

## **CALL TO ORDER**

Mayor Paul Helenberg called the September 13, 2010 regular meeting of the Castle Rock City Council to order at 7:32 p.m., followed by the Pledge of Allegiance.

## **ROLL CALL**

The following councilmembers were present: Ray Teter, Glenn Pingree, Earl Queen, Jack Reilly and Mike Mask.

## **DEPARTMENT REPORTS**

Clerk-Treasurer	Covington reports that 32% of the property owners in the West Side Annexation area have signed the Petition to Annex. Annexation committee members will continue to contact those interested in signing the petition. The contract for the computer system upgrade has been signed. The new software is projected to be installed by the end of the year. Covington distributed the Washington State Auditor's Office Exit Conference Report. There were no findings or recommendations reported. Covington thanked staff, including the public works department and city engineer for a job well done.
Librarian	No report
Exhibit Hall/Visitor Info. Center Manager	Director Karen Johnson reports that she attended a grant workshop provided by the WSU Extension last week. Cowlitz County Tourism grant opportunities of \$2500 for new events has been tabled due to a lack of funds. A sale to benefit the Exhibit Hall will be held at the Rose Tree Restaurant on October 16 <sup>th</sup> .

## **COUNCIL AND AD HOC COMMITTEE REPORTS**

Mayor Paul Helenberg	Attended a staff meeting with department heads and the Chamber of Commerce this morning. Hiring of a coordinator for implementation of the Strategic Marketing Plan was discussed.
Councilmember Earl Queen	Attended the first 911 meeting held this year.

## **CONSENT AGENDA**

a. Approval of Minutes – August 23, 2010 Regular Council Meeting

Councilmember Reilly made a motion, seconded by Mask to approve the minutes of the August 23, 2010 Regular Council Meeting. By roll call vote, unanimous Aye.

b. Approval to pay August invoices in the amount of \$439,665.06 as described on the Summary of Claims as check numbers 40240 through 40350 for general expenditures and check numbers 21376 through 21422 for payroll expenditures and adjustment number 108.

Councilmember Mask made a motion, seconded by Teter to approve payment of August 2010 invoices in the amount of \$439,665.06, as described in the Summary of Claims. By roll call vote, unanimous 'Aye'.

## **REGULAR AGENDA**

### **OLD BUSINESS -**

a. Resolution No. 2010-10, a resolution opposing the WRIA 25/26 Watershed Management Plan and the rules to implement the plan, on second reading.

Councilmember Pingree made a motion, seconded Queen to approve Resolution 2010-10, on second reading. By roll call vote, unanimous Aye.

b. Revised Metropolitan Park District (MPD) proposal concept.

As requested by Councilmember Mask, Public Works Director David Vorse provided a revised "Draft" concept for the formation of a MPD. At this time, Castle Rock and Cowlitz County are the only entities interested in the formation of a MPD to establish sustainable operation and maintenance funding for recreational facilities. Many facilities and organizations are dependant upon volunteers and fundraisers to meet basic expenses. In addition, Castle Rock Library is dependant upon supermajority passage of an annual excess levy. An inventory of operating expenses for organizations and facilities that are interested in participating would be needed.

The area currently under consideration for a North County Regional Park District includes Riverside Park in Lexington, extending north to the county line. This proposal would provide recreational services at little or no cost to north county residents. These services could be provided through a property or sales tax.

In response to a question from Councilmember Teter, Vorse verified that this funding would eliminate the annual excess levy for operation of the library. Costs would be distributed amongst a larger pool of citizens. Following an inventory of facilities and expenses, a corresponding percentage of revenue would be designated for each specific facility. Some non-profit organizations could be invited to participate. Ownership and management of the facilities would remain the same. The goal of MPD discussions is to establish sustainable funding for recreational facilities, however, a time limit would be needed to complete evaluation of the impact. Expenses could increase for some facilities due to a larger population served.

c. FEMA letter regarding levee certification status and proposed amended contract with Cornforth Consultants related to FEMA certification of the Castle Rock levee. Proposed contract estimated at not-to-exceed amount of \$20,500, including approximately \$9,000 for the subcontract survey work.

Vorse reviewed the August 13, 2010 letter from David M. Ratté, Regional Flood Engineer, Mitigation Division, FEMA, regarding levee certification data and document review. Vorse summarized that Mr. Ratté indicated that levee certification requirements were not met. This letter provided a 30 day period for the city to meet additional certification requirements, before

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FEMA begins initiating a new flood study to revise the Digital Flood Insurance Rate Map (DFIRM). FEMA secured the services of the Army Corps of Engineers (USACE), Portland

District, to provide a review of the submitted material in accordance with a draft version of FEMA's "Guidance for Reviewing Levee Accreditation Submittals." However, FEMA's draft guideline has not been made available to the public. At the time of the city's September 16, 2009 document submittal to FEMA, the city was following the outline provided in 44 CFR 65.10 to the best of their understanding. Following that, additional material was requested by FEMA and submitted in February.

In response to a question from Clerk-Treasurer Ryana Covington, Vorse clarified that the Provisionally Accredited Levee (PAL) agreement allowed all diking districts within Region X up to September 19, 2009 to submit levee certification documentation before FEMA initiated a new flood study to revise the DFIRM. Levees not meeting this requirement would receive floodplain designation on the DFIRM. Region X encompasses the states of Washington, Oregon, Idaho and Alaska. The City of Castle Rock was one of only two diking districts within Region X to submit the levee compliance material by the original September 2009 deadline.

The source of the majority of information submitted in the levee compliance package was generated by the USACE. A consultant was required to obtain the documentation as the USACE was not permitted to directly assist diking districts. FEMA has now instituted new "Guidance for Reviewing Levee Accreditation Submittals." This "Guidance" has not been made public although the USACE has been retained to evaluate the compliance material based upon this "Guidance".

Vorse requests approval to submit a response letter to Mr. Ratté, and also send a copy to the twelve individuals receiving a copy of FEMA's August 13<sup>th</sup> letter to the city. This includes the offices of Senators Cantwell and Murray and Congressman Baird.

The City's letter requests the following considerations:

- 1) Extend the time to 120 days before initiating a new flood study to revise the maps.
- 2) Reconsider and allow the existing recorded plans, which are the USACE official documents and verified through West Consultants, as the "As-built" plans. The label "As-built" was not commonly used in 1980. The "As-builts" prepared by the USACE were submitted for the levee segment treated with a cement-bentonite cutoff wall in 2009. FEMA is now requesting an undated topographic survey for the segment of levee that did not receive the cutoff wall.

In response to a question from Councilmember Mask, Vorse specified that the city has expended approximately \$30,000 in an effort to meet the levee certification requirements. He noted that an additional \$20,000 would be required to meet the additional items listed in FEMA's letter to the city. City Attorney Frank Randolph clarified that federal law requires that an agency imposing regulations has an obligation to make available the criteria prior to implementation. Randolph commented that the issue of levee accreditation requirements was deliberated by the Washington State Municipal Attorneys Association last May. There is the possibility of a partnership for a legal challenge. Vorse noted that Castle Rock is one of only two entities that submitted levee accreditation material. Other entities may be contesting what they think are the regulations, however, they are not even aware of the unpublished "Guidance for Reviewing Levee Accreditation Submittals." This "guidance" is also new to the USACE. Vorse added that the checklist for Levee Accreditation Submittals was met by the city prior to the deadline. The items

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that FEMA indicates the City did meet are new requirements. Vorse recommends making every effort to meet the additional requirements.

In response to a question from Councilmember Mask, Mayor Helenberg specified that all residents protected by the levee would be required to purchase flood insurance if the DFIRM designated the City in a floodplain. In addition, the City would not be allowed to issue any new building permits. This could invariably put a stop to the Cowlitz Street West Revitalization Project. Randolph noted that the City is in a unique position by being close to meeting certification requirements. He recommends submitting the response letter and moving forward to meet requirements to minimize the need for flood insurance and the impact on development.

Resident Rick Walton believes the City should make every effort to meet requirements and he felt the city should consider challenging the rule change that was made by FEMA late in the process.

In response to a question from Mayor Helenberg, Covington estimated the end of year Stormwater Fund balance at \$46,000.

Councilmember Teter made a motion, seconded by Reilly to approve the FEMA letter regarding levee certification status and proposed amended contract with Cornforth Consultants related to FEMA certification of the Castle Rock levee. Proposed contract estimated at not-to-exceed amount of \$20,500, including approximately \$9,000 for the subcontract survey work.

Discussion: Councilmember Mask stated that he will vote for this because Castle Rock needs a 'fair shake' but voiced concern that the City could be throwing good money after bad money if FEMA decided to again revise their requirements. Councilmember Pingree cautioned that council must consider the impact that flood insurance would have on citizens.

Vote: By roll call vote, unanimous Aye.

Councilmember Teter pointed out that the August 13, 2010 letter from Mr. Ratté (FEMA) states that the material was submitted on February 8, 2010 and further down states that the PAL Agreement expired on September 19, 2009. This makes it appear that the city submitted their material after the PAL Agreement expired. However, enclosures within that same letter entitled 'Castle Rock Levee FEMA Review Comments of the Certification Data and Documentation' denotes that nine items of documentation were received prior to the deadline and the last of three additional items was received on February 8, 2010. Vorse noted that this discrepancy is addressed in the response letter to Mr. Ratté.

### **NEW BUSINESS** –

a. Approval of FEMA National Flood Insurance premium for City Hall and Library buildings.

Clerk-Treasurer Ryana Covington noted the current and increased flood insurance coverage options. In response to a question from Councilmember Teter, Covington stated that she does not have information as to why the Shop Complex, Exhibit Hall, Water Treatment Plant or Wastewater Treatment Plant are not covered by flood insurance. FEMA requires flood insurance to be eligible to receive disaster relief funds. Councilmember Teter requests that Covington research why the treatment facilities are not covered.

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Councilmember Teter pointed out that the Library premium is \$100 less than the premium for City Hall, however City Hall's coverage is for \$100,000 more.

In response to a question from Mayor Helenberg, Covington clarified that the Library premium is paid from the Library Fund not the General Fund. Premiums are due October 3<sup>rd</sup>.

Councilmember Teter tabled this item until the next Regular Council Meeting.

b. Mayor Helenberg reports that the Boat Launch Fund has received \$4,501 from user fees. Public Works Director David Vorse requests approval to thank the Department of Fish & Wildlife, USACE and the permitting agencies that came together with a timely response for the emergency repair of erosion protection on the north ramp. Mayor Helenberg agreed. Councilmember Pingree noted the positive comments received from users of the facility.

**EXECUTIVE SESSION** - To discuss litigation (20 minutes)

Mayor Helenberg adjourned regular session at 8:20 p.m. for a twenty-minute executive session to discuss litigation, with no action anticipated.

**ADJOURNMENT**

Mayor Helenberg resumed regular session at 8:36 p.m. and adjourned the meeting.

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Mayor Paul Helenberg

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Clerk-Treasurer Ryana Covington