that the City Council reverse the Hearing Examiner's reconsideration, thereby reverting to the Hearing Examiner's December 19, 2011 decision to deny CUP-1-11.
52. Staff's recommendation provides no additional weight to the issue, it is merely a recommendation based on staff's analysis of the facts as found in the record within the scope defined within Judge Cook's opinion.
53. As directed by Judge Cook, the Council focused its review to the portions of the Record that relate to SWMC 17.56.060(c) to determine whether the proposed use well-planned in all respects so as to be an asset to the community.
54. The Council identified the following errors that the Hearing Examiner made in his determination that the proposed use will be an asset to the community. Those errors were:
 - a. Regarding the first issue raised by the appellants, whether the use is "low-intensity agriculture," Councilman Wagoner pointed out that the use is questionably defined as low-intensity agriculture. A 600 amp service does not appear to fit the definition of low-intensity.
 - b. Regarding the second issue raised by the appellants, whether the use is well-planned in all respects so as to be an asset to the community, Councilman Wagoner pointed out that in his finding that the proposal is well planned, the Hearing Examiner addressed only the impacts of the use on the exterior of the building. The Hearing Examiner does not address the impacts the interior use would have on the community.
 - c. The Examiner erred in not addressing the numerous concerns about crime and security in the neighborhood.
 - d. Councilman Wagoner pointed out that the testimony of numerous neighbors indicates that the proposed use poses a security risk. Marijuana growth is acknowledged to be subject to burglaries and the neighbors are concerned that the proposed use has the potential of attracting thieves and vandals. Councilman Wagoner pointed out that the applicant's reply to Judge Cook's opinion vividly explains that potential for crime associated with marijuana growth.
 - e. Councilman Wagoner cited the concerns of several neighbors that crime may be concentrated at the proposal site because of the large amounts of marijuana at the facility.

- f. Councilman Wagoner cited the Hearing Examiner did not address the concerns of crime in his findings.
 - g. Councilman Wagoner pointed out that many of his comments are addressed by the Planning Department's analysis.
 - h. Mayor Anderson pointed out further comments and concerns in the record that indicate that the proposal only moves crime from other locations to the project site.
 - i. Councilman Galbraith highlighted the Chief of Police's comment, on the fact that the proposal as altered allows larger rooms of marijuana (up to 10' by 11' rooms as opposed 2' by 3' lockers), the larger amounts of marijuana in each room poses additional problems for police enforcement.
55. Council discussed the above concerns that appeared to be unaddressed by the Hearing Examiner. Council did not find any evidence in the Hearing Examiner's findings that addressed the above concerns.
 56. The Hearing Examiner erred by not citing in his findings specific details of the Record that offer mitigation or address the concern about crime, security, burglaries or vandalism in any way.
 57. The Hearing Examiner erred in concluding that the proposed use is "low-intensity agriculture."
 58. Significant errors in fact and law existed in the Hearing Examiner's decision to approve CUP-1-11 and the proposed use is not an asset to the community.
 59. Council moved and voted to adopt the analysis presented by the Planning Department.
 60. The Planning Department's recommendation to reverse the decision of the Hearing Examiner is adopted.
 61. Any conclusion herein which may be deemed a finding is hereby adopted as such.

CONCLUSIONS

The City Council, having duly considered the matter and all testimony and evidence presented in the Record, makes the following conclusions:

1. The City Council reviewed only the issues raised by the appellants as identified in Judge Cook's remand as found in the Record.
2. The Hearing Examiner made substantial errors in judgment in his decision to approve CUP-1-11.
3. The overwhelming facts in the Record do not indicate that the proposed use can be an asset to the community and therefore does not meet the requirements for a Conditional Use Permit found in SWMC 17.56.060.
4. The Hearing Examiner's legal conclusion regarding "low-intensity agriculture" was in error; the proposed use is not low-intensity agriculture as defined in SWMC 17.04.030.

DECISION

The City Council finds that substantial errors in fact and law exist and therefore reverses the Hearing Examiner's decision to approve the application for a Conditional Use Permit (CUP-1-11) and authorizes the Mayor to sign these Findings of Fact, Conclusions and Order.

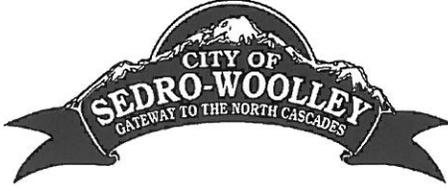
Signed this 10th day of October, 2012:

CITY OF SEDRO-WOOLLEY

Mike Anderson, Mayor

CITY COUNCIL AGENDA
REGULAR MEETING

OCT 10 2012



7:00 P.M. COUNCIL CHAMBERS Sedro-Woolley Municipal Building
AGENDA NO. 12

CITY OF SEDRO-WOOLLEY

Sedro-Woolley Municipal Building
325 Metcalf Street
Sedro-Woolley, WA 98284
Phone (360) 855-9922
Fax (360) 855-9923

Eron M. Berg
City Supervisor/City Attorney

MEMO TO: City Council
FROM: Eron Berg
RE: Business License Title Update
DATE: October 10, 2012

ISSUE: Should the Council adopt the attached ordinance clarifying the enforcement of SWMC Title 5?

BACKGROUND: Title 18 includes references to Title 5, but Title 5 does not cross reference Title 18. Our code reviser pointed out the possibility that a person might misinterpret the enforcement provisions; this ordinance is intended to clearly inform the public that violations of Title 5 are enforced under Title 18.

RECOMMENDATION: Motion to adopt the attached ordinance amending SWMC 18.05.010, 18.05.030B.1., 5.24.090 and adding a new Chapter to Title 5 addressing violations.

ORDINANCE NO. ____-12

AN ORDINANCE AMENDING SWMC 18.05.010, 18.05.030B.1., 5.24.090 AND ADDING A NEW CHAPTER TO TITLE 5 ADDRESSING VIOLATIONS

Whereas, the City Council updated and revised Title 5 last year, and

Whereas, the City Council adopted Title 18 in 2010; and

Whereas, Title 18 includes references to Chapters in Title 5, but Title 5 does not cross reference Title 18; and

Whereas, the City Council intended to include violations of Title 5 under the enforcement provisions of Title 18; and

Whereas, this ordinance makes it abundantly clear that violations of Title 5 are enforced through Title 18; and

Whereas, the Council finds that it is in the best interest of the community for its health, safety and welfare, to adopt this ordinance; now therefore,

THE CITY COUNCIL OF THE CITY OF SEDRO-WOOLLEY DO HEREBY ORDAIN AS FOLLOWS:

Section 1. SWMC 18.05.010 is amended to read as follows:

18.05.010 Name and purpose.

A. This title shall be known as “code enforcement.” The purpose of this title is to establish an efficient system to enforce Chapters ~~5.04, 5.08, 5.28, 5.48~~, 8.04 and 8.16, Titles ~~5, 13, 15, 16~~, and 17 and such uncodified ordinances as the director deems appropriate; to provide an opportunity for a prompt hearing and decision on alleged violations of ordinances and regulations adopted by the city of Sedro-Woolley; and to establish penalties for violations including abatement of any affected properties. This title declares certain acts to be civil violations and establishes nonpenal enforcement procedures and civil penalties. This title also declares certain acts to be misdemeanors.

Section 2. SWMC 18.05.030B.1. is amended to read as follows:

18.05.030 Definitions.

B. “Civil code violation” means and includes any act or omission including causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission contrary to:

1. Chapters ~~5.04, 5.08, 5.28, 5.48~~, 8.04 and 8.16, Titles ~~5, 13, 15, 16~~, and 17, and such uncodified ordinances as the director deems appropriate; and

Section 3. SWMC 5.24.090 is amended to read as follows:

5.24.090 Penalty for violations.

~~Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and subject to a fine of not to exceed one thousand dollars, or imprisonment in the city jail for not to exceed ninety days, or to both such fine and imprisonment, and In addition to enforcement under Title 18, his taxicab licenses shall be revoked for one year for a violation of the provisions of this Chapter, Section 5.24.060, and may be revoked or suspended for not to exceed ninety days for other violations hereof.~~

Section 4. A new chapter is added to Title 5 to read as follows:

5. . . . Violations—Penalties.

Any person violating or failing to comply with any of the provisions of this Title shall be subject to the enforcement provisions contained in Title 18, Code Enforcement.

Section 5. This ordinance shall be effective five (5) days after passage and publication as provided by law.

Section 6. The provisions of this ordinance are declared to be severable, and if any section, sentence, clause or phrase of this ordinance shall for any reason be held invalid or unconstitutional or if the application of this ordinance to any person or circumstances shall be held invalid or unconstitutional, such decisions shall not affect the validity of the remaining sections, sentences, clause or phrases of this ordinance.

PASSED by majority vote of the members of the Sedro-Woolley City Council this ____ day of _____, 2012, and signed in authentication of its passage this ____ day of _____, 2012.

Mike Anderson, Mayor

Attest:

Patsy Nelson, Finance Director

Approved as to form:

Eron Berg, City Attorney

First Reading by City Council: October 10, 2012
Second Reading by City Council:
Approval by City Council:
Signed by the Mayor:
Date of Publication: