

**CITY OF MCCLEARY**  
**City Council Meeting**  
**Wednesday, February 10, 2021**

**CALL TO ORDER**

Mayor Orffer called the meeting to order at 6:30 pm.

**ROLL CALL**

Wendy Collins took roll call. Councilmember's Jenna Amsbury, Brycen Huff, Jaron Heller, Chris Miller, and Joy Iversen were all present.

**STAFF PRESENT**

Wendy Collins, Clerk-Treasurer, Todd Baun, Director of Public Works, Steve Blumer, Police Chief, and Chris Coker, City Attorney were present.

**PUBLIC COMMENT**

Monique Buechel, 427 S 3<sup>rd</sup> Street, asked Chris Coker about comments from the last meeting. A community member asked him about whether the city council had a choice in the investigator. She pointed out in the recording, Mr. Coker stated it's not the role of the city council to choose an investigator. She asked him if that is something he remembers. Chris said he remembers it well and Ms. Buechel said at 8:51 in the meeting recording, he said the council approved the investigator and he added they did approve the contract. Monique said when she brought it up he said he can only make a recommendation and not choose the investigator. Chris confirmed he does not have the authority to do that. His role as the city attorney is to make a recommendation to the council and assist them. He doesn't make policy or decisions. He recommends things to the city and they ultimately make the decisions because he can't enter into a contract.

Monique commented that Chris contradicted himself in his comments when he said it's not the role of the city council to make that recommendation and she offered to play the recording for him. He told her she didn't need to do that and he is not going to get into an argument with her because is she interpreted it that way, he disagrees. He stands by his statements and will leave it at that.

She asked him to confirm that it is the city council that approves the investigator and it's not something that he did and he said yes, he can't approve the investigator, he can only recommend an investigator. He does not have the authority to approve these things and cannot enter into a contract on behalf of the city.

Monique played a portion of the tape and asked Chris if he could see why she gets confused. He asked if she is asking if the city council would individually go out and look for an investigator and she said she wants to know if the city council actually approved the specific investigator and if they had a choice. Usually, there are three bids in the company she works for and they get to choose from there. Chris responded he doesn't know where she works, but this isn't that situation. She said she thinks it's shady and things in these meetings concern her about how the city is run.

Monique Buechel brought up another question for Todd Baun. She said you guys have stated that the tower was an emergency repair because it had been leaking, but she heard from a previous employee that it had been

leaking for three years. Todd stated he doesn't know who she talked to but she can ask him, or Chief Blumer, or any public works people that worked on it and they can tell you it was leaking. She said that is why she did a public information request to try to find out if there was a work order or something showing there was leaking and the city has nothing and no work orders in the city, which is alarming to her, too. That seems pretty shady when there is no work orders for anything she has had in her public record requests. Todd said the city only does work orders for jobs that we get reimbursed for by customers. Monique does not think that is right and she said it was stated as soon as the employee brought it to the city's attention there was concern of asbestos, the city did the right thing and went to L&I and reported it and Todd responded, absolutely. She said that happened one year after the project. She said two months after the project you tested and found asbestos so why didn't you go to L&I then? Why did he have to wait for an employee to come forward and say they were concerned about their health before taking action? Todd asked her where it's stated that he did testing three months after the project. Monique said she has it in her public record request.

Todd stated he didn't test the hose tower until after the employee came forward with their concern. Monique will look for the dates and save it for the next council meeting.

Monique Buechel's last thing to discuss is regarding the mailboxes on 3<sup>rd</sup> Street. The street project has been done for how long and their mailboxes are sitting on Oak Street falling apart in a big rut full of mud. The post master said the mailboxes have to sit there because the city can't get attachments for the right boxes. Todd said he has been working with the post master and it's a matter between them, and us, to get the correct box that they want. She asked how long a project like this takes because it has to do with their personal mail. Todd will talk to the post master tomorrow and figure out what we can do to expedite it. She would greatly appreciate that.

Suzannah Winstedt, 527 W Simpson Avenue,

She asked Councilmember Huff if there has been any action for the clean-up he talked about at the first meeting and he said there hasn't but he will be reaching out and asked her to email him to work out the details.

She asked if the city could get additional trash cans to put out around the city to decrease the trash issue near the downtown area.

She asked if the new website will replace Facebook posts to communicate with the public and Todd said it will not. He said the new website will function better with Facebook and media platforms. Suzannah asked if it will have a calendar or messaging system to send notifications out to people who sign up and Todd said the new website will have all of that and you can sign up for notifications. She asked if it will make it easier for people to update and a push will go out to notify people of things happening in the city and Todd said once it gets further down the process he will know how it works. We did sign up for a module that allows people to sign up for notifications.

Suzannah Winstedt commented on her desire to have public comments at the end of the council meetings, not just the beginning. After researching other city agendas, she found it is common to have two public comment times. She would like to see a much more detailed agenda outlining what is going to happen. Or follow Mr. Vessey's suggestion from the last meeting and just interject on relevant portions of the discussion.

Mayor Orffer said the city is working on a policy for council meetings and one facet of that policy is public comment on actual items. Public comment is designed for council to hear concerns and feedback, particularly with things that are actionable and to help the council understand where the community is at on different issues. We have to balance public comment with the overall meeting agenda and we are trying to incorporate the public comment while a subject is being discussed.

She added, for our next February meeting, we can add an additional public comment agenda item toward the bottom of the agenda, as well as at the top. We have to give respect to council's time, as well.

Monique Buechell wanted to ask the council specifically if they approved the investigator that was chosen. Mayor Orffer said we have the motion and the adoption of that in the minutes from that meeting and she confirmed the council approved the recommendation that came from the mayor. That is common practice, it is not common practice for the council to pick things. Monique asked who was speaking to her because it was hard to hear and Mayor Orffer announced herself. Monique said this is a question for the council. She never hears the council talk Mayor Orffer said they all responded yes to her question and she was allowing them to follow up with an explanation.

Mayor Orffer asked Councilmember Iversen if she approved the investigator recommended to the council and she responded, yes she did approve it. She did not go out and look for an investigator herself because she does not have the area of expertise so she relied on someone that does.

Mayor Orffer asked Councilmember Miller if he approved the investigator recommended to the council and he responded, yes, just like Councilmember Iversen. He added it was not at the last meeting, it was two meetings ago.

Mayor Orffer asked Councilmember Amsbury if she approved the investigator recommended to the council and she responded, yes, she would agree and that we could have had more choices but the choice in front of us is what was recommended and we did approve it.

Mayor Orffer asked Councilmember Heller if he approved the investigator recommended to the council and he responded, that is correct.

Mayor Orffer asked Councilmember Huff if he approved the investigator recommended to the council and he responded, yes I did.

Mayor Orffer said the council was given the opportunity to review the investigator and if anyone of them did not approve, they had the opportunity to say at that time if they wanted more information or other options. That is common practice and is what she is trying to explain to Monique. The attorney's do the work and the council approves or disproves.

Bob Dahl, 618 W. Ash Street, does not like Webex for the council meetings because it is very user unfriendly. He said it is very difficult at his end to track and hear. If there is another platform available other than Webex it would be better because he does not like it. Mayor Orffer uses many other platforms and isn't sure any are better than another but we can look at other options. Someone asked if the meetings could be held at the

school and Mayor Orffer said no. Bob Dahl said Zoom is a much bigger platform and if there are other options, he asked for the city to look into them.

Suzanna Winstedt asked if the council could identify themselves when they speak for the listeners because they can't tell who is talking.

Max Ross, W. Ash Street, has a natural resources background and is a soil scientist with a masters in soil land resources and has worked for a federal and natural resources agency for the last six years. He is speaking as an individual and not in any official capacity. It has come to his attention that there has been some issues with aquifer management practices that have gone on near our wellheads within our critical aquifer recharge area. He wanted to give a brief background in soils and geology in the area and talk about some of the code related issues that are associated with the asphalt that is buried at some of our wellheads. All the soils around McCleary derive from glacial outwash and are sandy and gravelly. Our climate allows for productive forest land but all other regards our soils rate pretty low in a lot of soil health and other metrics, one of which is a particular concern and relevance is our soil has a really low cation exchange capacity, which basically means it has a very low ability to retain soil nutrients and contaminates as they move vertically through the soil profile. Clay and organic matter can add to it but our soil is mostly standing gravel so those materials aren't there. Soil nutrients and environmental contaminates leach through the soil pretty easily. The Wildcat Creek Aquifer is the sole aquifer source for the city and is designated by the Environmental Protection Agency under the authority of the clean drinking water act of 1974. The boundaries of the aquifer encompasses entire city and the average depth of water is about twenty feet below the ground surface.

It has come to his attention that asphalt waste material from the 3<sup>rd</sup> Street resurfacing was buried at a site where our city wellheads are. In 2019 Thurston County was considering using reclaimed asphalt as fill material but they were concerned about possible environmental and ground water affects so they hired a consulting firm, Herrera Consultants, to conduct a study evaluating the potential hazards of using asphalt as fill material. Herrera referenced eight peer review studies that were done where they took claimed asphalt and put them into cylindrical columns. They ran water through the columns and collect the water that comes out after its ran through and over the asphalt and then analyze that water for a huge suite of metals and other toxins. Seven of the eight studies yielded heavy metals and other environmental contaminates that heeded what the Washington State groundwater standards are.

The fact that there is asphalt buried just below the surface maybe fifteen to twenty feet above where the groundwater is where our wells are at is a concern to him. That is from the principal and environmental standpoint. When you start looking into the codes and if these accusations are true, the city can be in a bit of trouble. The Grays Harbor Critical Areas Ordinance establishes critical aquifer recharge areas that are protected areas and clearly defines the entire boundary of the Wildcat Creek Aquifer as a critical aquifer recharge area and under that it lists series of land use and management practices that are prohibited, the first of which specifically states no solid waste landfills. The definition of a landfill is a place to dispose of refuse and other waste material by burring it and covering it with soil. If you excavate an area and put waste asphalt from a construction project and bury it with soil, you create a landfill.

If the city did this, or a third party contractor did it, to him it really doesn't matter because it is on city property so the city is responsible under the interlocal agreement to manage the aquifer. He knows an independent investigation was launched and he doesn't know what the result of that is or what the city plans to do, but he

has worked in the industry long enough to know what the outcome of situations like this are. If left alone, and regulatory agencies get involved, it can be a very costly and lengthy process. The Grays Harbor County Commission on Environmental Health enforces the critical areas ordinance under the authority of the State Department of Ecology. If they get the results of this independent investigation or if they get word of what's going on here and they come out to investigate and find that essentially a landfill was created in the critical area recharge area, the mitigation cost and decades of monitoring so there's no contaminants in the soil or in the ground water can run six figures or more. On top of that, our aquifer is basically a giant underground river that flows northeast to southwest and other cities use that aquifer as a source of water and the aquifer gets contaminated or is a subject of a regulatory review the City of McCleary will be liable for other cities monitoring and reclamation cost.

He doesn't know what degree the asphalt is buried there or who put it there but as someone who lives here for three-years now, he doesn't want to live in a bankrupt city or live in a Flint 2.0 either. He wants to know what is going on and he wants to offer his time to help sort things out. He works in the industry and is speaking as a citizen of this community and not in an official capacity.

Mayor Orffer thanked him for sharing his perspective and expertise in this area. The city did launch an investigation into this situation after several allegations were lodged with multiple state agencies and the county. Our attorney can provide more information on the status of that investigation. She can tell him the Department of Transportation, the Department of Labor and Industries, ORCAA, the Grays Harbor County Department of Health have all been out to the well site to look at it, to inspect it and investigate. As of this time, we have not had any findings, citations, or indication of wrong doing out there. She continued, we have hired an investigator that was approved by Council and she believes we will have the results from that very soon. She has not seen his report yet. Our attorney will give us an update on that.

Max Ross said this was something that was brought to his attention and because he works in the industry, he knows how these things can cascade. He doesn't know what the independent investigation is and he wasn't aware that regulatory agencies sent people out to the site, either. He added, if that is all true, the county environmental health commission has come out and taken a look and haven't found any wrongdoing that's good, at least from the liability standpoint for the city.

He wants clean drinking water and he doesn't also want to live in a city that is bankrupted by a half a million dollar series of fines and mitigation and recommission costs.

Mayor Orffer invited Max Ross to connect with Todd Baun, Director of Public Works. We have no issue if you want to go out there and take a look around, Todd can accompany you, and your welcome to look around and we are happy to show you what we do have so far from these various agencies.

Max Ross said he will follow up with an email and Mayor Orffer reiterated that Todd Baun can provide information on what we have so far, and our attorney can provide information later on in the agenda. We plan to give council and the community a full report once we have all of the information back from our independent investigator, as well as from these various agencies. Mr. Ross will follow up with an email so he won't take up any more public time and will yield the floor.

Gina Scott

Gina asked about any potential testing of the water. Has there been any testing done since the asphalt was placed in those areas? She wants to follow this along to make sure our water stays clean.

Mayor Orffer can share with her that our water and wastewater treatment plant manager, Kevin Trewhella, provided in his report this month that they continue to test our water, three times per month and is done year-round. We have never had a positive test result for fecal coliform, which is what the test for. They do other testing as well, so he has other information in his report. We also have the 2020 Consumer Confidence Report that came out and copies of that are also available. Our water and wastewater treatment plant has received outstanding recognition from the Department of Health for the past five years, at least, for maintaining excellent operations and water testing and not having any issues with our water. The Consumer Confidence Report is available at city hall and Todd added it is on the website every year and gets mailed out to every customer we have every year.

#### Max Ross

Max Ross added the types of contaminants that come out of reclaimed and recycled asphalt, based on where they are buried, or allegedly buried, it will take about 2 to 5 years to actually make it down into the depths the wells are pulling from. The specs will be seen in a couple of years from now and won't be immediate because nature doesn't work overnight. If the asphalt is there, the contaminants that come out of asphalt, which are heavy metals like cadmium, mercury, lead, molybdenum, and things like that, it takes time for them to work their way down through the soil profile and through the gravel to where our wells are, about 75 feet.

So, if the asphalt is there, it can be dug up and removed and natural soil can be put in place and it would be like it never happened in terms of water quality. It's why he is bringing it up now because if it is there, it is much easier to fix it before the effects are seen as opposed to try to mitigate after the effects are seen.

#### **CONSENT AGENDA**

- Minutes from the January 27, 2021 council meeting.
- Approval of accounts payable vouchers Vouchers/Checks approved were 48809 - 48855, including EFT's, in the amount of \$47,922.26.
- Approval of payroll checks approved were 48728 – 48808, including EFT's, in the amount of \$235,621.08.
- Treasurer's Report for January 2021.

**It was moved by Councilmember Iversen, seconded by Councilmember Miller to approve the Consent Agenda. Motion Carried 5-0.**

#### **STAFF REPORTS**

Light & Power, Finance, WWTP, PW, Building, Police, and WWTP submitted written staff reports. Councilmember Iversen asked about the last time there was a planned outage, she heard from the Rainbow Park Apartments because the residents do not receive utility bills and did not hear about the outage. She wanted to know if it is possible to hang flyers around town so the residents know when an outage is happening because some of them are on oxygen. Notices could be hung at the grocery store and laundromat and places for people who don't get utility bills can know there is an outage scheduled. Todd Baun stated when we have a planned outage, we also let Laura, the manager, know. We assume she notifies Evergreen Apartments and Rainbow Park

Apartments. Councilmember Iversen said that didn't happen last time, which is why she was asking. She knows of two or three people whose oxygen went off in the night and it affected them.

Mayor Orffer said we let the property manager know and our thinking is they notify their clients. We put stuff on Facebook, the website, and we get information out there. Todd added that we contact all the businesses owners. Councilmember Miller said the new website will be helpful to send out information, but the hard part is getting people to sign up.

Mayor Orffer said we can try to communicate to Rainbow Park Manager and ask to please notify your residents.

Councilmember Miller asked with the potential snowfall, how long does it take to plow the side streets and Todd Baun responded we have a snow policy that is also located on the website that states we have a priority one route that is the main route that we plow and there is a priority two route, which plows around businesses and gets side streets opened. We have a truck with a snowplow on it and sand to keep priority routes opened.

Councilmember Iversen asked if both phase one and phase two improvements at the wastewater treatment plant are scheduled for this year and Todd confirmed it is. Councilmember Amsbury asked if that included all of the professional services costs that go along with it, or was this whole budget for both phases and Todd responded there is \$25,000 for professional services, but the whole budget is for \$125,000 for this year.

#### **LEGAL UPDATE**

Chris Coker expects the investigation to be done within the next couple of days. When it's completed, he expects the investigator to provide the materials he puts together to the city and the city will disburse that investigative document as it sees fit.

At the last meeting there was discussion regarding the nuisance properties and one was cleaned up and went back to problem status. He spoke to Chief Blumer today and he is going to ask authority from council to proceed further with that case by filing a motion for summary of judgement in Superior Court and trying to obtain an order of abatement, which will then give the city the authority to go in and abate the nuisance.

He added, there was another property that came up last week that had two infractions filed where the property owner attempted to mitigate one and didn't show up and it was found committed and the second infraction also found committed. Those were civil infractions and the next step in our policy would be a criminal citation. He tried to reach out to the homeowner because he understands the property may be vacant and the owner lives in Montesano so Chris will try to continue to contact him and try to put some pressure on him that way.

With these nuisance properties, he needs authority to move forward. Mayor Orffer confirmed the first property he spoke of is on 5<sup>th</sup> Street and Todd clarified the property is actually on 221 S Main Street. The Watts property on 5<sup>th</sup> Street also has two infractions and both have been found committed. Todd added they are also working on the 503 S 3<sup>rd</sup> Street home. A ticket has been issued and it's in the court system and Chris confirmed that is the owner that lives in Montesano.

Councilmember Amsbury asked Chris Coker if the council will receive a copy of the investigation when it's complete or will they review it at a meeting and Chris said he assumes it will be disbursed as soon as it's

completed. She didn't know if we had to wait until the next meeting and he stated he is going to recommend we just disburse it. It will be a public record so it won't be an issue.

**It was moved by Councilmember Huff, seconded by Councilmember Iversen to authorize moving forward on legal action regarding the nuisance property at 221 S Main Street. Motion carried 5-0.**

#### **TSI AGREEMENT**

Todd provided an agreement for council to review for approval at the next meeting.

#### **WSRN AGREEMENT**

The Washington State Reference Network (WSRN) is a network that provides a survey grade for our handheld meter readers we just bought last year and its part of mapping of our whole system. With this agreement, we can use their infrastructure to get more accurate on our mapping. It brings us from 20 inches to within ½ inch of an item. It will identify where everything is underground. Our power grid, utilities, water lines, street signs, and sewer lines, and anything you can imagine we are going to map out. We pay yearly for the software and it goes to the Cloud and we will pay for the license.

Councilmember Amsbury asked how many licenses we are buying and Todd said only one.

Councilmember Huff asked if there is any way to move the microphone because it's hard for those online to hear all of the council and Todd said no, it is stretched as far as it goes. Councilmember Amsbury confirmed it is really hard to hear and we need more microphones and Councilmember Heller seconded that by stating it is really hard to hear.

Mayor Orffer said we will try to have increased audio for the next meeting.

**It was moved by Councilmember Amsbury, seconded by Councilmember Heller to authorize the WSRN Agreement. Motion carried 5-0.**

#### **WATER TESTING REPORT**

Todd provided a list of our water testing that is required by the Department of Health. It's from 2013 when we had our new wells online and have not had any violations on our testing. Councilmember Amsbury asked if there are any tests done for the heavy metals, or that type of contaminates, because she only saw coliform and Todd said yes, the coliform is tested three times per month and the other contaminate testing he is almost positive is for heavy metals and we also test for radium.

#### **CITY OF MCCLEARY COMMITTEES**

Mayor Orffer reviewed the list with the Council and stated there are two vacancies on the Civil Service Commission.

For the Public Relations and Communications Committee, Councilmember Amsbury stepped down and Councilmember Miller stepped in.



Clarification was made to the Public Works Committee by updating the name to the Public Works/Safety Committee and also updated the Review Ordinance and Code Committee to the Review Ordinance and Code Policy Committee.

The Transportation Committee with Councilmember's Iversen and Huff was active during the truck permitting process, but is not currently active.

The 2021 McCleary committees/commission members are:

Finance Committee: Councilmember Iversen and Amsbury

Public Relations and Communications Committee: Councilmember Huff and Miller

Review Ordinance and Code Policy Committee: Councilmember Iversen and Amsbury

Public Works/Safety Committee: Councilmember Huff, Heller and the McCleary Civic Renewal Council

Civil Service Commission: Chris Vessey, Vacancy #1, and Vacancy #2

Mayor Orffer wants to get the Public Relations and Communications Committee going to get a newsletter started. We have four or five people from our community that are interested. She wants to connect with the committee members.

Councilmember Huff asked if we were going to start up the Planning Commission and Mayor Orffer said it will be added to the next meeting agenda to discuss. Councilmember Miller is concerned if we can fill those positions since we haven't been able to fill the civil service vacancies. Mayor Orffer said we had to extend our deadline because we had zero applicants.

### **COUNCILMEMBER UPDATES**

Councilmember Iversen encouraged the councilmembers to get their certificate from AWC. It doesn't cost anything and she did all of it online since covid hit. Some of the questions that have come up in this meeting would have been known because of what all you learn. She wants to challenge the whole council to get their CML and she is going to work on the advanced CML. She wants the council to make that a priority and work at your own pace. Councilmember Amsbury said she is working on hers and only has a few credits left.

Councilmember Huff said there are people struggling with Webex and the poor audio quality. He uses Teams and it works well. He knows people have used Zoom and like it. Councilmember Iversen said more people use Zoom and Councilmember Miller said he uses Zoom over thirty hours per week. Mayor Orffer doesn't think the city has a Zoom account set up but we can experiment with it before paying for it. Teams is limited to those that have 365. We will explore options and also get more microphones. Councilmember Iversen suggested wireless microphones so they can set on the tables.

Councilmember Miller said the McCleary Renewal Council's next meeting is next week and he can add the cleanup item from Councilmember Huff to the agenda.

Councilmember Miller said at last week's VFW meeting they were working on a community service project and they want to coordinate with the city annual cleanup as part of their project.

Councilmember Miller attends the school board meetings and he gets irritated when you have questions at the end of the meeting and they are done and leave and you have to wait until the next meeting to ask your questions. He likes interactive agenda items where they can be discussed at the time.

Councilmember Miller saw a recent hacking issue with public water and he wants to ask about our safety for our drinking water. Todd said we have a firewall to protect our drinking water.

Councilmember Amsbury would like to see the draft staff is working on for the council meetings. One of the things she looks for a council is looking at policies, since that is one of the council's roles is to set policy. She wants to make sure that we do have that discussion so that we can discuss what we want to see in it. Mayor Orffer said we are working on a draft policy and it was presented to Chris Coker and it will then go to the policy committee for review first and go to council after the review process. The idea is to create policy so the meetings can function as a business meeting and not get off track and keep the discussion focused on the topic and we want everyone to be heard. We have to respect council's time, the process, the order, the agenda and what council and staff are worth.

### **MAYOR'S COVID-19 UPDATE**

The city continues to operate in an emergency operations. At this time, Grays Harbor County is focusing on vaccinations. She said vaccines don't cure us, vaccinations do, and it's important for the population to understand that. It takes time to get vaccinations into people's arms and just having a vaccine isn't going to do it, it's the people getting vaccinated that will help us toward our goals. It's important to understand it takes time to get that rolled out.

We continue to account for the covid expenses. We continue to respond to covid-19 and reviewed our covid-19 plan.

### **MAYOR'S UPDATE**

The city is preparing for snow in our area. We have staff coverage and the necessary equipment to take care of snow removal and we will be following our snow policy. We are not cutting off utility services due to covid-19 requirements so everybody will have heat.

Mayor Orffer and Todd Baun recently met with the representatives from Simpson Door and they were very complimentary to our Light & Power crew during the last power outage. They were also very complimentary to our police department when the police have been called. They were treated with respect and had quick response.

There is a new sub shop, Scout Subs, and a new game shop in town next to the sub shop. She is very glad to see economic movement in the city and encouraged people to support our local businesses.

Todd shared that several members of the fire department were vaccinated recently so they are trying to do their part.

### **ADJOURNMENT**

**It was moved by Councilmember Huff, seconded by Councilmember Iversen to adjourn the meeting at 7:57 pm. The next City Council meeting will be held at 6:30 pm on February 24, 2021.**