

**CITY OF PACIFIC
CITY COUNCIL MEETING
Date: August 27, 2012
Council Chambers
City Hall, 6:30PM**

MEETING SUMMARY

1. CALL TO ORDER AND FLAG SALUTE

Mayor Cy Sun called the City Council Meeting to order at 6:30 p.m. and led the Pledge of Allegiance.

2. ROLL CALL OF COUNCIL MEMBERS

Tren Walker
Leanne Guier
Josh Putnam
James McMahan
John Jones
Gary Hulse
Clint Steiger

Staff present: Betty Garrison, Angelica Solvang, Lt. Massey and Ken Luce.

3. APPROVAL OF/ADDITIONS TO AGENDA

- A. Councilmember Guier added the topic: Add under Old Business the status of the Writ.
- B. Councilmember Guier added the topic: Remove August 6 minutes from the consent agenda.
- C. Councilmember Jones added the topic: Under New Business, letter from Sound Inspections.

Councilmember Putnam moved that Council approve Councilmember McMahan to run the meeting pursuant to the disability of the Mayor; Councilmember Putnam second;

Public Comment: Reva Bryant – Wants to know why the Mayor cannot run the meeting.

	Aye	Nay
Councilmember Walker	X	
Councilmember Guier	X	
Councilmember McMahan	Abstain	
Councilmember Putnam	X	
Councilmember Jones		X
Councilmember Hulse		X
Councilmember Steiger		X

THE MOTION DOES NOT PASS.

Councilmember McMahan moved to approve the agenda as amended; Councilmember Putnam second; All the votes were ayes.

Mayor Sun explains that he spent 3 years in the battle front and lost a kidney, has a bullet in his back and a metal plate in head. His hearing is gone on right side from a grenade. He states he is sorry that he has a physical defect which he has had for 65 years but he has tried to do his best to run the meetings. He will be having surgery in a month to try to correct the ringing in his ear and wants to turn over the meeting to the Mayor Pro-Tem. The Mayor left the meeting voluntarily and voluntarily turned it over to the Mayor Pro- Tem.

4. AUDIENCE COMMENTS-

Jeanne Fancher – She recites a blessing. She also wants to bring to Council and administration attention that Petrich has blocked access to the water tower with cones that blocks 3rd Avenue and West Valley. It is a public right of way.

5. REPORTS

A. Mayor – No Report.

B. Finance – Betty Garrison states that we are doing a final bond call on September 1st and paying off the LID. The 2013 budget calendar is handed out to Council which lists the deadline schedules that are set by the City Clerk. November 13th is a purposed date for the 1st preliminary hearing and Council needs to set that public hearing. Because RCW specifies the Clerk duties in the budget schedule and there is not a Clerk in the position, Betty will let Council decide who will lead in the Clerk’s role. Councilmember Putnam asks who will act for all the department heads that are not here. Betty states we have department heads in Court, Community Services and Finance with a person in the Water Department. In the absence of the rest, she will work with the Mayor. Councilmember Hulsey moved that Council direct Betty to prepare the appropriate Resolution and Ordinance to meet the deadlines; Councilmember Putnam second;

Betty states the proposed hearing on the 13th would cover revenue sources which would be the levy and the final hearing, while it has to be held prior to December 3rd, can be continued after that.

Council Comment: Councilmember Putnam asks Ken Luce if he has no objection for Betty taking on the role. Ken Luce recommends advising the Mayor since the Clerk is under the control of the Mayor. Councilmember Putnam moved to amend the motion to request the Mayor to delegate to the Treasurer the Clerk’s role as there is not a current City Clerk; Councilmember McMahan second; All ayes.

Audience Comment: Don Thomson, 416 2nd Ave SE – Which Mayor has to do the delegation. Councilmember Jones replied there is only one Mayor.

Councilmember Hulsey moved that Council direct Betty to prepare the appropriate Resolution and Ordinance to meet the deadlines; Councilmember Putnam second; All ayes.

C. Court Statistics – No report.

D. Public Safety Department – Councilmember Guier wants status of the Police Dept. Lt. Massey is the senior ranking officer in absence of the Police Chief. Lt. Massey is concerned about the personnel in the Police Department and the service the citizens expect. A position has been vacant since June 1st when Beilke resigned for employment in Wisconsin. On July 12th an oral board for candidates was put together and had started the testing process when the Mayor placed a freeze on hiring in the Police Department.

Council Comment: Councilmember Walker asked if the Evidence Technician position has been posted. Lt. Massey says it has and he has called the Auburn Chief to send an Evidence Technician to teach Stephanie. Councilmember Putnam asks if he has anybody who has the time to respond to a budget call next month to plan the 2013 budget. Lt. Massey responds that it will be himself and the Sergeant. Ken Luce states the City should advertise for the Police position, hold the interviews and present the candidate to the Mayor and if he rejects it at least the City will be in compliance. Lt. Massey states that it is a long process which Gail Bennett is in charge of. Councilmember Putnam asks who has the authority to expend the

<p>money for advertising and interviewing and can the Civil Service do this without the Mayor's consent. Ken Luce will seek a determination whether it is discretionary or mandatory and suggest the process to hire the officers be started. Lt. Massey states that Gail Bennett informed him that she cannot start the process without the Mayor's authority. Ken Luce states is not certain it is a correct position that she cannot advertise without permission from the Mayor and he will look into it.</p>
<p>E. Public Works/Community Development Departments – No report.</p>
<p>F. Community/Senior/Youth/Services – Councilmember Guier states they had their hot diggity dog sales on Saturday and raised \$54.00. The Human Services Committee meets tomorrow at 4:30.</p>
<p>G. Boards and Committees South King County Transportation Board (SKTBD) – No Report. Pierce County Regional Council (PCRC) – No report. SCA – No report. VRFA – No report.</p>
<p>H. City Council Members – Councilmember Putnam has been in touch with AWC on possibly finding alternative insurance and will have a meeting with them on Friday. He invited Councilmember Jones and Councilmember Guier to attend as well. Councilmember Putnam commented that the Mayor does have a genuine hearing disability and it is basic civility that as long as Mayor Sun is Mayor, whether citizens like him or not, to allow Councilmember McMahan to run the meeting. Councilmember Guier would like to publicly acknowledge the Police Department who has held two events and has done a lot of work on their own time.</p>
<p>I. Park Board – No report.</p>
<p>J. Planning Commission – No report.</p>
<p>K. Civil Service Commission – No report.</p>

6. OLD BUSINESS

A. Blueberry Street Property -

Ken Luce states there is a development called Blueberry Street property that the City has a lien on for a certain amount. Ken Luce recommends Council to authorize the sale of two remaining lots by the owner for \$50,000 each. The City will receive the principle and the seller will have no monetary gain. Councilmember Walker moved to approve; Councilmember Hulseby second;

Council Comment: Councilmember Jones is concerned that the Council not specifically identifies a set amount of the value of the property but let the owner get the best he can get out of it. Councilmember Putnam states if the owner sells it for five dollars then Council will not forgive the balance. Councilmember McMahan asks Ken Luce if he has reviewed the agreement that the City has with the property owner. Ken Luce replied that he has not. Councilmember McMahan is concerned the way the original motion reads. Councilmember Walker made amend the motion that the City cooperate in the sale of the two remaining properties at Blueberry Street provided all the net proceeds be provided to the City and not to the seller and the sale price be not less than \$50,000 per lot; Councilmember Jones second;

	Aye	Nay
Councilmember Walker	X	
Councilmember Guier	X	
Councilmember McMahan		X
Councilmember Putnam	X	
Councilmember Jones	X	
Councilmember Hulse	X	
Councilmember Steiger	X	

THE MOTION CARRIED 6 to 1.

B. Writ Of Mandamus –

City Attorney, Ken Luce states the Writ of Mandamus is a suit filed asking the court to require the Mayor to perform his mandatory duties. The complaint is readied and they are finalizing it as some of the Council has affidavits that need to be signed. Under the circumstances, he will add an additional ground for the disability of the Mayor to conduct the meeting. He wants the Mayor to be well aware of what alternatives were available to the City and has informed the Mayor that the City does not have any alternatives as the City has an inability to provide services to the citizens. He has asked to have a meeting with the Mayor and he has not responded. The Mayor should be well aware what the Council is going to undertake. Ken Luce will also include in the writ the hiring freeze at the Police Department and lack of department heads to perform mandatory functions of the City along with the inability to present the budget. Ken Luce states there is an existing Resolution that allows the writ to be filed. Councilmember Putnam is concerned that the Council is opening themselves up to an ADA issue if they complain about the Mayor's inability to run the meeting. Ken Luce states that is a possibility however the reality is there are certain mandatory obligations. Councilmember McMahan states that a person with a disability must request accommodations.

Duwayne Gratz, 122 3rd Ave NW – States if there is paperwork that Council needs to sign, he requests Council signs it immediately so the Attorney can take care of this as soon as possible.

Audrey Cruickshank, 703 3rd Ave SE – States that the Mayor has stated he has had a deaf ear for 60 years and that he ran for Mayor knowing he would have to run meetings.

Jeanne Fancher - Is concerned that the Mayor's request for Councilmember McMahan to run the meeting was indeed the Mayor's ADA request and he was turned down.

Reva Bryant, 502 3rd Ave SE – Does not support the Mayor.

Councilmember Hulse states that since the Mayor is a disabled veteran the VA will provide the Mayor equipment to assist him to communicate.

Tracy Apata, 425 Ellingson Rd – She asks Councilmember McMahan and Councilmember Jones if they had special training to accommodate the Mayor. Councilmember Jones says the Mayor can ask for assistance and this was not related to an ADA issue.

Ken Luce explains to the audience that the Council is a part of the legislative branch of the City and there is an executive branch. He continues to state that we live in a democracy and we may not like what is going on but our society is geared so as to have a recall action if necessary and there are certain rules and procedures that that need to be followed. Council is doing what they can.

7. NEW BUSINESS

A. Proclamation, National Recovery Month -

Betty Garrison recites the proclamation of Mayor Cy Sun to the Council. Jacqueline Berganio from South King County thanks the Council for taking the time to do this proclamation. People deal with mental health and substance use disorders. There are many private organizations out there helping support people in recovery.

B. Sound Inspection Letter –

Ken Luce placed a call to Sound Inspections to set up an appointment to meet. Ken Luce informs the audience that there was an occasion when the Mayor hired an independent person to perform services on behalf of the City which was unauthorized and invoice was submitted for payment to the Council and it was rejected. Ken Luce states he was instructed to contact Sound Inspections in order to come to an agreement and move forward. Councilmember Putnam clarified to the audience that Council did not reject the bill; the Mayor asked for it to be pulled from the agenda. Councilmember Walker states that it has been recommended to Council that they do not approve this bill. Councilmember Guier and Councilmember McMahan questioned whether building inspection services were currently being provided. Betty Garrison states that she believes Sound Inspections is working directly with the people requiring the services, according to what was directed in a previous Council meeting, and that they could contract specifically with whomever needed the inspections and they would have to submit their bills to the City for reimbursement. The last set of approved vouchers had one of those reimbursements. Councilmember Walker asked if at the last meeting the Council authorized the Mayor to enter into an agreement with Sound Inspections. Betty stated there were modifications that were supposed to be made to the agreement and that has not been done yet. Councilmember Hulse is concerned that Sound Inspections has provided services in good faith believing the Mayor had authorization that the City would approve payment. Councilmember McMahan agrees that the contractor believed the Mayor had authority to sign the agreement and if the Mayor led on the contractor then the Mayor should bear that burden. He also believes that the contractor sat in the Council session and heard the Council state that they were not approving the contract for Sound Inspections and that they were not authorized to do work in the City and the City would not be paying the bill. Councilmember Putnam read a portion of the July 23, 21012 minutes regarding Sound Inspections and states the Mayor was clearly on notice regarding Sound Inspections. Councilmember Guier asks Betty Garrison if she is aware that there have not been any inspections being done. Betty replied that as she understands it, Sound Inspections are doing inspections however they are billing the property owner directly and the property owner is coming to the City to receive reimbursement. Councilmember Guier was approached by the Auburn School District and assured them Council was passing the Resolution for inspections. The Auburn School District cannot open the school until they have the certificate of occupancy signed off. Betty states that Council did authorize the Mayor to sign the contract and the City Attorney was to work on the modifications however the modifications were not made therefore it is not signed. Councilmember Putnam states that if the Mayor fails to act on this and does not have the City provide inspections services, in the Pacific Municipal Code it states that the building department may accept inspections performed by outside agencies. Councilmember Putnam advises the school district to hire an inspector and file a claim. Councilmember Jones states that the point of the issue is that Council did not agree to a contract as presented at the previous Council meeting and they have since then but it has not been implemented and his opinion is that since money is owed to them they need to go through legal representation and handle it that way.

Citizen Comment: Duwayne Gratz, 122 3rd Ave NW – He has a grandson who is expecting to go to school next week and he is not sure that the permitting process has been followed for the school.

8. ORDINANCES/RESOLUTIONS

A. Resolution No. 12-1189 – Authorizing The Mayor To Enter Into And Sign A Letter of Understanding And The Second Amendment To The Franchise Agreement With Waste Management

Betty Garrison states that per request of the Council to have the clarification, Waste Management will be sending a monthly revenue report to make sure the utility taxes are identified.

Councilmember Hulsey moved to approve Resolution No. 12-1189;
Councilmember Steiger second;

Council Comment: Councilmember McMahan asks if the utility tax portion is in addition or part of the \$120,000. Betty Garrison states it is part of the \$120,600.

Councilmember McMahan reads the letter of understanding that it is the administrative fee and did not see a utility tax referenced in the letter. Betty Garrison stated it was discussed in the Finance Committee. Councilmember McMahan asked the City Attorney Ken Luce if he has reviewed it. Ken Luce replied that he has not reviewed the details of the letter of understanding. Councilmember McMahan is concerned about the language contained in the letter of understanding. Councilmember McMahan clarified that the City adjusted our administrative fee so now no matter how the utility tax comes out the administrative fee and utility tax is part of the \$120,600. Betty Garrison states that is correct as Waste Management wanted to give us administrative fees and they calculated how much they could afford to give the City however they were not aware there was a City utility tax as it is not separated out in the City's utility bill but built in our rates. Councilmember McMahan states the administrative fee and utility tax should not be adjusted. Betty Garrison states the City does not have an administrative fee for the garbage service and this is what Waste Management is offering the City. Councilmember McMahan wants to negotiate the administrative fee and make sure the utility tax is consistent with State and Pacific Municipal Code instead of lumping the fees together. Betty states that when it was discussed, Waste Management will do the utility tax as a separate line item and the citizens could see an increase in their bill. Councilmember McMahan believes it should not increase the bill but only list out the line items. Councilmember Hulsey believes the language should reflect that the City shall be compensated with an administrative fee plus the utility tax due the City which is presently at 6 percent. Councilmember Putnam states Waste Management wanted a fixed amount after they had negotiated this agreement with a fixed amount after they discovered there was a variable there. Their cost of billing does not vary based upon what they bill so they want a flat fee for doing the billing and we have a variable tax. Councilmember Jones recommends Council approve the Resolution as it reads and have the Finance Committee work with Waste Management to negotiate and receive clarification and to also make sure the City code is correct.

Public Comment: No comment.

	Aye	Nay
Councilmember Walker	X	
Councilmember Guier	X	
Councilmember McMahan		X
Councilmember Putnam	X	
Councilmember Jones	X	
Councilmember Hulsey	X	
Councilmember Steiger	X	

THE MOTION CARRIED 6 to 1.

B. Resolution No. 12-1190 – Authorizing The Expenditure Of Funds With Gerina Dahl For Utility Billing System Audits, Managing Month End Processing Of Utility Billing And Management Of The Migration From Springbook V6 to V7

Councilmember Putnam moved to approve Resolution No. 12-1190;
Councilmember McMahan second;

Council Comment: Councilmember Putnam would like to see the City have a proper conversion this year. Councilmember McMahan states that the Resolution authorizes the Mayor to enter into an agreement; he asks Betty Garrison if the Mayor is inclined to sign the Resolution. Betty Garrison states he is.

Public Comment: Jeanne Fancher – States the City is getting a deal from Ms. Dahl.

	Aye	Nay
Councilmember Walker	X	
Councilmember Guier	X	
Councilmember McMahan	X	
Councilmember Putnam	X	
Councilmember Jones	X	
Councilmember Hulsey	X	
Councilmember Steiger	X	

THE MOTION CARRIED 7 to 0.

C. Resolution No. 12-1191 – Authorizing The Execution Of An Agreement With Washington State Department Of General Administration For Membership In The State Purchasing Cooperative And Approving Payment Of The Membership Fee

Councilmember Putnam moved to approve Resolution No. 12-1191;
Councilmember Hulsey second;

Council Comment: Councilmember Putnam states this is a very inexpensive contract that gives the City benefits.

Public Comment: Jeanne Fancher – She asks if this is for the Public Works Thrasher tractor and if this item has been discussed at the Public Works Committee.
Councilmember Jones states it has been discussed at Council workshop and has been budgeted.

	Aye	Nay
Councilmember Walker	X	
Councilmember Guier	X	
Councilmember McMahan	X	
Councilmember Putnam	X	
Councilmember Jones	X	
Councilmember Hulseley	X	
Councilmember Steiger	X	

THE MOTION CARRIED 7 to 0.

D. Resolution No. 12-1192 – Authorizing The Mayor To Enter Into And Sign A Construction Loan Agreement With Washington State Public Works For The Stewart Road And Valentine Avenue Water Main Replacement

Betty Garrison notes that if the projects are completed and the loan is finalized within three years they will drop it to 1/2 percent interest.

Councilmember Hulseley moved to approve Resolution No. 12-1192;
Councilmember Putnam second;

Council Comment: Councilmember Hulseley states the project needs to be completed. Councilmember Putnam states we've had replacement of asbestos cement pipe in our capital facilities plan and is nice to finance it on 1/2 percent as part of a larger project. Councilmember Jones met with them last Thursday to assure them of the City's commitment to completing this project. Councilmember McMahan asks will the mayor sign it. Betty states he was at the meeting and believes he will.

Public Comment: Don Duncan, 732 Valentine – Don asks what is the amount of the loan. Betty Garrison states it is 2.8 million over 20 years with 1.5 million on Valentine and 1.3 million on Stewart.

	Aye	Nay
Councilmember Walker	X	
Councilmember Guier	X	
Councilmember McMahan	X	
Councilmember Putnam	X	
Councilmember Jones	X	
Councilmember Hulseley	X	
Councilmember Steiger	X	

THE MOTION CARRIED 7 to 0.

9. CONSENT AGENDA

(The Mayor shall place matters on the Consent Calendar which are so routine or technical in nature that passage is likely.)

A. City Council Meeting Minutes from July 23, 21012; City Council Special Meeting Minutes from July 30, 2012; City Council Workshop Meeting Minutes from August 6, 2012.

Councilmember McMahan moved to remove all minutes from the consent agenda and approve item B and C only; Councilmember Walker second;

Councilmember McMahan states he is looking at a payroll pay type register report and it has \$2,526.74 listed as administrative leave and believes there was discussion on the appropriateness of administrative leave. He asks if Council should approve this item if they have reason to believe it is not appropriate use of City funds. Ken Luce states it is regarding a City employee that requested medical leave but received administrative leave. Per Council's direction, he has I have forwarded it to the State Auditor's office. He also has sent an email to Betty Garrison to see if she could meet with the Mayor and discuss the issue. Ken Luce states that Betty indicated to him that the Mayor is continuing to place the employee on administrative leave. Ken Luce asked how much medical and vacation total he had and he has 70 hours total. Ken Luce had then informed the Mayor to place the employee on medical leave and warned the Mayor that in the event it's deemed to be an inappropriate use of City funds to place the employee on administrative leave when there has not been an investigation and that the employee may be required to personally reimburse the City for all the funds he has received. Ken Luce recommends that under the circumstances Council approves it to be paid and believes the State auditor will see that it is an inappropriate use of City funds and the employee will have to pay the funds back. Councilmember McMahan stated that he heard the Mayor was foregoing his salary however he and sees that the Mayor is being paid. Betty Garrison states she is not sure if the Mayor donates his salary or not however the City must pay employees or it will be an audit issue. Councilmember Steiger states there was an issue with the Mayor's I-9 form. Ken Luce states he has contacted Homeland Security and made them aware of the problem. The Mayor has submitted two documents to satisfy the requirements of the I-9. Ken Luce states he has informed the Mayor that one of the documents that he submitted in support of his I-9 form was inappropriate and informed the Mayor he needs to submit a different document and he has not heard back from Homeland Security, the FBI, the State Auditor or the Mayor. Councilmember McMahan questions whether the City should pay someone who has not submitted the required documents for an I-9. Ken Luce suggests that the City pay the Mayor and Ken will remind the Mayor that he needs to submit the required specified documents to support the I-9.

Citizen Comment: Duwayne Gratz – He asked whether the Mayor has actually cashed his checks. Betty Garrison states it is an automatic deposit and it's the law that he has to be paid.

	Aye	Nay
Councilmember Walker	X	
Councilmember Guier	X	
Councilmember McMahan	X	
Councilmember Putnam	X	
Councilmember Jones	X	
Councilmember Hulsey	X	
Councilmember Steiger		X

THE MOTION CARRIED 6 to 1.

B. Claim Voucher & Payroll Approval -

C. Financial Statements

10. EXECUTIVE SESSION-

11. ADJOURN- Councilmember Jones moved to adjourn; Councilmember Walker second; the meeting adjourned at 8:40 p.m.



Angelica Solvang, Interim City Clerk