

COUNCIL AGENDA

Monday, April 17, 2023



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https://us02web.zoom.us/webinar/register/WN_iUPCm5Roe8f1XOZez5Qw

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AMERICANS WITH DISABILITIES ACT

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COUNCIL MEETING GUIDELINES FOR PUBLIC PARTICIPATION

All City Council meetings are broadcast on Charter/Spectrum Channel 191 and available to livestream on Ellensburg Community Television at www.ectv2.com or on YouTube at ECTV Ellensburg. You may also attend by phone, only, and listen to the meeting by following the registration instructions under "Remote testimony during the meeting," below. Once you register, you will be sent a meeting invitation with a phone number for the meeting.

City Council accepts testimony or comments in person or via remote testimony under Citizen Comment on Non-Agenda Items (Item No. 7) as well as for all other topics under the Regular Agenda. Testimony or comments will be accepted in the following manner:

SUBMISSION OF WRITTEN COMMENTS

- **Written comments submitted in advance of meeting**
Submit written comments by mail to Beth Leader, City Clerk, Ellensburg City Hall, 501 N. Anderson St., Ellensburg, WA 98926, or via email to: cityclerk@ellensburgwa.gov. Comments received by 5 p.m. on the meeting date will be compiled, sent to the City Council and entered into the record.
- **Comments for public hearings**
Written comments must be received by the City Clerk by 5 p.m. on the meeting date. Comments can either be mailed to Beth Leader, City Clerk, Ellensburg City Hall, 501 N. Anderson St., Ellensburg, WA 98926, or sent via email to: cityclerk@ellensburgwa.gov. Comments received by 5 p.m. on the meeting date will be compiled, sent to the City Council and entered into the record.

PROCEDURE FOR REMOTE PARTICIPATION DURING MEETING

1. ***Advance registration is required to provide public comment or hearing testimony via remote meeting attendance.*** Anyone wishing to speak on items under the Agenda must register prior to 7 p.m. the day of the meeting. Register for the meeting at: https://us02web.zoom.us/webinar/register/WN_iUPCm5Roe8f1XOZez5Qw - Once registered, you will receive an email with the meeting link and phone number (for those who wish to call into the meeting).
2. **Join the meeting early**, as you may need to download the app in advance to participate. Once you've joined the meeting, your camera and microphone will be muted until you are recognized by the Mayor to speak.
3. Please note that there may be several items on the City Council Agenda that will precede the agenda item you wish to address.
4. **The Mayor will identify the agenda item** and ask if anyone wishes to speak on the matter.
5. Any interested person may provide comments: 1) under Item 7 on non-agenda items, or 2) on any listed agenda items. If you wish to speak, you must:
 - a) **Raise your "virtual hand"** in the corner of Zoom application on the computer screen or press *9 on your phone. Raising your hand signals the moderator that you wish to speak.
 - b) **Wait to be called upon by the Mayor** using your name, e-mail, or phone number used to log in to the teleconference.
6. **Please state your name, address, and whether you are representing only yourself or others.**

PROCEDURE FOR IN-PERSON PARTICIPATION (COUNCIL CHAMBERS)

- ◆ When recognized, approach the microphone provided on the right side of the room.
- ◆ Please state your name, address, and whether you are representing only yourself or others.
- ◆ Each speaker's comments are to be limited to 3 MINUTES.
- ◆ Submit written comments to the City Clerk.
- ◆ Speakers are cautioned not to make comments of a personal, impertinent or derogatory nature.
- ◆ Speakers may not identify themselves as candidates for elective public office or make any statements which assist or discuss the campaign of a candidate for elective office or discuss or campaign for or against a ballot proposition (unless the ballot proposition is being considered as part of the City Council agenda item).

PUBLIC COMMENT RULES FOR ALL MEETING PARTICIPANTS

1. Each speaker's comments are to be limited to 3 MINUTES.
2. Speakers are cautioned not to engage in conduct that disrupts, disturbs or otherwise impedes the orderly conduct of the Council meeting.
3. Speakers may not identify themselves as candidates for elective public office or make any statements which assist or discuss the campaign of a candidate for elective office or discuss or campaign for or against a ballot proposition (unless the ballot proposition is being considered as part of the City Council agenda item).

Please note: City Council Rules provide that no action will be taken by the Council at the meeting at which a subject is first introduced during the citizen comment period (Item 7 on the Agenda). Council may consider an item at a future meeting, thus you may wish to concisely state your concern and request placement of your matter on a future agenda. Staff will follow up with speakers as necessary.

CONSENT AGENDA

Members of the audience may request items be removed from the consent agenda by asking for recognition and making the request during Agenda Approval. Items will not be removed from the consent agenda unless your request is confirmed by a councilmember.

AGENDA ITEMS

If you wish to have an item placed on a Council agenda, a written request should be delivered to the City Manager's Office prior to noon on the Monday preceding the Council meeting. Assistance will be provided in preparing a request if you wish to contact the City Clerk at (509) 925-8614.

PUBLIC HEARINGS

City Council accepts testimony or comments in person or via remote testimony on a particular subject schedule for Public Hearing. Council will consider all testimony, respond to any questions, and take action after the public hearing is closed. Testimony or comments will be accepted in the following manner:

1. When recognized,
 - If attending in the Council Chambers, approach the microphone provided on the right side of the room.
 - If attending remotely, raise your "virtual hand" in the corner of Zoom application on the computer screen or press *9 on your phone.
2. Please state your name, address, and whether you are representing only yourself or others.
3. Please limit your comments to 5 MINUTES.
4. Submit written comments to the City Clerk.

**CITY OF ELLENSBURG
COUNCIL AGENDA
Council Chambers
501 North Anderson Street
Ellensburg, WA 98926
And remotely via Zoom
Monday, April 17, 2023
7:00 PM - Regular Meeting**

Pledge of Allegiance

1. Call to Order and Roll Call

2. Proclamations [Public Comment Opportunity]

2.A Asian American/Native Hawaiian and Pacific Islander (AANHPI) Heritage Month 7
[Asian American/Native Hawaiian and Pacific Islander \(AANHPI\) Heritage Month 2023](#)

2.B National Child Abuse Prevention Month 8
[National Child Abuse Prevention Month](#)

2.C Jewish American Heritage Month 9
[Jewish American Heritage Month 2023](#)

3. Awards and Recognitions

4. Approval of Agenda [No Public Comment]

5. Consent Agenda [No Public Comment]

Items listed below have been distributed to Councilmembers in advance for study and will be enacted by one motion. If separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Agenda at the request of a Councilmember or at the request of a member of the public with concurrence of a Councilmember. Requests to remove items should be made under Item 4 Approval of Agenda.

5.A Approve Minutes of April 3, 2023 Regular Meeting 10
[4-3-23 Regular Meeting](#)

5.B Approve Minutes of April 3, 2023 Study Session 14
[4-3-23 Study Session](#)

5.C Acknowledge Minutes of Boards and Commissions 15
[Affordable Housing Commission 02-08-23](#)
[Lodging Tax Minutes 3-08-23](#)

5.D Approve University Way Banner Request from League of Women Voters from February 27 - March 12, 2024 LWV Banner 2024 Request Form	20
5.E Accept Resignation of Nathan Sitton from the Utility Advisory Committee N Sitton Resignation	21
5.F Accept Resignation of Hannah Tower from the Affordable Housing Commission H Tower Resignation	22
5.G Memorandum of Understanding (MOU) to amend the 2021-2023 Collective Bargaining Agreement with IBEW Local 77 MOU - IBEW - Wages and Other -Signed by Union - 04.05.2023	23
5.H Employment Agreement with Chief Ken Wade Employment Agreement - Ken Wade 04-17-23	28
5.I Approve April 17, 2023 Voucher Listing 4-17-23 Voucher Listing	34
6. Petitions, Protests, and Communications	
6.A Board and Commission Appointments - Lodging Tax Advisory Committee [Public Comment Opportunity] G Fortier Application G Fortier Recommendation	35
6.B Public Transit Advisory Committee (PTAC) Appointment of Central Washington University (CWU) member - Solomon Kairu [Public Comment Opportunity] S Kairu Appointment Letter	39
7. Citizen Comment on Non-agenda Issues	
8. Business Requiring Public Hearings	
8.A Continuation of the Closed Record Appeal Hearing (P23-017) to Review LDC COA approval (P22-115) of Proposed Demolitions at Unity Park in Downtown Landmarks Historic District [Limited Public Comment] City Council March 20 Agenda Packet.pdf	41
8.B Continuation of Closed Record Appeal Hearing (P23-019) to review LDC COA approval (P23-002) of Proposed Design for New Unity Park in Downtown Landmarks Historic District [Limited Public Comment] City Council March 20 Agenda Packet.pdf	42
8.C Ordinance 4909 (Second Reading) - IOOF Annexation (To be continued to May 15, 2023 City Council meeting) [Public Comment Opportunity]	43

8.D	Resolution 2023 -10 Outside Utility Agreement for Calvary Ellensburg, Kittitas County Parcel Numbers 06473 and 194734 [Public Comment Opportunity]	44
	Resolution 2023-10 Outside Utility Agreement Calvary Outside Utility Extension Agreement	

9. Introduction and Adoption of Ordinances and Resolutions

9.A	Ordinance 4913 (Second Reading and Adoption) - Carbon Purchase and Sale Authority [Public Comment Opportunity]	55
	Ordinance 4913 - CCA Code Changes	
9.B	Ordinance 4915 (First Reading) - Wheeled All-Terrain Vehicles (WATV) [Public Comment Opportunity]	61
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10. Unfinished Business

11. New Business

11.A	Traffic Impact Fee Exemption Request - Happy Feet Academy [Public Comment Opportunity]	71
	Happy Feet Request	

12. Miscellaneous

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12.B	Councilmembers' Reports [No Public Comment]	

13. Executive Session

14. Adjournment



City of Ellensburg

PROCLAMATION

Asian American/Native Hawaiian and Pacific Islander (AANHPI) Heritage Month
2023

"Advancing Leadership Through Collaboration"

Whereas, this heritage month originated in June 1977 proclaiming the first ten days of May as Asian-Pacific Heritage Week, became an annual celebration in 1978, and was signed into law in 1992; and

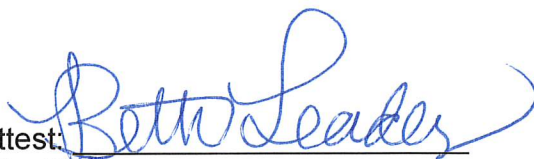
Whereas, the month of May was chosen to observe AAPI for several reasons, including to commemorate the Japanese who came to the country in May of 1843, and to mark the May 1869 completion of the Transcontinental Railroad which involved the labor of many Chinese immigrants. The AANHPI community is made up of culturally and linguistically diverse people, representing populations from many countries and islands; and

Whereas, the Asian American/Native Hawaiian and Pacific Islander cultures have enriched the United States' culture and society and strengthened its global connection; and

Whereas, the City of Ellensburg affirms and appreciates the collaborative efforts of the Asian American, Native Hawaiians, and Pacific Islanders through their work, study, and service roles to strengthen our city and bring vibrancy to our community.

Now, Therefore, the City Council of the City of Ellensburg does hereby proclaim May 2023 as Asian American/Native Hawaiian and Pacific Islander Heritage Month in Ellensburg and encourages all residents to join in this observance by building bridges of collaboration and friendship with these American neighbors.

Signed this 17th day of April 2023.

Attest: 
City Clerk


Nancy Lilquist, Mayor



City of Ellensburg

PROCLAMATION

National Child Abuse Prevention Month

April 2023

WHEREAS, child abuse and neglect is a serious problem affecting every segment of our community, and finding solutions requires input and action from everyone; and

WHEREAS, our children are our most valuable resources and will shape the future of the community in which we live; and

WHEREAS, child abuse can have long-term psychological, emotional, and physical effects that have lasting consequences for victims of abuse; and

WHEREAS, protective factors are conditions that reduce or eliminate risk and promote the social, emotional, and developmental well-being of children; and

WHEREAS, effective child abuse prevention activities succeed because of the partnerships created between child welfare professionals, education, health, community- and faith-based organizations, businesses, law enforcement agencies, and families; and

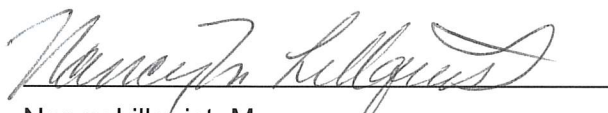
WHEREAS, communities must make every effort to promote programs and activities that create strong and thriving children and families; and

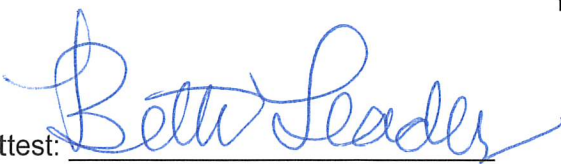
WHEREAS, we acknowledge that we must work together as a community to increase awareness about child abuse and contribute to promote the social and emotional well-being of children and families in a safe, stable, and nurturing environment; and

WHEREAS, prevention remains the best defense for our children and families.

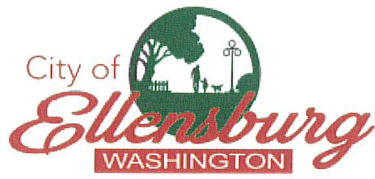
THEREFORE, I do hereby proclaim **April** as **NATIONAL CHILD ABUSE PREVENTION MONTH** in and call upon all citizens, community agencies, faith groups, medical facilities, elected leaders, and businesses in the City of Ellensburg to recognize this month by dedicating ourselves to support families, thereby preventing child abuse and strengthening the communities in which we live.

Signed this 17th day of April, 2023.


Nancy Lillquist, Mayor

Attest: 
City Clerk





City of Ellensburg

PROCLAMATION

Jewish American Heritage Month 2023

Whereas, fleeing oppression from other areas of the world and looking for a place where they could practice their faith and lead their lives freely, the first Jewish immigrants arrived on American soil in 1654 in New Amsterdam; and

Whereas, President George W. Bush issued the first Presidential Proclamation in 2006 designating May as Jewish American Heritage Month; and

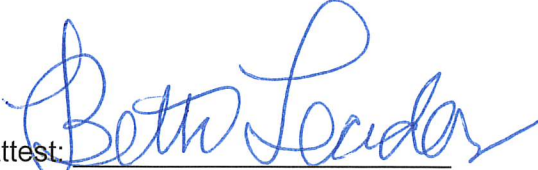
Whereas, bias acts committed toward our Jewish neighbors in this country are again becoming too common, we remember the lessons of the Holocaust and recognize the need to root out prejudice and combat anti-Semitism in this Nation; and

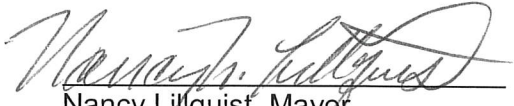
Whereas, we recognize Jewish Americans who, in the face of discrimination and hard times, made, and continue to make, significant contributions to our society, Americans such as Ruth Bader Ginsburg, Albert Einstein, Bob Dylan (Robert Allen Zimmerman), Senators Bernie Sanders and Jon Ossoff; and

Whereas, the City of Ellensburg recognizes and honors the many Jewish Americans in our community who strengthen our medical, educational, business, and religious systems, and our civic organizations.

Now, Therefore, the City Council of the City of Ellensburg does hereby proclaim May 2023 as Jewish American Heritage Month in Ellensburg and encourages all residents to join in this observance by building bridges of understanding and friendship with our Jewish American neighbors.

Signed this 17th day of April 2023.

Attest: 
City Clerk


Nancy Lillquist, Mayor



CITY OF ELLENSBURG

Date of Meeting

Time of Meeting

Place of Meeting

Minutes of City Council, Regular Meeting

April 3, 2023

7:00 PM

**Council Chambers 501 North Anderson Street
Ellensburg, WA 98926
And remotely via Zoom**

Pledge of Allegiance

The Pledge of Allegiance was led by Councilmember David Miller

1. Call to Order and Roll Call

Roll Call Present: Sarah Beauchamp, Nancy Goodloe, Nancy Lillquist, David Miller, Monica Miller, Adam Winn

Absent: Rich Elliott

Councilmember David Miller moved to Approve an excused absence for Councilmember Elliott. **Motion Approved 6-0.**

City Manager Behrends Cerniwey, City Attorney Weiner, City Clerk Leader, Public Works & Utilities Director Lyyski, Power & Gas Manager Stanavich, Planning Manager Johnston, HR Director Young and approximately seven members of the public.

Others in attendance remotely via Zoom: Public Information Officer Klauss and three members of the public

2. Proclamations

2.A. April as National Poetry Month in Ellensburg Proclamation
Marie Marchaud, Ellensburg Poet Laureate, read the proclamation.

2.B. National Safe Digging Month April 2023 Proclamation

2.C. Arbor Day Proclamation

3. Awards and Recognitions

4. Approval of Agenda

Councilmember Monica Miller moved to Approve the Agenda as presented. **Motion Approved 6-0.**

5. Consent Agenda

- 5.A. Approve Minutes of the March 20, 2023 Regular Meeting
- 5.B. Acknowledge Minutes of Boards and Commissions
- 5.C. Pole Attachment Agreement between Puget Sound Energy, Inc. and the City of Ellensburg
- 5.D. Purchase of New Loader Mounted Snow Blower for the Street Division
- 5.E. Award Bid Call 2023-02 Pole Testing and Treatment Contract to Pacific Pole Inspection LLC
- 5.F. Amendment 1 to the Professional Services Agreement Between the Ellensburg Downtown Association (EDA) and the City of Ellensburg
- 5.G. Approve April 3, 2023 Voucher Listing

Councilmember Monica Miller moved to Approve the Consent Agenda as presented. **Motion Approved 6-0.**

6. Petitions, Protests, and Communications

6.A. Ellensburg Downtown Association (EDA) - CommUnity Program (Brenda DeVore, EDA Director)

Brenda DeVore, EDA Director, read a poem before reviewing the presentation regarding the Ellensburg Downtown Association events and programs.

6.B. Board and Commission Appointments - Environmental Commission and Parks & Recreation Commission

Frana Milan introduced herself and explained her interest in serving on the Parks and Recreation Commission

Aaron Peterson introduced himself and explained his interest in serving on the Environmental Commission

Jess Black would attend a future meeting

Councilmember Nancy Goodloe moved to Approve appointment of Jess Black and Aaron Peterson to the Environmental Commission and Frana Milan to the Parks and Recreation Commission. **Motion Approved 6-0.**

6.C. Memo from Diversity, Equity & Inclusion (DEI) Commission

Nicole Klauss, Public Information Officer, reviewed the DEI Commission request to increase membership of the commission.

Tylene Carnell, DEI Committee member, commented regarding the request.

Councilmember Nancy Goodloe moved to Approve directing staff to bring back an ordinance to increase the DEI commission membership from seven members to nine members. **Motion Approved 6-0.**

7. Citizen Comment on Non-agenda Issues

Pat Kelleher, 6530 Wilson Creek Rd, commented regarding the Reed Park Master Plan and safety of pedestrians walking around Reed Park on Craig Avenue.

8. Business Requiring Public Hearings

8.A. Ordinance 4914 (First Reading) - Teanaway Ridge Annexation

The Mayor opened the public hearing. Jeremy Johnston, Planning Manager, presented information in the staff report.

Chad Bala with Terra Design Group and authorized representative of Teanaway Ridge, LLC was present to answer questions from Council.

With no questions or comments from the public or Council, the Mayor closed the public hearing.

Councilmember Nancy Goodloe moved to Approve annexation request P22-118 for parcel 17826 located east of Bull Road and north of Interstate 90; and simultaneous adoption of Residential-Suburban zoning; and conduct first reading of Ordinance 4914. **Motion Approved 6-0.**

9. Introduction and Adoption of Ordinances and Resolutions

9.A. Ordinance 4913 (First Reading) - Carbon Purchase and Sale Authority

Buddy Stanavich, Power and Gas Manager, presented information in the staff report.

David Dunbar, 670 Skyview Drive, commented regarding language in the ordinance authorizing utility staff for purchase and sale of compliance instruments.

Council asked questions of staff.

Councilmember Monica Miller moved to Approve first reading of Ordinance 4913 for the carbon purchase and sale authority. **Motion Approved 5-1 (Winn voted no).**

9.B. Resolution 2023-09 Amending the Pay Resolution for Fiscal Year 2023 for Non-Represented Employees

Lisa Young, HR Director, reviewed the information in the staff report and brought to Council's attention, the amended Resolution included on the dais.

Councilmember David Miller moved to Approve adoption of Resolution 2023-09 amending the 2023 pay resolution. **Motion Approved 6-0.**

10. Unfinished Business

11. New Business

11.A. Notice of Intent to Commence Annexation Proceedings – Parcel 946133 located at 1501 W Dolarway Road

Jeremy Johnston, Planning Manager, presented information in the staff report.

Councilmember Monica Miller moved to Approve considering the notice of intent to commence annexation proceedings; setting the annexation area as shown on the attached map; Direct simultaneous adoption of zoning as provided for in the agenda report of RCMU; and the City require the assumption of all or of any portion of existing city indebtedness by the area to be annexed. **Motion Approved 6-0.**

12. Miscellaneous

12.A. Manager's Report

City Manager, Heidi Behrends Cerniwey, reviewed the report.

12.B. Councilmembers' Reports

- Councilmember Goodloe was chosen as an AWC cabinet representative for Diversity Equity Inclusion and Belonging and reported on the human library
- Councilmember Monica Miller attended Creative Economy Recovery Task Force meeting with the Department of Commerce
- Councilmember Winn attended the Ribbon Cutting ceremony for the Yakima Firing Center
- Mayor Lillquist reminded everyone to call 811 - Call b4 You Dig, attended a Broadband Action Team meeting, Yakima Basin Fish & Wildlife Recovery Board meeting, and the sleep center open house and information can be found on Be Heard Eburg the City webpage

13. Executive Session

14. Adjournment

Meeting adjourned at 8:17 pm

Mayor

ATTEST:

City Clerk



CITY OF ELLENSBURG

Date of Meeting

Time of Meeting

Place of Meeting

Minutes of City Council, Study Session

April 3, 2023

6:00 PM

**Council Chambers 501 North Anderson Street
Ellensburg, WA 98926
And remotely via Zoom**

Study Session

The meeting was called to order. All Councilmembers present except Councilmember Elliott

Others present: City Manager Behrends Cerniwey, City Attorney Weiner, City Clerk Leader, Public Works & Utilities Director Lyyski, Power and Gas Manager Stanavich, Planning Manager Johnston and four members of the public

Climate Commitment Act (CCA) (70A.65 RCW & 173-446 WAC) Overview and Impacts
The City Manager explained the requirements of the City for the Climate Commitment Act and introduced Buddy Stanavich, Power and Gas Manager, who gave a presentation concerning the program.

Council asked questions of staff.

14. Adjournment

Meeting adjourned at 6:41 pm

Mayor

ATTEST:

City Clerk



**COMMUNITY DEVELOPMENT DEPARTMENT
501 North Anderson Street, Ellensburg WA 98926**

MINUTES OF ELLENSBURG CITY AFFORDABLE HOUSING COMMISSION

Date and Time: Affordable Housing Commission meeting, February 8, 2023 - 4:30 p.m.

Place of Meeting: Hybrid Meeting In-person and via Zoom

Present (in-person): John Perrie, Sarah Beauchamp

Present (virtual): Sarah Bedsaul, Jordan Ruhle

Absent: Hannah Tower

Others Present: Jamey Ayling, Community Development Director; Kathy Boots, Planning Technician

Others Present Via Zoom: Kelle Dvorak Vandenberg, R bales, Andi Hochleutner, Emily, unknown phone number, Tim Henebree

1. CALL TO ORDER AND ROLL CALL OF MEMBERS

Ayling called the meeting to order at 4:33 pm. Roll call completed.

2. APPROVAL OF THE AGENDA

Commissioner Perrie made a motion to approve the agenda. **Motion passed 4-0.**

3. APPROVAL OF MINUTES

Commissioner Perrie made a motion to approve minutes from January 4, 2023, as presented. **Motion passed 4-0.**

4. NEW BUSINESS

A. Review Catherine Park Proposal – consider application submitted by Habitat for Humanity.

Ayling read staff report. Habitat for Humanity can apply for funding based on their application. Inversion Design withdrew their letter of interest. Request for proposals have been advertised several times.

Applicant presented proposal of 10 cottage style homes with \$675,000 requested. These will be two-bedroom, two bath units serving 20-30 people. The center of the development will have an open space to promote interaction. The owners of the cottages will help build them and will have

a HOA for affordable housing for 99 years. Habitat has the first option to buy cottages if owners move. There are no ADA units, but applicants other project will have ADA units. Units can be modified for ADA.

Public comment opened.

Robert Bale spoke about making sure the development will fit in the space.

Andi Hochleutner from CWHBA stated HOA fees and maintenance are partnered with the families.

Steven Greenfield spoke about five concerns. Number one-Neighbors will need noise, light, and visual separation. Number 2-There is concern over the need for overflow parking. Number 3- Concern over units being two story and having a visual, light, and sound impact. Number 4- Crosswalk and traffic light will be needed on University Way. Number 5- Southwest corner of Catherine Park needs to be blocked off so residents don't walk West along the hill. He requested the units be reduced from ten to eight with a larger open space. Request is denied, the lot will be used as efficiently as possible for housing.

Tim Henebree-1003 Chamath Lane agree with Mr. Greenfield. He is concerned over the area being small. The housing would double on that street and change from one story to two which isn't compatible with the neighborhood. He has light and sound concerns. Applicant responded and will consider the light and sound concerns during the planning phase.

Marsha Greenfield stated a barrier is essential, so her child does not endanger the public. She stated four of the cottages are against her fence which will disturb them with noise. Marsha was upset that nobody had reached out to her prior to these meetings and that the applicant did not attend the City Council meeting for the surplus. She did not feel welcome or heard at the City Council meeting. Commissioner Beauchamp and Bedsaul acknowledged her feelings regarding not feeling welcome at City Council and apologies were made. Commissioner Beauchamp will bring Marsha's reaction back to the City Council.

Commissioner Ruele asked about lighting and back porches. Applicant responded they will look at lighting and the cottages will not have a back porch.

Staff reports City Council will make the final decision on how many units will be allowed. After deliberation Commissioner Perrie motioned to move the proposal to City Council for property and monies as presented. **Motion passed 4-0.**

5. UNFINISHED BUSINESS

A. Housing Action Plan Implementation

Ayling reported the deadline is June 2023. At the next meeting the ordinance language will be reviewed.

6. CITIZEN COMMENT

None

7. STAFF UPDATE/DISCUSSION ITEMS

Monthly Budget Report was tabled until March meeting. There have not been any expenditures.

Update on applicants. Two were interviewed. One has reached out. Two have not had contact.

8. Commission Representative Update

Next meeting scheduled for March 1, 2023, 4:30 pm

9. Adjourned at 5:51 pm



CITY OF ELLENSBURG

Minutes of Lodging Tax Advisory Committee, Regular Meeting

Date of Meeting

March 8, 2023

Time of Meeting

2:00 PM

Place of Meeting

Council Conference Room 501 North Anderson Street

Ellensburg, WA 98926

And remotely via Zoom

1. Call to Order and Roll Call

Roll Call Present: Adam Winn, Marie Smith (remotely), Lacie Dawson (remotely) and Steve Townsend

Absent: None

Also present in person: Beth Leader, City Clerk, Matt Anderson, Director of Tourism and one member of the public

2. Approval of Minutes

Steve Townsend moved to approve the December 13, 2022 minutes as presented.

Motion approved 4-0.

3. Correspondence and Public Comment

None

4. Unfinished Business

4.A. Tourism Report

Matt reviewed analytics and reported on the increase in advertising for first quarter 2023. The Chamber announced the availability of county-wide micro grants available to organizations not receiving funding from the consolidated process and can receive up to \$2500. The Brewfest event went well, and downtown venues were happy with foot traffic. The Chamber is looking at possibly incorporating an event on Friday night in the future.

4.B. Revenues and Expenses

Information acknowledged.

5. New Business

5.A. New Member Recruitment

Members discussed individuals to speak with and will contact a local business owner and the new General Manager of Townplace Suites.

5.B. Discussion and Appointment for County Lodging Tax Subcommittee for Disputes

Steve Townsend volunteered to serve on the dispute board and Lacie Dawson agreed to serve as the alternate.

5C. Discussion and Appointment of 100th Year Rodeo Anniversary Mural Committee member

Marie Smith volunteered to serve as the Lodging Tax representative on the Mural Sub-committee. She asked about the status of the call to Artists for the project and Adam stated he would follow up with her about that.

6. Adjournment

With no further business, the meeting adjourned at 2:23 pm

Respectfully Submitted,
Beth Leader
Drafted: 3/13/23
Approved: 4/5/2023

Central Washington University

University Way Banner Request Form

Please fill out form and return to Schedule@cwu.edu. The Scheduling Center will submit your form to the City.

Name of Event/Program: League of Women Voters of Kittitas County

Contact Person: Karen Raymond Phone Number: 509-929-3094

Banner Hang Dates (Monday-Sunday): 2/26/2024 - 3/10/2024

☒ CWU Scheduling Center has reserved the banner dates.

Phone: 509-963-1321 or 509-963-1641, Email: schedule@cwu.edu

☐ Banner should be double-sided and a **maximum of 30' x 52"** and a **minimum of 24' x 48"** with **3" turnback at the top and bottom of the banner that will allow steel cable to be strung through it. No grommets.**

- We recommend that wind flaps be cut into the banner to prevent wind damage



YOUR VOTE COUNTS!

LEAGUE OF WOMEN VOTERS



Important Notes:

Banners affiliated with University business have priority. Therefore, banners from non-University groups requesting dates that conflict with a University banner may be rescheduled

If your banner does not meet manufacturing specifications, we will be unable to process your request and the banner will not be hung

The CWU Scheduling Center will not be held responsible for any weather-related damage that occurs to your banner

For more information please contact CWU Student Union Operations & Scheduling Center at 509-963-1321 or 509-963-1641.

City of Ellensburg approved by: _____ Date: _____

Disapproval/Reasons: _____

Updated July 15, 2022

March 17th, 2023

Dear Ellensburg City Council,

The purpose of this letter is to withdraw my membership on the Utilities Advisory Committee (UAC). My last day will be March 31st, 2023.

I will miss working with everyone on the UAC committee. My time ~~on the UAC~~ has been an opportunity for me to gain a better understanding of how city government works.

Thank you for allowing me to serve in this capacity and I hope you are able to fill my position quickly as there is a lot of work to do.

Regards,



Nathan Sitton

To: Kathy Boots <bootsk@ci.ellensburg.wa.us>; Jamey Ayling
<aylingj@ci.ellensburg.wa.us>

Subject: [Ext] Re: 4-5-23 AHC Agenda

CAUTION - EXTERNAL EMAIL: The email below is from an external source. Please exercise caution before opening attachments, clicking links, fulfilling requests, or following guidance.

I am resigning from the Affordable Housing Commission. Unfortunately, my job has me with working with a different population of clients now.

Gratefully,
Hannah Tower



CITY COUNCIL AGENDA REPORT

City Council Meeting Date: April 17, 2023

Item Title/Agenda Subject: Memorandum of Understanding (MOU) to amend the 2021-2023 Collective Bargaining Agreement with IBEW Local 77

Submitted by: Lisa Young Human Resources

Recommended Action or Motion: Authorize City Manager signature on the MOU and approve the necessary budget adjustments.

Background/Summary: The Light Utility has been operating with long-standing vacancies, including three Journey-level Lineperson positions and an Apprentice. City Management has been working to improve employee dissatisfaction with the work environment. It remains the City's desire to rebuild and retain a highly qualified and engaged Light Crew, but to do so, we need to be more competitive in the labor market.

Previous Council Action: Approval of a Collective Bargaining Agreement for 2021-23, and a subsequent MOU to address stand-by pay and other provisions, as well as ongoing support to be an employer of choice in our community.

Analysis: Based on conversations with the employees and their Union representative, our recruitment efforts will continue to suffer without a change in compensation. HR conducted a market survey using data from the NWPPA (Northwest Public Power Association) salary survey, as well as direct comparisons, and identified that we do need to increase wages to be competitive. The increases contained in this MOU will be the impetus for a more robust marketing campaign.

In addition to a market-based wage adjustment, the MOU also formally adopts a temporary signing bonus for newly hired Linepersons, as well as a referral bonus for current Union members who recruit qualified personnel to join our team. The new employee must successfully complete their probationary period for either bonus to be initiated.

The MOU also extends the current CBA for an additional year,

through December 31, 2024. This will allow us time to see if we are able to fill some of these vacancies. The COLA for 2024 is 5% to help ensure we remain competitive.

Financial Impact:

The total estimated increase in base wages for the remainder of the year (current employees) is \$39,505. The savings from the three Lineperson vacancies for 2023, through mid-April, is \$94,9771 (base wages only). However, some of this has been expended to pay a private contractor when work exceeds the capability of our diminished staff numbers.

The estimated financial impact of the 5% COLA for 2024 is \$38,483 (base wages only), if all regular positions are filled (excluding Apprentice, which is subject to minimum staffing requirements).

The hiring bonus of \$10,000 per new Lineperson (paid in two installments of \$5,000) would have a maximum impact of \$30,000 for 2023. This is subject to partial repayment if the employee leaves prior to completing three years of employment.

The referral bonus of \$1,000 per successful recruitment referral would have a maximum expense of \$3,000 for 2023 based on the three vacancies.

Attachments:

[MOU - IBEW - Wages and Other -Signed by Union - 04.05.2023](#)

MEMORANDUM OF UNDERSTANDING (MOU)

BETWEEN THE CITY OF ELLENSBURG

AND

LOCAL #77 OF THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL
WORKERS

This memorandum of understanding (MOU), effective April ____, 2023 ("Effective Date") is entered into by and between the City of Ellensburg ("Employer") and Local #77 of the International Brotherhood of Electrical Workers ("Union"), with regard to the Collective Bargaining Agreement ("CBA") between the parties for the period of January 1, 2021 through December 31, 2023, the parties agree to the following:

WHEREAS, the City and the Union recognize that harmonious relations should be maintained between them, and all will benefit by continuous peace, and by adjusting any differences which may arise by rational, common-sense methods; and

WHEREAS, it is the City's desire to provide a positive work environment that will attract and maintain highly qualified Light Utility workers who strive for excellence in safety and service; and

WHEREAS, the City and the Union will continue to work collaboratively towards solutions that ensure the needs of the City's utility customers are met in a timely fashion while ensuring that the employees feel supported and safe; and

WHEREAS, City leadership continues to be committed to open and honest conversations about the current and future status of the Light Utility; and

WHEREAS, the parties desire to enter into this MOU to provide improved compensation for the employees currently covered by this CBA, which will in turn improve the City's efforts to attract and retain qualified Linepersons; and

WHEREAS, the City has made extensive efforts to improve relations and support its Light Crew, and with the ratification of this MOU the City desires to extend the current CBA by one year, through December 31, 2024;

NOW, THEREFORE, the Union and Employer agree as follows:

1. Article XVI of the CBA is amended as follows:

Section 1. The term of this agreement shall be from January 1, 2021 through December 31, ~~2023~~ 2024. Negotiations for renewal of this agreement shall begin

with written notification by either party to the other at least sixty (60) days before the termination date of this Agreement.

2. Exhibit A of the CBA is amended as to 2023 wages, only, as follows:

Position	Current	New (2023)
Journey Lineperson	\$52.07	\$59.54
Foreperson	\$59.36	\$67.88
Serviceperson	\$55.71	\$63.71
Meterperson	\$52.07	\$59.54

The new 2023 wage will be effective for all wages earned (including applicable leave) after the Effective Date of this MOU and is not retroactive to any wages earned or leave taken prior to the Effective Date.

3. Upon the Effective Date of this MOU, Exhibit A of the CBA is amended as to 2024 wages, only, as follows:

Position	New (2023)	01/01/2024 5%
Journey Lineperson	\$59.54	\$62.52
Foreperson	\$67.88	\$71.27
Serviceperson	\$63.71	\$66.90
Meterperson	\$59.54	\$62.52

4. To assist with the recruitment of currently budgeted Lineperson positions, the City will offer a signing bonus of \$10,000 to new Journey Level Linepersons. The employee will be asked to complete a signing bonus agreement. The bonus will be paid in two (2) installments - \$5,000 after successful completion of their probationary period, and the remaining \$5,000 to be paid after completion of one (1) year. The bonuses will be subject to the customary and usual payroll tax withholding. Should the employee leave City employment for any reason after receiving the second installment, but prior to completing three (3) years of employment, they will be required to reimburse the City \$200 per month for each of the remaining months.
5. To assist with the recruitment of currently budgeted Lineperson positions, the City will offer current members of the IBEW a referral bonus of \$1,000 if they recruit a Journey Level Lineperson who successfully passes the hiring process and completes their probationary period. To be eligible for the referral bonus, the referring employee must provide to HR in writing, the name of the potential

candidate and when the referral occurred. If the candidate is hired, the employee will be asked to sign a referral bonus request form. The \$1,000 bonus will be paid with the first payroll after successful completion of the new employee's probation. The bonus will be subject to the customary and usual payroll tax withholding.

6. Inspections will continue to be performed by qualified personnel outside of the IBEW CBA until minimum staffing levels are achieved, which would require filling all three (3) Journey-level Lineperson vacancies or two (2) Journey-level Linepersons and one (1) Lineperson Apprentice or Groundperson. Inspections of all underground, overhead, and substation projects undertaken by contractors will be performed by qualified personnel outside of the IBEW CBA. The City will ensure that only qualified personnel will be assigned to these inspections. It is the City's intent to further discuss removal of inspections during the next negotiation cycle.

7. Article I Section 10(c) of the CBA is amended as follows:

PPE will be replaced by the employee as WISHA/OSHA requirements change, and repaired or replaced as they wear out, by use of the employee's annual PPE allowance. FR rain gear shall be repaired or replaced (if damaged beyond repair) by the City as determined by management; notwithstanding the foregoing, FR rain gear shall be replaced by the City at least every five (5) years (FR rain gear was replaced in February 2023 for all current IBEW employees, with their input on selection). Employees shall be responsible for cleaning all PPE. The City shall be responsible for any specialized cleaning/treatments to maintain WISHA/OSHA compliance as applicable.

8. This MOU must be ratified by the Union and approved by the Ellensburg City Council.

Nothing in this MOU shall be construed as modifying any other terms of the CBA between the parties, except as specifically provided in this MOU. This agreement is entered into pursuant to Chapter 41.56 RCW.

IBEW Local #77

The City of Ellensburg

By _____
Brian Gray, Assistant Business Manager

By _____
Heidi Behrends Cerniwey, City Manager



CITY COUNCIL AGENDA REPORT

City Council Meeting Date: April 17, 2023

Item Title/Agenda Subject: Employment Agreement with Chief Ken Wade

Submitted by: Heidi Behrends Cerniwey City Manager Department

Recommended Action or Motion: Authorize the City Manager to sign the employment agreement with current Chief Ken Wade to adjust benefits as part of the compensation package for Police Chief and approve the necessary budget adjustments.

Background/Summary: Chief Ken Wade has served as the City's Police Chief since February 16, 2018, hired first as a Captain for the Ellensburg Police Department on July 16, 2015. Chief Wade has been ineligible for Washington State PERS and LEOFF retirement participation based on his retirement status under the Washington State Patrol Retirement System (WSPRS).

Previous Council Action: Council approves the annual Pay Plan Resolution and other personnel policies that direct compensation and benefits. The City Manager has hiring responsibility and authority for all staff. Agreements that exceed purchasing authority or standard policies must be approved by Council.

Analysis: Included in the City's employee compensation are benefits through Washington State Department of Retirement Services. Under the current Law Enforcement Officer and Fire Fighter's (LEOFF 2) retirement plan, employees pay 8.53% of wages and the City pays 5.3%. Chief Wade is not eligible for LEOFF 2 retirement plan contributions because of his prior participation in the WSPRS plan. It is the City Manager's recommendation for compensation packages to remain competitive and commensurate with other similar positions.

Thus, in lieu of contributions to the Department of Retirement Systems, the employee was offered opportunity to elect either:

- a City match into a Deferred Compensation plan of up to 5.3% of reportable monthly earnings (5.3% is the current employer contribution for a LEOFF 2 employee; this amount will be adjusted annually based on the DRS

- Employer rate as of January 1); or
- City contribution to the employee's HRA VEBA account of 5.3% of reportable monthly earnings (5.3 % is the current employer contribution for a LEOFF 2 employee; this amount will be adjusted annually based on the DRS Employer rate as of January 1). This is in addition to the HRA VEBA City contribution provided in the annual Pay Plan Resolution.

The attached agreement is a form that the City Manager recommends for director level positions. In addition to outlining the benefits above, the agreement includes clear terms for separation.

Financial Impact:

The estimated cost is approximately \$8,314 per year and is within the standard personnel cost assumptions typically used for budget development. However, for the 2023/2024 biennium, a supplemental budget adjustment would be necessary to accommodate the expenditures for adjusted benefits.

Attachments:

[Employment Agreement - Ken Wade 04-17-23](#)

CITY OF ELLENSBURG EMPLOYMENT AGREEMENT
Ken Wade – Police Chief

THIS AGREEMENT is entered into by and between the CITY OF ELLENSBURG, a municipal corporation, hereinafter referred to as “City”, and Ken Wade, hereinafter referred to as “Employee”, and is effective this ____ day of April, 2023.

WHEREAS, the City desires to continue to employ the services of the Employee as the Police Chief for the City of Ellensburg to perform the duties provided by Ellensburg City Code, the Revised Code of Washington, and such other duties as may be directed by the City Manager; and

WHEREAS, it is the desire of the City to secure and retain the services of the Employee and provide inducement for Employee to remain in such employment and ensure Employee’s peace of mind consistent with City policies and the terms of this Agreement, while promoting high standards for ethical behavior; and

WHEREAS, the Employee desires to continue employment as the Police Chief for the City of Ellensburg, Washington;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the City and Employee agree as follows:

Section 1. Continuation of Employment. The City hereby agrees to continue employing Employee as the Police Chief, and Employee hereby agrees to continue employment in accordance with the terms and provisions of this Agreement hereinafter set forth, which will become effective on the date of signing. .

Section 2. Duties. Employee shall perform in good faith all duties and responsibilities of the Police Chief as set forth in the job description (attachment “A”), as may be amended from time to time, the City’s Personnel Policies Manual as currently enacted or hereafter amended, and other duties as may be assigned from time to time by the City Manager. Employee shall devote their full time, energies, interests, and abilities to the performance of the duties and responsibilities of their position and shall not engage in any activities that conflict with or interfere with the performance of this Agreement.

Section 3. Term.

A. Employee shall be employed for an indefinite term and shall serve at the pleasure of the City Manager. Employee shall be considered an “at-will” employee of the City.

B. Nothing in this Agreement shall prevent, limit or otherwise interfere with the City’s right to terminate this Agreement, with or without cause, at any time, subject only to the severance provisions set forth in Section 7(D) of this Agreement, applicable federal, state and local laws, and the City’s Personnel Policies Manual. To the extent there is any conflict between the language of this Agreement and the Manual, the language of this Agreement shall control.

Section 4. Salary – Performance Review. The Employee shall continue to receive a monthly salary, based on Step 6 of the Employer’s 2023 Pay Plan for non-represented employees, of Thirteen Thousand Seventy-Two Dollars and no cents (\$13,072.00), which salary

shall be paid in accordance with the normal and usual procedure for payment of wages to employees.

Employee shall be entitled to annual cost-of-living increases, if any, based on the City's annual Pay Plan resolution.

Section 5. Hours of Work. The Employee is a confidential exempt employee for purposes of the Federal Fair Labor Standards Act and Washington State Minimum Wage Act, and as such shall not work a fixed forty hour per week schedule. Employee's schedule of work each day and week shall vary in accordance with the work required to be performed including such time as may be necessary outside normal business hours. The Employee shall generally work at the Ellensburg Police Department during regular business hours of the Employer. The Employee may be required to attend meetings of the Ellensburg City Council and such other City Boards and Commissions, and staff meetings as requested by the City Manager, or as required by the duties of the position.

Section 6. Benefits. The following benefits shall be provided to Employee:

A. Leave Benefits. Employee shall continue to earn and accrue personal time off (PTO), Exempt Leave, Employee Choice Leave and Holidays as provided for employees of the City in accordance with the Personnel Policies Manual.

B. Insurance Benefits. The Employee will receive medical and dental insurance benefits as provided for employees of the City in accordance with the Personnel Policies Manual.

C. Retirement and Deferred Compensation. Employee is ineligible for LEOFF Retirement based on their retirement status under the Washington State Patrol Retirement System (WSPRS). In lieu of contributions to the Department of Retirement Systems, the employee may elect one of the following:

☒ City match into a Deferred Compensation plan of up to 5.3% of reportable monthly earnings (5.3% is the current employer contribution for a LEOFF 2 employee; this amount will be adjusted annually based on the DRS Employer rate as of January 1). The employee may contribute additional dollars to a Deferred Compensation plan pursuant to City policy and deferred compensation plan rules and limits.
Employee initial if selecting this option: _____

☐ City contribution to the employee's HRA VEBA account of 5.3% of reportable monthly earnings (5.3 % is the current employer contribution for a LEOFF 2 employee; this amount will be adjusted annually based on the DRS Employer rate as of January 1). This is in addition to the HRA VEBA City contribution provided in the annual Pay Plan Resolution.
Employee initial if selecting this option: _____

D. Work related expenses. Employee shall be reimbursed for work-related expenses the same as other employees as provided by the City's Personnel Policies Manual. City shall provide and pay for a cell phone (or cell phone allowance) and a laptop computer for business use only.

E. Training and Professional Certification. City shall pay the costs of Employee's membership in the Washington Association of Sheriffs and Police Chiefs and the International Association of Police Chiefs. Other costs of professional or required training shall be paid by the City as approved by the City Manager.

Section 7. Termination, Resignation and Severance Pay.

A. By City. It is recognized by Employee that this Agreement is a contract for personal services, and Employee acknowledges and agrees that the City may terminate Employee for any reason at any time, with or without cause. Nothing in this Agreement shall be construed other than an at-will employment relationship between the City and the Employee, and the Employee expressly acknowledges that no contrary representations have been made by the Employer.

B. By Employee. In the event Employee shall resign employment with the City, Employee agrees that they shall provide the City not less than thirty (30) days' prior written notice of the effective date of such resignation in order to afford the City a reasonable opportunity to find a replacement for Employee. The City Manager may in their sole discretion waive or reduce this notice requirement.

C. The following reasons shall constitute grounds to terminate this Agreement with Cause and without payment of the severance provided in subparagraph D of this section:

1. A breach of this Agreement;
2. The commission of any willful or negligent act that results in financial or reputational harm to the City;
3. Failure to follow any lawful directive of the City Manager or failure to perform Employee's duties under this Agreement provided that Employee has been given notice and an opportunity to cure an alleged failure to perform any duties that are not emergency-related within a 30-day cure period;
4. Misconduct, which includes but is not limited to criminal misbehavior, abuse of public office, or other gross misconduct, deceit, embezzlement, theft of funds or property, assault, any form of racial, sexual or other harassment prohibited by state or federal law, and any other form of misconduct set forth in the Personnel Policies Manual;

D. In the event Employee is terminated by the City without Cause, the City shall pay Employee a lump sum cash payment equal to two (2) months' pay of the Employee's base salary as severance provided that payment of severance is conditioned on Employee signing and not revoking a separation agreement and comprehensive release of claims in a form and substance acceptable to the City. All payments made to Employee under this subsection are subject to the customary and usual payroll deductions.

E. The City agrees to pay Employee any unused PTO leave consistent with the City's Personnel Policies Manual upon any voluntary or involuntary separation. Employee agrees to immediately return to City all City property of any kind which may be in Employee's possession.

Section 8. General Provisions.

A. This Agreement constitutes the entire agreement between the parties, and both parties acknowledge that there are no other agreements, oral or otherwise.

B. The parties hereby further agree that this Agreement cannot be amended or modified without the written agreement of both parties; provided, however, that nothing herein shall be interpreted to limit or prohibit the City from amending personnel or adopting other policies and ordinances otherwise establishing standards for the Employee's performance. In the event of conflict between such rules and this Agreement, this Agreement shall control.

C. If any provision of this Agreement is held to be unconstitutional or otherwise invalid for any reason or should any portion of this Agreement be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of the Agreement or its application.

D. Notice. Any written notices required to be given by the City to Employee, or by Employee to the City, shall be delivered to the following parties at the following addresses:

1. City of Ellensburg
City Manager's Office
501 N Anderson Street
Ellensburg, WA 98501
2. Ken Wade
100 N. Pearl St.
Ellensburg, WA 98926

Any notices may be either delivered personally to the addressee of the notice or may Be deposited in the United States mail, postage prepaid, to the address set forth above. Any notice so posted in the United States mail shall be deemed received three (3) days after the date of mailing.

E. Each of the provisions of this Agreement has been reviewed and negotiated by the Employee and Employer and represents the combined work product of the parties. No presumption or other rules of construction which would interpret the provisions of this Agreement in favor of or against the party preparing the same shall be applicable in connection with the construction or interpretation of any of the provisions of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed and executed as of this ____ day of April, 2023.

CITY OF ELLENSBURG

EMPLOYEE

Heidi Behrends Cerniwey, City Manager

Ken Wade

Attest:

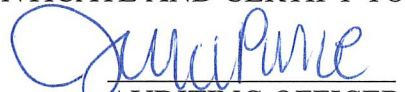
Beth Leader, City Clerk

Approved as to form:

Terry Weiner, City Attorney

VOUCHER APPROVAL

I, THE UNDERSIGNED, DO HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE MATERIALS HAVE BEEN FURNISHED, THE SERVICES RENDERED OR THE LABOR PERFORMED AS DESCRIBED, OR THAT ANY ADVANCE PAYMENT IS DUE AND PAYABLE PURSUANT TO A CONTRACT OR IS AVAILABLE AS AN OPTION FOR FULL OR PARTIAL FULFILLMENT OF A CONTRACTUAL OBLIGATION, AND THAT THE CLAIM IS A JUST, DUE AND UNPAID OBLIGATION AGAINST THE CITY OF ELLENSBURG, AND THAT I AM AUTHORIZED TO AUTHENTICATE AND CERTIFY TO SAID CLAIM.


AUDITING OFFICER

4/11/23
DATE

CLAIMS VOUCHERS AUDITED AND CERTIFIED BY THE AUDITING OFFICER HAVE BEEN RECORDED ON THE ATTACHED LISTING, WHICH HAS BEEN MADE AVAILABLE TO THE COUNCIL AS OF THIS **17th DAY OF APRIL 2023**. THE COUNCIL, BY A VOTE, HAS APPROVED FOR PAYMENT THE VOUCHERS INCLUDED IN THE ABOVE LIST AND FURTHER DESCRIBED AS FOLLOWS:

Claims Fund

Check #'s	161467	TO	161653	\$	967,034.45
EFT #'s	6182	TO	6215	\$	1,210,965.39

Total Amounts

Payroll Fund

Check #'s	95988	TO	95997	\$	18,177.16
Direct Deposits	72550	TO	72781	\$	451,609.95

Total Amounts

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

ATTEST: _____
CITY CLERK



CITY COUNCIL AGENDA REPORT

City Council Meeting Date: April 17, 2023

Item Title/Agenda Subject: Board and Commission Appointments - Lodging Tax Advisory Committee

Submitted by: Cynthia LaChappelle-Mathis City Manager Department

Recommended Action or Motion: Approve appointment for members of City Boards and Commissions as recommended by the Lodging Tax Advisory Committee

Background/Summary: There are three vacancies on the Lodging Tax Advisory Committee with one applicant for appointment. The application for appointment was forwarded to the staff member assigned to the Lodging Tax Advisory Committee to process for consideration of appointment.

Previous Council Action: N/A

Analysis: As directed by Council, the applicants requesting appointment have completed the preliminary process of attending a meeting and interviewing with a subcommittee of the Commission. Applications for appointment are attached to the agenda report. One application was received for the Lodging Tax Advisory Committee, and Gemma Fortier is being recommended for appointment. Ms. Fortier is the General Manager of Hotel Windrow, and Steve Townsend, another LTAC member, is the Managing Director of the hotel. There was only one application received, and there is no prohibition in the RCW or ECC against members being affiliated with the same organization.

Financial Impact: N/A

Attachments:

[G Fortier Application](#)

[G Fortier Recommendation](#)

From:
To:
Subject: [Ext] Online Form Submittal: Application for Appointment
Date: Wednesday, March 29, 2023 2:20:54 PM

CAUTION - EXTERNAL EMAIL: The email below is from an external source. Please exercise caution before opening attachments, clicking links, fulfilling requests, or following guidance.

Application for Appointment

Application for Appointment
For volunteering to serve on a Board or Commission

Boards & Commissions Lodging Tax Advisory Committee

Have you attended a meeting for the board or commission you are applying to? No

Name of Applicant: Gemma Fortier

Address

Mailing Address (If Different)

City

State WA

Zip 98941

Email Address

Phone Number

Length of Residency in Kittitas County 4 years

Do you live within the city limits? No

ECC 1.12.120 Residency qualification. Except where a commission, board or committee specifically requires city residency as a condition of appointment, members of all other commissions, boards and committees shall maintain residency within the Kittitas County limits. "Residency," as used herein, means residing within the city or county limits, as applicable, both at the time of appointment and for at least 270 days within each calendar year for the duration

of the member's term, but shall not include any period for which a member is absent due to military service.

If applying for the Sr. Citizens' Advisory Board, are you at least 55 years of age?

No

Occupation Status and Background:

Currently, I am the general manager of the Hotel Windrow, before this I ran the winery in Suncadia. I bring extensive hospitality and sales/marketing experience as well as a passion for driving Ellensburg tourism.

Organization Affiliations:

Hotel Windrow is under the banner of Columbia Hospitality, a management company.

Why are you seeking appointment?

As a hotelier, I am dedicated to the cause of making Ellensburg a destination rather than a way station off I90. Our beautiful, historic downtown, and our hiking, fishing and breweries all contribute to make us more than just a college town and I would love the opportunity to influence where the tax dollars of my guests are being used as well as strategize about ways to build further tourism.

Will you be able to attend meetings regularly if appointed?

Yes

If your first choice, as listed above, is not available, which other boards or commissions would you be interested in serving on?

Boards & Commissions Ellensburg Business Development Authority

Boards & Commissions Parks and Recreation Commission

Email not displaying correctly? [View it in your browser.](#)



TO: City Council
FROM: Lodging Tax Advisory Committee
DATE: April 5, 2023
RE: Recommendation of Appointment

Gemma Fortier submitted an Application for Appointment to the Lodging Tax Advisory Committee (LTAC) on March 29, 2023. She was invited to attend the April 5, 2023 Lodging Tax Advisory Committee meeting. At the April 5, 2023 meeting she introduced herself to the members and observed the meeting.

Lodging Tax Advisory Committee consisting of Councilmember Adam Winn, members Marie Smith, Steve Townsend and Lacie Dawson conducted the interview on April 5, 2023 after the regularly scheduled meeting.

The Lodging Tax Advisory Committee currently has three vacancies. Based on the interview and Gemma's commitment to tourism in Ellensburg, the subcommittee is recommending that the City Council appointment Gemma Fortier to the vacant Lodging Tax Advisory Committee position.



CITY COUNCIL AGENDA REPORT

City Council Meeting Date: April 17, 2023

Item Title/Agenda Subject: Public Transit Advisory Committee (PTAC) Appointment of Central Washington University (CWU) member - Solomon Kairu

Submitted by: Cynthia LaChappelle-Mathis

Recommended Action or Motion: Appoint Solomon Kairu to the PTAC

Background/Summary: ECC 1.84.020 gives CWU the authority to designate a member to being appointed to PTAC. The Associated Students of CWU (ASCWU) has designated Solomon Kairu for appointment to PTAC. Solomon will be replacing Joseph Burke.

Previous Council Action: N/A

Analysis: N/A

Financial Impact: N/A

Attachments:

[S Kairu Appointment Letter](#)

From: ASCWU President 01 <ASCWU.President@cwu.edu>
Sent: Monday, March 27, 2023 3:47 PM
To: Betsy Dunbar <dunbarb@ci.ellensburg.wa.us>
Subject: Re: [Ext] Re: Public Transit Advisory Committee

CAUTION - EXTERNAL EMAIL: The email below is from an external source. Please exercise caution before opening attachments, clicking links, fulfilling requests, or following guidance.

Hello Betsy,

I apologize for the delay,

But I wanted to let you know that we have appointed Solomon Kairu to the City of Ellensburg's Public Transit Advisory Committee Board. His email is Solomon.Kairu@cwu.edu.

Once again, I apologize for the delay in the appointment. If you have any questions please let me know.

Best regards,

Luis Reyes



Luis Reyes
He/Him/His
President
ASCWU Student Government
400 E. University Way
Ellensburg, WA 98926-7448
Office: SURC 236
Phone: 509-963-1843
Cell: 206-245-6086
ASCWUEVP@cwu.edu

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CITY COUNCIL AGENDA REPORT

City Council Meeting Date: April 17, 2023

Item Title/Agenda Subject: Continuation of the Closed Record Appeal Hearing (P23-017) to Review LDC COA approval (P22-115) of Proposed Demolitions at Unity Park in Downtown Landmarks Historic District

Submitted by: Stacey Henderson Community Development

Recommended Action or Motion: Following the Closed Record Hearing, staff requests City Council provide staff direction on proposed findings and conclusions, which will be returned to City Council for approval at a future meeting.

Background/Summary: The full staff report and associated exhibits regarding this appeal can be found in the March 20 City Council Agenda Packet, located on the City of Ellensburg City Council Page: [City Council March 20 Agenda Packet.pdf](#)

In addition to the original closed record documents, staff added the audio files of the January 25 hearings to the City of Ellensburg Community Development web page, which are available under "P23-017 Appeal" heading on the City website: [Public Notices/Current Projects | Ellensburg, WA.](#)

Previous Council Action: At the March 20 public hearing, Council voted to continue the hearing to April 17 to give the Appellant additional time to review the staff report in response to his appeal, and an opportunity to submit any additional documents the Appellant felt were missing from the record submitted to Council.

Analysis: Council is directed to the aforementioned staff report with exhibits from the March 20 meeting. In addition, staff requests the Mayor accept the audio recording of the January 25, 2023 Landmarks & Design Commission meeting as Exhibit 7. The appellant did not request that any additional documents be added to the record.

Financial Impact: None at this time.



CITY COUNCIL AGENDA REPORT

City Council Meeting Date: April 17, 2023

Item Title/Agenda Subject: Continuation of Closed Record Appeal Hearing (P23-019) to review LDC COA approval (P23-002) of Proposed Design for New Unity Park in Downtown Landmarks Historic District

Submitted by: Stacey Henderson Community Development

Recommended Action or Motion: Following the Closed Record Hearing, staff requests City Council provide staff direction on proposed findings and conclusions, which will be returned to City Council for approval at a future meeting.

Background/Summary: The full staff report and associated exhibits regarding this appeal can be found in the March 20 City Council Agenda Packet, located on the City of Ellensburg City Council Page: [City Council March 20 Agenda Packet.pdf](#)

In addition to the original closed record documents, staff was directed to add the audio files of the January 25 hearings to the City of Ellensburg Community Development web page, which are available under "P23-019 Appeal" heading on the City website: [Public Notices/Current Projects | Ellensburg, WA](#).

Previous Council Action: At the March 20 public hearing, Council voted to continue the hearing to April 17 to give the Appellant additional time to review the staff report in response to the appeal, and an opportunity to submit any additional documents the Appellant felt were missing from the record submitted to Council.

Analysis: The Appellant did not request that any additional documents be added to the record. Council is directed to the aforementioned staff report with exhibits from the March 20 meeting. In addition, staff requests the Mayor accept the audio recording of the January 25, 2023 Landmarks & Design Commission meeting as Exhibit 7. No other documents have been added to the record.

Financial Impact: N/A.



CITY COUNCIL AGENDA REPORT

City Council Meeting Date: April 17, 2023

Item Title/Agenda Subject: Ordinance 4909 (Second Reading) - IOOF Annexation (To be continued to May 15, 2023 City Council meeting)

Submitted by: Jeremy Johnston Community Development

Recommended Action or Motion: Staff and the applicant have requested that the hearing on second reading of the ordinance be continued until the May 15, 2023 City Council Meeting.

Background/Summary: N/A

Previous Council Action: N/A

Analysis: N/A

Financial Impact: N/A



CITY COUNCIL AGENDA REPORT

City Council Meeting Date: April 17, 2023

Item Title/Agenda Subject: Resolution 2023-10 Outside Utility Agreement for Calvary Ellensburg, Kittitas County Parcel Numbers 06473 and 194734

Submitted by: Derek Mayo Public Works & Utilities

Recommended Action or Motion: Approve Resolution 2023-10 authorizing the Outside Utility Agreement.

Background/Summary: A public hearing was set to consider a request from Calvary Ellensburg for connection of water and sewer service to the parcels they own adjacent to the Vantage Highway (parcel #06473 and #194734), pursuant to the provisions of Chapter 2.48 ECC. The utility extension, if granted, would be pursuant to the provisions of the attached "Utility Extension Agreement and Agreement Waiving Right to Protest LID and Annexation." The property covered by the agreement is shown on the attached map and is within the City's Urban Growth Area. There is currently no City power available for connection. Chapter 2.48 ECC ("Utility Extension Agreements") sets forth the terms and conditions upon which the City of Ellensburg may provide utility service outside the City limits and within the City's Urban Growth Area and requires that a property owner desiring such extension sign a standard contract ("Utility Extension Agreement and Agreement Waiving Right to Protest LID and Annexation") with the City as a condition of receiving such service. A public hearing as set forth in ECC 2.48.060B, must be conducted to consider the request and a resolution approving the request must be approved if the request is granted by Council.

Previous Council Action: No previous Council action.

Analysis: Items for Council's consideration include:

- Whether the requested extension is consistent with the City's adopted water plans. (Staff confirms the request is consistent with those adopted plans.)
- Whether the City has capacity in its water rights to

accommodate the request. (Staff confirms the water capacity exists to serve the request.)

- Whether the City has capacity in its sewer system to accommodate the request. (Staff confirms the sewer capacity exists to serve the request.)
- Whether the property owner agrees to all terms of a proposed Utility Extension Agreement and Agreement Waiving Right to Protest LID and Annexation. (The owner has indicated they agree to all terms of agreement.)

Financial Impact:

No Fiscal Impact. The applicant will be required to pay for applicable utility connection fees at time of connection.

Attachments:

[Resolution 2023-10 Outside Utility Agreement Calvary](#)
[Outside Utility Extension Agreement](#)

RESOLUTION NO. 2023 – 10

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON approving a request from Calvary Ellensburg for the connection of City of Ellensburg utilities pursuant to the provisions of Chapter 2.48 of the Ellensburg City Code.

WHEREAS, pursuant to the provisions of Chapter 2.48 ECC, Calvary Ellensburg (“Property Owners”) have requested the connection to City of Ellensburg electric and water service to their property located in the City of Ellensburg’s Urban Growth Area and described as Kittitas County Assessor Parcel Numbers 06473 and 194734, and

WHEREAS, the City Council conducted a duly noticed public hearing on this request on April 3, 2023, during a regularly scheduled council meeting, and

WHEREAS, the City Council finds the requested extension is consistent with the City’s adopted water plans and that the City has the domestic water capacity to serve the request, and

WHEREAS, the Property Owner agrees to all of the terms of that certain Utility Extension Agreement and Agreement Waiving Right to Protest LID and Annexation (Exhibit 1- Agreement) made a part of the record in the April 17, 2023 public hearing,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Ellensburg, Washington, as follows:

1. The request from Calvary Ellensburg, Property Owners, for the connection of City of Ellensburg electric and water service to Kittitas County Assessor Parcel Numbers 06473 and 194734 as fully described in Exhibit 1 (the Agreement), attached hereto and incorporated herein, is hereby approved, subject to the terms of that certain Utility Extension Agreement and Agreement Waiving Right to Protest LID and Annexation (the Agreement); and
2. The Mayor is authorized to execute the Agreement on behalf of the City of Ellensburg.

ADOPTED by the City Council of the City of Ellensburg this 17th day of April, 2023.

Mayor

Attest: _____
City Clerk

EXHIBIT 1

After Recording, Return To:

Name: City of Ellensburg
Public Works & Utilities
Address: 501 N. Anderson Street
Ellensburg, WA 98926

**UTILITY EXTENSION AGREEMENT
AND AGREEMENT WAIVING RIGHT TO PROTEST LID AND ANNEXATION.**

THIS AGREEMENT is entered into on this ____ day of _____, 2023, between the City of Ellensburg, Washington, hereinafter referred to as the "City", a Washington Municipal Corporation and Calvary Ellensburg, hereinafter referred to as "the Owner."

RECITALS

WHEREAS, the Owner is the owner of certain real property consisting of two parcels located in Kittitas County which are legally described as set forth in Exhibit 'A' attached hereto and incorporated herein by this reference as though set forth in full (collectively referred to as "the property"); and

WHEREAS, the Owner's property is not currently within the City limits of the City, but is within the City Urban Growth Area; and

WHEREAS, properties connecting to City water, sewer or electric service are required pursuant to Ellensburg City Code ("ECC") 9.25.030(H) to connect to all three utilities if available; and

WHEREAS, the Owner desires to connect to the City water and sanitary sewer utility systems, hereinafter referred to as "the utility," and the City is willing to allow connection only upon certain terms and conditions in accordance with Chapter 2.48 of the Ellensburg City Code, as now enacted or hereinafter amended; and

WHEREAS, the Owners agree to connect to City electric utility within one (1) year of the utility becoming available; and

WHEREAS, the City Council held a public hearing on this Agreement in accordance with ECC 2.48.060 on ____ day of _____, 2023, during a regularly scheduled Council meeting, and authorized the Mayor to execute this Agreement on behalf of the City;

NOW, THEREFORE,

AND IN CONSIDERATION OF the mutual benefits and conditions hereinafter contained, the parties agree as follows:

TERMS

1. **Warranty of Title.** The Owner warrants that they are the Owner of the property described in Exhibit 'A', which is attached hereto and incorporated herein by this reference, and is authorized to enter into this Agreement.

2. **Extension Authorized.** The property described in Exhibit 'A' is not currently within the City limits, but is located in the boundaries of City's Urban Growth Area. The City hereby authorizes the Owner to extend service to Owner's property (as legally described in Exhibit 'A') from existing utility facilities to be determined by the City.

3. **Costs.** Owner will pay all costs of designing, engineering, constructing and field inspection of the construction of the public improvements covered by this agreement. All construction shall be done to City standards and according to plans approved by the City Public Works & Utilities Director. Any and all costs incurred by the City in reviewing plans and inspecting construction shall be paid for by the Owner.

4. **Permits - Easements.** Owner shall secure and obtain, at Owner's sole cost and expense, any necessary permits, easements and licenses to construct the extension, including, but not limited to, all necessary easements, excavation permits, street use permits, or other permits required by federal, state, county and city governmental departments including, but not limited to, the Kittitas County Public Works Department, Kittitas County Health Department, State Department of Ecology, and City of Ellensburg.

5. **Transfer of Capital Facilities.** If the extension of utility service to Owner's property involves the construction of electric, water or sewer main lines, pump stations, wells, and/or other City required capital facilities, the Owner agrees if required by the City to turn over and dedicate such facilities to the City, at no cost, upon the completion of construction and approval and acceptance of the same by the City. As a prerequisite to such turn over and acceptance, the Owner will furnish to the City the following:

- A. As built plans or drawings in a form acceptable to the City Public Works Department;
- B. Any necessary easements, permits or licenses for the continued operation, maintenance, repair or reconstruction of such facilities by the City, in a form approved by the City Attorney;
- C. A bill of sale in a form approved by the City Attorney; and
- D. A bond or other suitable security in a form approved by the City Attorney and in an amount approved by the City Public Works Director, ensuring that the facilities will remain free from defects in workmanship and materials for a period of one (1) year.

6. **Connection Charges.** The Owner agrees to pay the connection charges for electric, water and sanitary sewer utility systems in addition to any costs of construction, as a condition of connecting to the City utility system, at the rate schedules applicable at the time the Owner requests to actually connect their property to the system. Any commitment payment that has not been forfeited shall be applied to the City's connection charges.

Owner understands and agrees that if the reason for Owner's request to connect is to

address a failed sewer system, and Owner seeks from the City, and is granted, relief from the requirement to concurrently connect to both water and sewer, Owner's execution of this Utility Extension Agreement hereby constitutes a commitment to connect to the City electric, water and sanitary sewer utility systems, and pay all design, permit and construction fees associated with the service line and any necessary main line extensions, within three (3) years of execution of this Agreement.

7. Service Charges. In addition to the charges for connection, the Owner agrees to pay for utility service rendered according to the rates for services applicable to properties outside the city limits as such rates exist, or as they may be hereafter amended or modified.

8. Petition and Covenant for Annexation. Owner understands that annexation of the property described on Exhibit 'A' to the City will result in the following:

- A. In general, Kittitas County ordinances, resolutions, rules and regulations will cease to apply to the property upon the effective date of annexation;
- B. In general, City of Ellensburg ordinances, resolutions, rules and regulations will begin to apply to the property upon the effective date of annexation;
- C. Governmental services, such as police and other utility service, will be provided to the property by the City of Ellensburg upon the effective date of annexation;
- D. The property may be required to assume all or any portion of the existing City of Ellensburg indebtedness, and property tax rates and assessments applicable to the property may be different from those applicable prior to the effective date of annexation;
- E. Zoning and land use regulations applicable to the property after annexation may be different from those applicable to the property prior to annexation; and
- F. The property may be annexed in conjunction with, or at the same time as, other property in the vicinity.

With full knowledge and understanding of these consequences of annexation and with full knowledge and understanding of Owner's decision to forego opposition to annexation of the property to the City of Ellensburg, Owner covenants and agrees to sign a petition for annexation to the City of the Owner's property as provided in RCW 35A.14.120, as it now exists or as it may hereafter be amended, at such time as the Owner is requested by the City to do so. The Owner also agrees and appoints the Mayor of the City as Owner's attorney-in-fact to execute an annexation petition on Owner's behalf in the event that Owner shall fail or refuse to do so, and agree that such signature shall constitute full authority from the Owner for annexation as if the Owner had signed the petition for themselves. Owner further agrees not to litigate, challenge or in any manner contest, annexation to the City. This Agreement shall be deemed to be continuing, and if Owner's property is not annexed for whatever reason, including a decision by the City not to annex, Owner agrees to sign any and all subsequent petitions for annexations. In the event that any of Owner's property is sold or subdivided into smaller lots, the purchasers

of each parcel or subdivided lot shall be bound by the provisions of this paragraph.

9. Land Use. The Owner agrees that as long as the property has not been annexed to the City, any development of the property shall meet the requirements of the Kittitas County Comprehensive Plan, and the applicable Kittitas County zoning.

10. Public Works Development Standards. The development or redevelopment of the property shall comply with all Ellensburg Public Works Development Standards, as these standards now exist or may hereafter be amended, applicable to the construction of electric, water, sanitary sewer, and street improvements, which street improvements include, but are not limited to, street, sidewalk, curb and gutter, surface water treatment/flow control and associated conveyance systems, street signs, street lighting, hot or warm mix asphalt, gravel base course, gravel top course, geotextile fabric, excavation, sawcutting, roadway fill material, striping, and street light improvements. All other items of work necessary to the construction of the improvements included in this paragraph, but not specifically listed, shall be considered incidental to this Agreement and shall be designed and constructed in accordance with the engineer's design and approved by the Public Works Director. The intent of this section is that future annexation of the property to the City of Ellensburg shall result in a development which conforms to these cited Public Works Development Standards.

11. Liens. The Owner understands and agrees that delinquent payments under this agreement shall constitute a lien upon the above-described property. If the extension is for sewer service, the lien shall be as provided in RCW 35.67.200, and shall be enforced in accordance with RCW 35.67.220 through RCW 35.67.290, all as now enacted or hereafter amended. If the extension is for water service, the lien shall be as provided in RCW 35.21.290 and enforced as provided in RCW 35.21.300, all as currently enacted or hereafter amended. If the extension is for electric service, the lien shall be as provided in RCW 35.21.290 and enforced as provided in RCW 35.21.300, all as currently enacted or hereafter amended.

12. Termination for Non-Compliance. In the event Owner fails to comply with any term or condition of this Agreement, the City shall have the right, at any time, to enter onto the Owner's property and for that purpose disconnect the electric, sewer and/or water, in addition to any other remedies available to the City.

13. Waiver of Right to Protest Local Improvement District ("LID") or Utility Local Improvement District ("ULID") or When Improvements Are Required By City Council. Owner acknowledges that the entire property legally described in Exhibit 'A' would be specially benefited by the following improvements: electric, water, sanitary sewer, surface water flow control and treatment, street improvements, and other improvements identified in paragraph 10 above.

- A. Owner agrees to sign a petition for the formation of an LID or ULID for the specified improvements at such time as one is circulated, and Owner hereby appoints the Mayor of the City as its attorney-in-fact to sign such a petition in the event Owner fails or refuses to do so.
- B. With full understanding of Owner's right to protest formation of an LID or ULID to construct such improvements pursuant to RCW 35.43.180, Owner agrees to participate in any such LID or ULID and to waive its right to

protest formation of the same. Owner shall retain the right to contest the method of calculating any assessment and the amount thereof, and shall further retain the right to appeal the decision of the City Council affirming the final assessment roll to the superior court.

- C. Owner also acknowledges and agrees that the City Council has the authority to require construction of any and all of the improvements identified in paragraph 10 above even in the absence of a LID or ULID. In such instance, Owner agrees to participate in paying for the cost of such improvements to the same extent and manner as if a LID or ULID had been formed, and without in any manner protesting, objecting to, or otherwise opposing the City Council's decision to require construction of the improvements.

14. Enforcement. In addition to any other remedy provided by law or this Agreement, the terms of this Agreement may be specifically enforced by a court of competent jurisdiction.

15. Covenant. The conditions and covenants set forth in this Agreement shall run with the land and the benefits and burdens shall bind and inure to the benefit of the parties and their heirs, successors and assigns. The Owner, and every purchaser, assignee or transferee of an interest in the Property, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a party thereto, but only with respect to the Property, or such portion thereof, sold, assigned or transferred to it. Any such purchaser, assignee, transferee, or successor shall observe and fully perform all of the duties and obligations of the Owner contained in this Agreement, as such duties and obligations pertain to the portion of the Property sold, assigned or transferred to it. All costs of recording this Agreement with the Kittitas County Auditor shall be borne by the Owner.

16. Attorney's Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of Washington. In any suit or action seeking to enforce any provision of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs, in addition to any other remedy provided by law or this Agreement. Venue of such action shall lie in Kittitas County Superior Court or the U.S. District Court for Eastern Washington.

17. Notices. Notices and correspondence to the City and Owner shall be sufficiently given if dispatched by pre-paid first-class mail to the addresses of the parties as designated below. Notice to the City shall be to the attention of both the City Manager and City Attorney. Notice to any person who purchases any portion of the Property from the Owner shall be required to be given by the City only for those property purchasers who provide the City with written notice of their address. The parties hereto may, from time to time, advise the other of any new addresses for notice and correspondence.

TO THE CITY:

City Manager
Ellensburg City Hall
501 North Anderson St
Ellensburg, WA 98926

TO THE OWNER:

Calvary Ellensburg
Tad Scheffer
PO Box 307
Ellensburg, WA 98926

City Attorney
Ellensburg City Hall
501 North Anderson St.
Ellensburg, WA 98926

18. Severability and Integration. This Agreement and the Exhibits attached hereto constitute the agreement between the parties on this subject matter, and there are no other understandings, verbal or written, that modify the terms of this Agreement. If any phrase, provision, or section of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any statute of the State of Washington which became effective after the effective date of the resolution or ordinance adopting this Agreement, such invalidity shall not affect the other terms of this Agreement.

19. Recording. This Agreement shall be filed for record with the Kittitas County Auditor.

DATED this 28 day of February, 2023.

OWNER


Name: Tad Scheffer

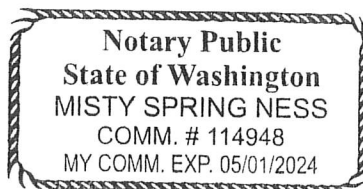
STATE OF WASHINGTON)

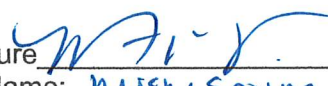
) ss.

COUNTY OF KITTITAS)

I certify that I know or have satisfactory evidence that Tad Scheffer is the person who appeared before me, and said person acknowledged that they signed this instrument and acknowledged it as the authorized agent for the Owner of the property described in Exhibit A to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: February 28, 2023



Signature 

Print Name: Misty Spring Ness

NOTARY PUBLIC for the State of Washington,
residing at Ellensburg, WA
My commission expires: May 1, 2024

CITY OF ELLENSBURG

Mayor

STATE OF WASHINGTON)
)ss:
COUNTY OF KITTITAS)

I certify that I know or have satisfactory evidence that
_____ is the person who appeared before me,
and said person acknowledged that he signed this instrument and acknowledged it as
the Mayor of the City of Ellensburg, to be the free and voluntary act of such party for the
uses and purposes mentioned in the instrument.

Dated: _____

Signature _____

Print Name: _____

NOTARY PUBLIC for the State of Washington,
residing at _____
My commission expires: _____

EXHIBIT "A"

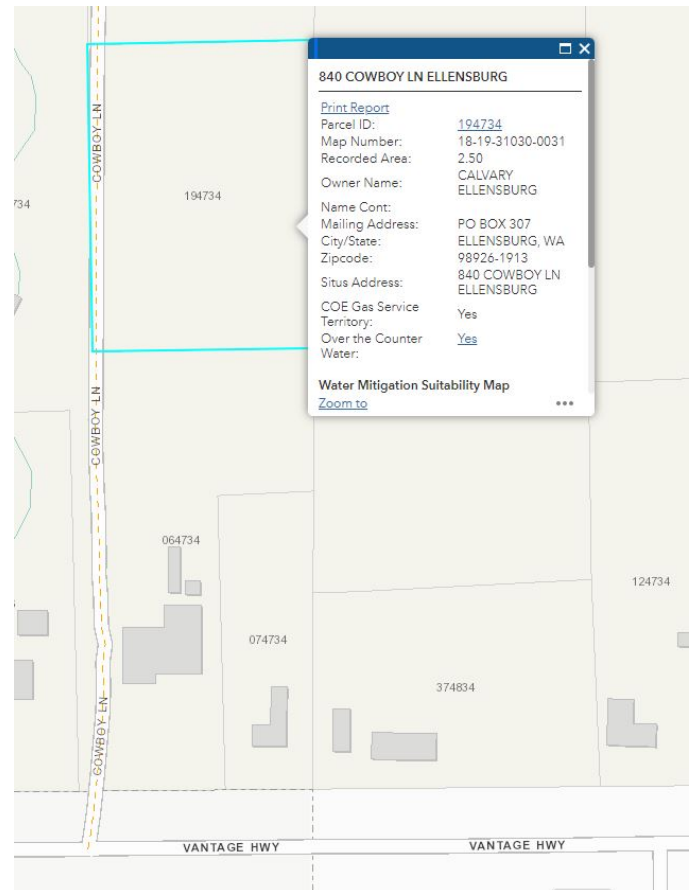
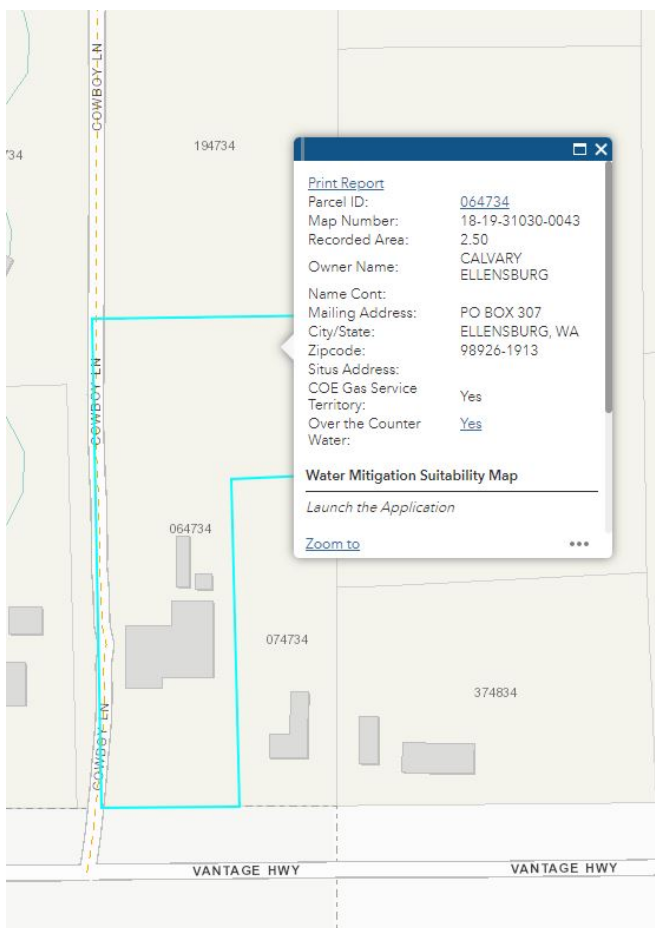
That portion of land lying within Kittitas County, State of Washington, Section 31, of Township 18 North, Range 19 East, more particularly described as follows,

840 Cowboy Lane

Kittitas County Parcel Number: 064734 and 194734

Kittitas County Map Number: 18-19-31030-0043 and 18-19-31030-0031

Containing 5 acres more or less





CITY COUNCIL AGENDA REPORT

City Council Meeting Date: April 17, 2023

Item Title/Agenda Subject: Ordinance 4913 (Second Reading and Adoption) - Carbon Purchase and Sale Authority

Submitted by: Buddy Stanavich Public Works & Utilities

Recommended Action or Motion: Approve second reading and adoption of Ordinance 4913 authorizing the Public Works and Utilities Director to carry out the duties and responsibilities required by the state's Climate Commitment Act, including participation in the Cap and Invest Program.

Background/Summary: In 2021, the Washington Legislature passed Senate Bill 5126, the Climate Commitment Act (CCA). The CCA establishes a cap-and-invest, market-based program to reduce carbon pollution and achieve the greenhouse gas limits set in state law, which applies to both private and public utilities, including the City of Ellensburg's electric and natural gas utilities. The cap-and-invest program sets a limit, or cap, on overall carbon emissions in the state and requires energy utilities to obtain allowances equal to their covered greenhouse gas emissions. Allowances can be purchased through quarterly auctions hosted by the Washington State Department of Ecology or bought and sold on a secondary market.

Previous Council Action: Council conducted first reading of Ordinance 4913 at the April 3, 2023 regular meeting, authorizing the Public Works and Utilities Director to carry out the duties and responsibilities required by the state's Climate Commitment Act, including participation in the Cap and Invest Program.

Analysis: The City has the obligation and responsibility to maintain compliance with the state Cap and Invest Program, including but not limited to the purchase and sale of greenhouse gas/carbon compliance instruments such as carbon credits/allowances, offsets, and other associated compliance instruments. Compliance will be exercised in accordance with state and federal law, and city policy, and is limited by expenditure authority designated for each respective fund in

the City's biennial budget. Ordinance 4913 creates a new Chapter 9.85 in the Ellensburg City Code that would provide the authority for the Public Works & Utilities Director (or designee) to fully participate in the program on behalf of the City.

Financial Impact:

The estimated financial impact for 2023 is \$1,538,454 based on the first auction's settled price of \$48.50/allowance. The financial impact is subject to change based on future auction settlement prices. Funding for the purchase and sale of these allowances is built into the 2023/2024 adopted biennial budget.

Attachments:

[Ordinance 4913 - CCA Code Changes](#)

ORDINANCE NO. 4913

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, RELATING TO ADMINISTRATION OF THE CITY’S ELECTRIC AND GAS UTILITIES AND ADDING A NEW CHAPTER “9.85 GREENHOUSE GAS EMISSIONS - CAP AND INVEST PROGRAM” TO THE ELLENSBURG CITY CODE.

WHEREAS, In 2021, the Washington Legislature passed Senate Bill 5126, the Climate Commitment Act (CCA); and

WHEREAS, the CCA establishes a cap-and-invest, market-based program (“Cap and Invest Program) to reduce carbon pollution and achieve the greenhouse gas limits set in state law, which applies to both private and public utilities, including the City of Ellensburg’s electric and natural gas utilities; and

WHEREAS, the Cap and Invest Program sets a limit, or cap, on overall carbon emissions in the state and requires energy utilities to obtain allowances equal to their covered greenhouse gas emissions; and

WHEREAS, allowances can be obtained through quarterly auctions hosted by the Washington State Department of Ecology, or bought and sold on a secondary market;

NOW, THEREFORE, the City Council of the City of Ellensburg, Washington do hereby ordain as follows:

Section 1. A new chapter entitled “9.85 GREENHOUSE GAS EMISSIONS - CAP AND INVEST PROGRAM” is hereby added to Title 9 of the Ellensburg City Code to read as follows:

**9.85
Greenhouse Gas Emissions – Cap and Invest Program**

Sections:

9.85.020 Purpose.

9.85.040 General.

9.85.060 Selection of city representative and delegated authority.

9.85.020 Purpose.

This chapter establishes the rules for participation by the city in the Washington State Greenhouse Gas Emissions Cap and Invest Program created by Chapter 70A.65 RCW.

9.85.040 General.

- A. The public works and utilities director will direct the city's participation in the state's Cap and Invest Program for the city's electric and gas utilities.
- B. The public works and utilities director will keep the city manager, finance director, utility advisory committee and city council apprised of prospective needs for participation in the Cap and Invest Program and the strategies in place to manage compliance.

9.85.060 Selection of city representative and delegated authority.

A. The public works and utilities director, or their designee, is delegated all necessary authority to carry out the duties and responsibilities contained in chapters 70A.65 RCW and 173-446 WAC on behalf of the city, which shall be bound by their representations, actions, inactions, or submissions and by any order or decision issued to them by the Washington State Department of Ecology, the Washington State Pollution Control Hearings Board, or a court of law regarding the city's participation in the Cap and Invest Program, including but not limited to the following:

1. To designate the primary and alternate account representatives for purposes of conducting the city's duties and responsibilities in compliance with the state Cap and Invest Program; and
2. For the purchase and sale of greenhouse gas/carbon compliance instruments such as carbon credits/allowances, offsets, and other associated compliance instruments.

B. Authority delegated in this section must be exercised in accordance with state and federal law, and city policy, and is limited by expenditure authority designated for each respective fund in the city's biennial budget.

C. The public works and utilities director will notify the city manager, utility advisory committee and city council at the first opportunity of Cap and Invest Program market activity exercised on behalf of the city, and any order or decision issued to the city regarding the city's participation in the Cap and Invest Program.

Section 2. Severability. If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portion(s) of this ordinance.

Section 3. Corrections. Upon the approval of the City Attorney, the City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 4. Effective Date. This ordinance shall take effect and be in force five (5) days after its passage, approval and publication.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the _____ day of April, 2023.

MAYOR

ATTEST:

CITY CLERK

Approved as to form:

CITY ATTORNEY

Publish:

I, Beth Leader, City Clerk of said City, do hereby certify that Ordinance No. 4913 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4913 was published as required by law.

BETH LEADER



CITY COUNCIL AGENDA REPORT

City Council Meeting Date: April 17, 2023

Item Title/Agenda Subject: Ordinance 4915 (First Reading) - Wheeled All-Terrain Vehicles (WATV)

Submitted by: Buddy Stanavich Public Works & Utilities

Recommended Action or Motion: Staff recommends Council conduct first reading of Ordinance 4915, authorizing the operation of wheeled all-terrain vehicles (WATVs) on City roadways.

Background/Summary: Washington State's Engrossed Substitute House Bill (ESHB) 1632, passed by the State of Washington (2013), amended Chapter 46.09 of the Revised Code of Washington (RCW), "Off-Road, Non-Highway, and Wheeled All-Terrain Vehicles," allowing cities and counties to regulate the operation of non-highway vehicles on streets, roads, or highways.

Staff, along with the Ellensburg Police Department, evaluated the legislation allowing the operation of non-highway vehicles on streets, roads, or highways, the County ordinance allowing WATVs on County roads, and the experience of other jurisdictions that allow WATVs on their roads and streets. Based on this review, staff concluded that the safety requirements for WATVs in Chapter 46.09 RCW, with the additional requirement that WATVs have headlights that are utilized at all times, provides for a level of safety similar to other street legal vehicles that are allowed to travel on public roads.

Previous Council Action: Council was presented legal, safety, and enforcement information about Off-Road, Non-Highway, and Wheeled All-Terrain Vehicles by EPD Captain Dan Hansberry at its Study Session on September 20, 2021.

Analysis: As is the current expectation of drivers, the proposed ordinance requires all users of WATVs on public roadways and rights of way within the City of Ellensburg to strictly comply with the provisions of Chapter 49.09 RCW and any other provisions of the local, state and federal laws, codes or regulations.

Discussions with several jurisdictions with an WATV ordinance in place revealed no traffic or pedestrian safety concerns or complaints from the public. Additional provisions in Ordinance 4915 include:

Requirements:

- WATVs can only be operated on city streets if the council formally approves the use on specific streets, and the list of approved streets must then be made accessible from the main page of the city website.
- WATVs must be licensed through the Washington State Department of Licensing.
- WATVs must have required equipment similar to that of street legal motorcycles.
- WATVs can only be operated on streets where the speed limit for all types of vehicles is 35 mph or lower.
- WATV drivers must possess a valid driver's license.
- All riders must wear helmets if WATV is not equipped with seat belts, roll bars or an enclosed passenger compartment.
- WATVs must follow all laws and rules of the road as other vehicles.

Types of Wheeled All-Terrain Vehicles (WATV):

ATV:

- Handlebars that are fifty inches or less in width
- Has a seat height of at least twenty inches
- Weighs less than 1500 pounds
- Has four tires having a diameter of 30 inches or less

Utility-type vehicle:

- four or more low-pressure tires (20psi)
- has a maximum width less than seventy-four inches
- has a maximum weight less than two thousand pounds
- has a wheelbase of one hundred and ten inches or less, and satisfies at least one of the following:
 - Has a minimum width of fifty inches;
 - has a minimum weight of at least nine hundred pounds;
 - or has a wheelbase of over sixty-one inches.

A map showing City streets and roads where WATVs would be permitted is attached. The map also shows three segments, marked in red, where the speed limit is greater than 35 mph, and WATVs would not be allowed. The map will be posted on the City website upon adoption of the ordinance.

Financial Impact:

No significant enforcement costs are anticipated. There may be potential economic benefits as well as operational savings through equipment efficiencies and less hauling of equipment to and from worksites.

Attachments:

[Ordinance 4915 - Wheeled All-Terrain Vehicles](#)
[Map of WATV Permitted Roads](#)

ORDINANCE NO. 4915

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, ALLOWING THE OPERATION OF WHEELED ALL-TERRAIN VEHICLES, AS DESCRIBED IN RCW 46.09, WITHIN THE CITY LIMITS AND ADDING A NEW CHAPTER ENTITLED “8.56 – WHEELED ALL-TERRAIN VEHICLES” TO THE ELLENSBURG CITY CODE.

WHEREAS, Washington State Engrossed Substitute House Bill (ESHB) 1632, passed by the Washington State Legislature in 2013, amended chapter 46.09 of the Revised Code of Washington (“RCW”), entitled “Off-Road, Nonhighway, and Wheeled All-Terrain Vehicles,” allowing cities to regulate the operation of certain non-highway vehicles on streets, roads, or highways; and

WHEREAS, RCW 46.09.455(1)(d)(i) requires cities that desire to allow the operation of wheeled all-terrain vehicles on city roadways, not including non-highway roads and trails, to approve an ordinance to designate city roadways for said usage; and

WHEREAS, any city, town, county, or other political subdivision of this state, or any state agency, may regulate the operation of nonhighway vehicles on public lands, waters, and other properties under its jurisdiction, and on streets, roads, or highways within its boundaries by adopting regulations or ordinances of its governing body, provided such regulations are not less stringent than the provisions of this chapter;

NOW, THEREFORE, the City Council of the City of Ellensburg, Washington do hereby ordain as follows:

Section 1. A new chapter entitled “8.56 – Wheeled All-Terrain Vehicles” is hereby added to the Ellensburg City Code to read as follows:

8.56 – Wheeled All-Terrain Vehicles

Sections

8.56.010 Purpose.

8.56.020 Definitions.

8.56.030 Use of wheeled all-terrain vehicle on city streets.

8.56.040 Restrictions on use of wheeled all-terrain vehicle on city streets.

8.56.050 Equipment requirements for wheeled all-terrain vehicles.

8.56.060 Registration and on-road tabs.

8.56.070 Duty to obey traffic-control devices and rules of the road.

8.56.080 Prohibited uses.

8.56.090 Prohibited areas.

8.56.100 Violation – Penalty.

8.56.010 Purpose.

The purpose of this chapter is to allow the operation of wheeled all-terrain vehicles described in RCW 46.09.310(19) on public roadways within the city of Ellensburg in accordance with RCW 46.09.455.

8.56.020 Definitions.

Unless otherwise specifically provided for herein, the definitions set forth in chapter 46.09 RCW, as existing or hereafter amended, shall govern this chapter. In addition, when used in this chapter, the following words, terms, and phrases shall have the following meanings:

- A. “City” means the city of Ellensburg, its elected officials, its employees, and its agents.
- B. “City street” means every way, lane, road, street, boulevard, and every way or place in the city open as a matter of right to public vehicular traffic inside the city limits.
- C. “Motorcycle helmet” has the same meaning as provided in RCW 46.37.530.
- D. “Sidewalk” means that property between the curb lines or the lateral lines of a city street and the adjacent property, set aside and intended for the use of pedestrians or such portion of private property parallel and in proximity to a city street and dedicated to use by pedestrians.
- E. “Wheeled all-terrain vehicle” or “WATV” means:
 - 1. A motorized nonhighway vehicle with handlebars that is fifty inches or less in width, has a seat height of at least twenty inches, weighs less than one thousand, five hundred pounds, and has four tires having a diameter of thirty inches or less; or
 - 2. A utility-type vehicle designed for and capable of travel over designated roads that travels on four or more low-pressure tires of twenty psi or less, has a steering wheel for steering control, has nonstraddle seating with the operator and passenger sitting side by side in the vehicle manufactured primarily for recreational nonhighway all-terrain use, has a maximum width less than seventy-four inches, has a maximum weight less than two thousand pounds, has a wheelbase of one hundred ten inches or less, and satisfies at least one of the following:
 - a. Has a minimum width of fifty inches;
 - b. Has a minimum weight of at least nine hundred pounds; or
 - c. Has a wheelbase of over sixty-one inches.

8.56.030 Use of wheeled all-terrain vehicle on city streets.

Subject to the restrictions and requirements set forth in chapter 46.09 RCW and in this chapter, a person with a valid driver’s license issued by the state of the person’s residence may operate a

wheeled all-terrain vehicle upon a city street having a speed limit of thirty-five miles per hour or less.

8.56.040 Restrictions on use of wheeled all-terrain vehicle on city streets.

A. A person who operates or rides as a passenger in a wheeled all-terrain vehicle must wear a securely fastened motorcycle helmet while the WATV is in motion, except when the WATV is equipped with seat belts and roll bars, or an enclosed passenger compartment.

B. A person may not operate a wheeled all-terrain vehicle upon any portion of Interstate 90, no upon the sections of University Way (including the Interstate 90 overpass at Exhibit 106), Old Highway 10 or US 97, as depicted in Exhibit 1 to this chapter; however, a person may cross those sections of University Way, Old Highway 10 or US 97 if the crossing begins and ends on a city street with a speed limit of thirty-five miles per hour or less and occurs at an intersection of approximately ninety degrees, and only at a controlled intersection.

C. A person may not operate a wheeled all-terrain vehicle upon a city street with a speed limit in excess of thirty-five miles per hour; however, a person may cross a city street with a speed limit in excess of thirty-five miles per hour if the crossing begins and ends on a city street with a speed limit of thirty-five miles per hour or less and occurs at an intersection of approximately ninety degrees, and only at a controlled intersection.

D. A person may operate a wheeled all-terrain vehicle upon any city street while being used under the authority or direction of an appropriate agency that engages in emergency management, as defined in RCW 46.09.310, or search and rescue, as defined in RCW 38.52.010, or a law enforcement agency, as defined in RCW 16.52.011, within the scope of the agency's official duties.

E. A wheeled all-terrain vehicle shall not be operated in a negligent or unsafe manner.

F. No person shall tow any trailers, devices, equipment or persons behind the wheeled all-terrain vehicle.

G. No person shall carry or transport any other person or passenger on a wheeled all-terrain vehicle, nor shall any other person ride on a wheeled all-terrain vehicle, unless such wheeled all-terrain vehicle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the wheeled all-terrain vehicle. Passengers shall wear a securely fastened motorcycle helmet unless the passenger's seat has a seatbelt and the wheeled all-terrain vehicle has a roll cage, or the wheeled all-terrain vehicle has an enclosed passenger compartment;

H. No person may operate a WATV upon a city street without having proof of current liability insurance with liability limits of at least the amounts provided in and in compliance with the requirements as set forth in RCW 46.29.090, as now enacted or hereafter amended. Written proof of such financial responsibility must be provided on the request of a law enforcement officer.

I. Wheeled all-terrain vehicles are subject to Chapter 46.55 RCW (Vehicle Towing and Impoundment).

8.56.050 Equipment requirements for wheeled all-terrain vehicles.

A. A wheeled all-terrain vehicle operated on a city street must comply with the following equipment requirements:

1. Headlights meeting the requirements of RCW 46.37.030 and 46.37.040 and used at all times when the vehicle is in motion;
2. Tail lamps meeting the following requirements:
 - a. Wheeled all-terrain vehicles with handlebars must have one tail lamp meeting the requirements of RCW 46.37.525 and to be used at all times when the vehicle is in motion upon a city street;
 - b. Wheeled all-terrain utility-type vehicles must have two tail lamps meeting the requirements of RCW 46.37.070(1) and to be used at all times when the vehicle is in motion upon a city street;
3. A stop lamp meeting the requirements of RCW 46.37.200;
4. Reflectors meeting the requirements of RCW 46.37.060;
5. During hours of darkness, as defined in RCW 46.04.200, turn signals meeting the requirements of RCW 46.37.200;
6. Outside of hours of darkness, the operator must comply with RCW 46.37.200 or 46.61.310;
7. Mirror(s) meeting the following requirements:
 - a. Wheeled all-terrain vehicles with handlebars must have a mirror attached to either the right or left handlebar, which must be located to give the operator a complete view of the roadway for a distance of at least two hundred feet to the rear of the vehicle;
 - b. Wheeled all-terrain utility type vehicles must have two mirrors meeting the requirements of RCW 46.37.400;

8. A windshield meeting the requirements of RCW 46.37.430, unless the operator wears glasses, goggles, or a face shield while operating the vehicle, of a type conforming to rules adopted by the Washington State Patrol;
9. A horn or warning device meeting the requirements of RCW 46.37.380;
10. Brakes in working order;
11. A spark arrester and muffling device meeting the requirements of RCW 46.09.470;
12. Wheeled all-terrain utility-type vehicles, as described under RCW 46.09.310(19), must have seat belts meeting the requirements of RCW 46.37.510, and an individual seat for each occupant designed to seat a person.

B. The requirements of this section do not apply to wheeled all-terrain vehicles used under the authority or direction of the city or an appropriate agency that engages in emergency management, as defined in RCW 46.09.310, or search and rescue, as defined in RCW 38.52.010, or a law enforcement agency, as defined in RCW 16.52.011, within the scope of the agency's official duties.

8.56.060 Registration and on-road tabs.

A person may not operate a WATV upon a city street unless the vehicle has a current and proper on-road vehicle registration and displays the appropriate on-road tab or special year tab, as required by chapter 46.09 RCW.

8.56.070 Duty to obey traffic-control devices and rules of the road.

Unless a police officer directs otherwise, a person operating a WATV must obey all rules of the road and must obey the instructions of official traffic-control signals, signs, and other control devices applicable to vehicles. A person operating a WATV upon a city street is subject to all of the duties that chapter 46.61 RCW and Title 8 of the Ellensburg City Code impose on an operator of a vehicle, except as to those provisions thereof which by their nature can have no application.

8.56.080 Prohibited uses.

A. No person may occupy a WATV unless that person is seated in or on a seat designed to carry a person.

B. No person may operate a WATV side-by-side with another WATV or other vehicle in a single lane of traffic.

8.56.090 Prohibited areas.

A. It is unlawful to operate a WATV on a sidewalk or other area where it is unlawful to operate a motor vehicle.

B. It is unlawful to operate a WATV in any city park other than in areas designated for motor vehicle operation such as a park drive or designated parking lot.

C. It is unlawful to operate a WATV on any bicycle trail or in any bicycle lane, or walking path or trail.

D. The requirements of this section do not apply to wheeled all-terrain vehicles used under the authority or direction of the city or an appropriate agency that engages in emergency management, as defined in RCW 46.09.310, or search and rescue, as defined in RCW 38.52.010, or a law enforcement agency, as defined in RCW 16.52.011, within the scope of the agency's official duties.

8.56.100 Violation – Penalty.

Any person violating this chapter shall be guilty of a traffic infraction punishable in accordance with chapter 46.63 RCW; provided, conduct that constitutes a criminal traffic offense may be charged as such and subject to the maximum penalties allowed for such offenses. A person who violates a provision of this chapter which does not constitute a violation of any other state or local traffic law is guilty of a traffic infraction and will be punished by the imposition of a monetary penalty of two hundred fifty dollars, exclusive of statutory assessments.

Section 2. Severability. If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portion(s) of this ordinance.

Section 3. Corrections. Upon the approval of the City Attorney, the City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 4. Effective Date. This ordinance shall take effect and be in force five (5) days after its passage, approval and publication.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the ____ day of May, 2023.

MAYOR

ATTEST:

CITY CLERK

Approved as to form:

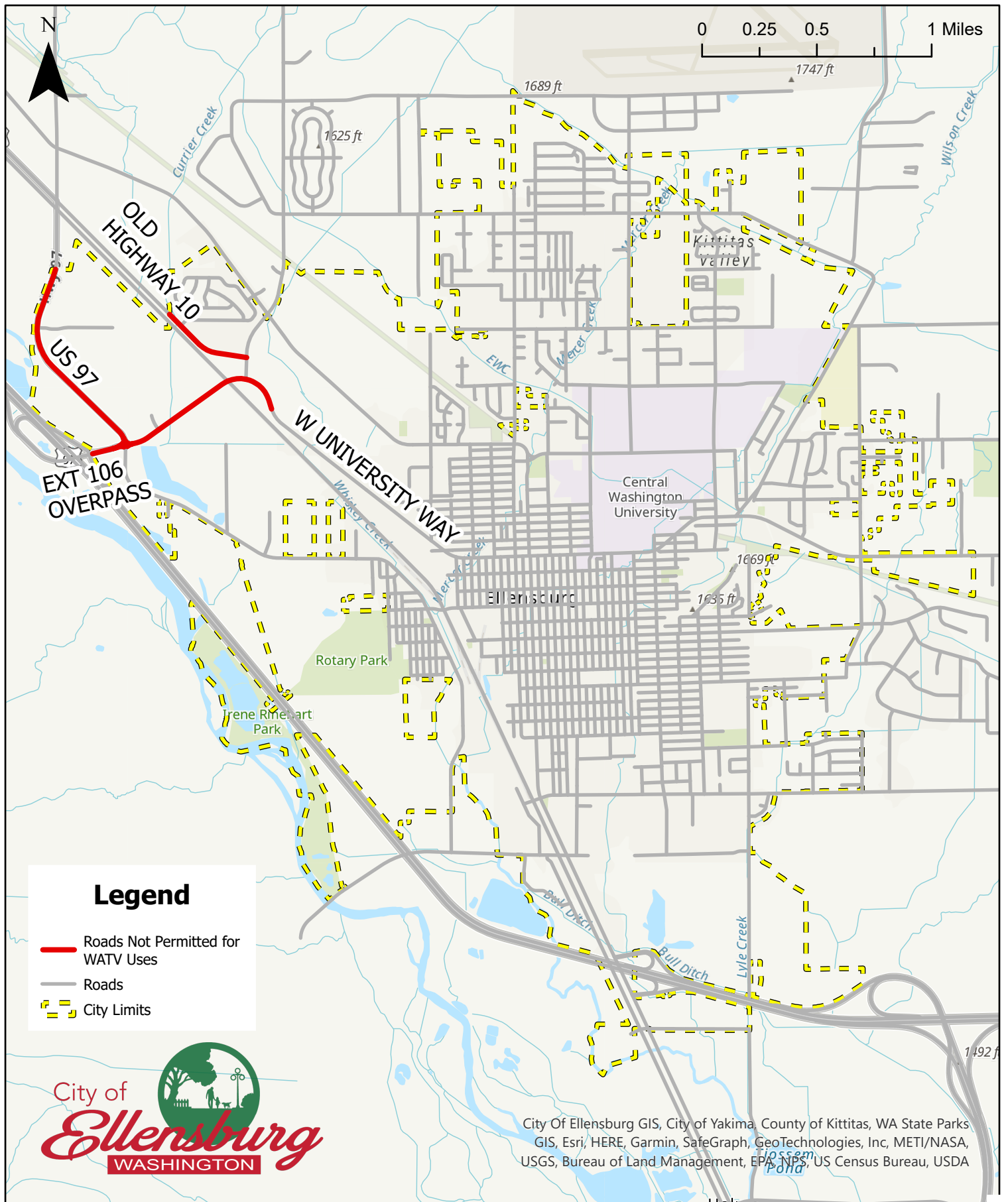
CITY ATTORNEY

Publish:

I, Beth Leader, City Clerk of said City, do hereby certify that Ordinance No. 4915 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4915 was published as required by law.

BETH LEADER

WATV Permitted Roads





CITY COUNCIL AGENDA REPORT

City Council Meeting Date: April 17, 2023

Item Title/Agenda Subject: Traffic Impact Fee Exemption Request - Happy Feet Academy

Submitted by: Ryan Lyyski Public Works & Utilities

Recommended Action or Motion: Staff requests Council consider the request from the Happy Feet Academy for exemption of Traffic Impact Fees (TIFs) as an early learning facility and:

1. Determine whether to grant a complete or partial exemption for the Project; and
2. If Council decides to grant a partial exemption, determine whether the partial exemption will be for the full amount available - 80% of the estimated TIF charge, or an amount less than 80%; and
3. If a partial exemption is granted, determine whether the remaining amount will be paid by Happy Feet or from other City funds.

Background/Summary: A new early learning facility is being proposed at 2410 South Lakeshore Way - the Happy Feet Academy. The facility is planning on serving 112 children ranging in age from 30 days to 6 years old. The project is being funded, in part, through grants from the state Department of Commerce and Kittitas County. The project has completed the SEPA process and building/civil plans are in the process of being submitted to the City seeking approval and permits. City Code requires that new building construction participate in the City's Traffic Impact Fee program. Recent State laws and Ellensburg City Code contain provisions for either a partial or full waiver of traffic impact fees for early learning facilities.

Previous Council Action: Council amended Ellensburg City Code section 14.04.050(E), Traffic Impact Fee Exemptions, in 2021 to include language allowing for exemptions for early learning centers for consistency with Chapter 82.02 RCW, which authorizes the

exemption of impact fees for certain qualifying developments, including early learning facilities.

Analysis:

Final plans and trip generation have not yet been finalized by the Happy Feet Academy. The trip generation for a facility of this type includes several weekday trips between 4:00 pm and 6:00 pm (the measure for peak traffic in the City and how TIFs are calculated). Based on the information known and applying City Code TIF calculations, the TIF for this particular project is estimated as \$231,000. However, ECC 14.04.175 provides that projects in the commercial and industrial zones "shall be reduced by 50 percent." Therefore, the estimated TIF after this reduction is approximately \$115,000. In addition, however, this project qualifies for exemption from the TIFs as outlined in City Code and state law as an early learning facility. ECC 14.04.050(E).

Once the project qualifies for an exemption, the City code and state law require that the City Council shall consider the matter and choose between two options: Whether the project be provided a full waiver of impact fees or a partial waiver up to 80 percent of the traffic impact fees.

Should the Council determine a full waiver of the traffic impact fee, the applicant will be required to record a covenant on their property requiring payment of the traffic impact fee should the building use change. If a full waiver is provided, full payment of the traffic impact fee would not be required to be paid from City funds other than impact fee accounts if the facility met minimum requirements for families using state subsidized child care.

Should the Council determine that a partial waiver of up to 80 percent of the traffic impact fee is appropriate, Council can require the remaining portion to be paid by either the applicant or from other City funds, but a covenant will not be required to be recorded requiring continued use of the parcel as an early learning facility.

The project applicant currently has two agreements from its funding partners requiring the project continue as a Daycare and an Early Learning Facility for 10 years once the project is

completed. The applicant has stated that requiring a covenant on the property will not be allowed through their financing.

Council is being requested to consider the matter and determine whether a full or partial (up to 80 percent) exemption is appropriate. Should Council determine a partial exemption is appropriate, Council will need to determine: 1) should the partial exemption be for 80 percent of the TIF amount or less than 80 percent; and 2) whether the remaining funds are to be paid by the applicant or paid by the City. If Council determines the remaining funds are to be paid by the City, staff will return at a subsequent Council meeting with a budget adjustment request.

Financial Impact:

Should Council decide on full waiver, the fee could be up to \$115,000 (with the 50 percent Commercial zone reduction) and paid from City funds to the traffic impact fee account, which will include a covenant on the property. Should the Council decide on a 20 percent (or more) waiver of the total traffic impact fee, the fee up to \$23,000 could come from the applicant or other City funds. The Finance Director could provide recommendation on where these funds could come from in a subsequent supplemental budget.

Attachments:

[Happy Feet Request](#)



March 8, 2023

Ryan Lyyski
Public Works and Utilities Director
City of Ellensburg
501 N Anderson Street
Ellensburg, WA 98926

RE: Traffic Impact Fee Exemption Request

Dear Mr. Lyyski,

Happy Feet Academy is requesting an exemption of Traffic Impact Fees for the new construction of an early learning facility at 2410 South Lakeshore Way in Ellensburg. We are requesting the Director determine that the proposed new construction qualifies as an early learning center (RCW 82.02.060 and RCW 43.31.565 and ECC 14.04.050(E)) and 80% of traffic impact fees be granted as an exemption and a request for the City of Ellensburg to consider the utilization of public funds for the remaining 20% as outlined in RCW 82.02.060.

The estimated traffic impact fees for the new construction project (as per City of Ellensburg staff) amount to \$232,540, based on the square footage of the building. The request for allocation of public funds is estimated at \$46,508 or 20% of the impact fees. Happy Feet understands and assume responsibility for paying:

- Building permit fee and plan check fee \$10,361
- 1" water meter connection for building \$11,267
- Sewer connection \$11,267
- 5/8" water meter connection \$7,060
- Gas and electric utility connection (waiting on estimate)

The new building will provide Happy Feet Academy with space to regularly serve 112 children ranging in age from 30 days to 6 years old, therefore meeting the definition of an early learning facility outlined in RCW 43.31.565. Our early learning facility will also dedicate 50% of the available spaces to families utilizing a state subsidy per our 10-year contract with the Washington Department of Commerce and Kittitas County Commissioners, qualifying us for a full waiver detailed in RCW 82.02.060(4b).

Kittitas County – Caring for our children and families.

- The Kittitas County Health Network and the Washington State Department of Children, Youth, and Families have identified Kittitas County as a geographic location with a critical shortage of childcare options.
- Kittitas County has 6 licensed childcare centers in Kittitas County with a total of 413 available for children.
 - 93 available spaces or 22% of the childcare capacity in Kittitas County belong to Central Washington University and only available to CWU employees and students – therefore unavailable to the general public.
- In 2019, it was reported that for every available space in Kittitas County, there are 4 children in need of care that will be turned away.
- All childcare providers in Kittitas County have a significant waitlist with families waiting to receive services, often up to two years.

Phone: 509-933-5222

Email: Logan.happyfeetacademy@gmail.com or Melissa.happyfeetacademy@gmail.com



How Did Kittitas County Get Here?

- Each year new childcare regulations are created and enforced causing regulatory and cost burdens for providers, resulting in many smaller in-home childcare providers to permanently close their doors.
- The onslaught of the COVID pandemic exacerbated additional losses of home-based childcare providers, further decreasing the availability of childcare in Kittitas County.
- Significant regulatory and cost burdens, labor shortages, cost increases, and disrupted schedules during the pandemic created a perfect storm that drastically showed the need for increased childcare capacity in Kittitas County.
- Despite 17.2% growth in Kittitas County from 2010 to 2020, childcare capacity has not kept up with the population growth.
- Limited access childcare continues to detract highly qualified candidates for employers countywide, causing increased difficulties in recruiting employees to work and live in Kittitas County.
- With extensive regulatory demands for childcare, recruiting new childcare providers poses significant barriers for entry.

And there is hope.

A new early learning facility is within reach. Happy Feet Academy acquired property to build our new location and secured grant and loan funding for the remainder of the construction process. Several local organizations have rallied behind this project to help meet the childcare need in our community including WA Department of Commerce, Enterprise, Kittitas County Commissioners, Kittitas Valley Healthcare, Kittitas County Health Network, Kittitas County Early Learning Coalition, and many other local businesses volunteering time, labor, and supplies to the success of the new facility.

Increases in construction costs over the last year and a half now put our already tight budget into one that is under extremely thin margins. The permitting process and fees are our next upcoming hurdle, we are hopeful a portion of this can be alleviated via exemption of traffic impact fees. We ask the Director of Public Works and Utilities to determine that the proposed new construction facility qualifies as an early learning facility and is therefore exempt and for the City of Ellensburg to join current partners and grant our request for the 80% waiver and 20% investment of public funds to ensure the success of this project.

Please reach out if any further clarification is needed to support this exemption request.

Sincerely,

Melissa Denlinger, PhD
Owner/Director
Happy Feet Academy
509-607-9650 (cell)

Phone: 509-933-5222

Email: Logan.happyfeetacademy@gmail.com or Melissa.happyfeetacademy@gmail.com



MANAGER'S REPORT

DATE: April 17, 2023

To: Ellensburg City Council

FROM: Heidi Behrends Cerniwey, City Manager

1. Closed Public Hearing

Staff would like to advise Council that a public hearing has been set for May 1, 2023 to consider application #P22-126, a Type IV Preliminary Plat submitted by William & Sandra Sparks, owners for the Sparks Plat located on the south side of Bender Road, along the east frontage of Airport Road, in the City of Ellensburg, WA, Kittitas County Assessor's Parcel Numbers: 14455 & 14456.

2. Tree City USA Anniversary Celebration

The City of Ellensburg will be celebrating 40 years as a Tree City USA on Saturday, April 22, from 10:00 a.m. – 1:00 p.m. at Irene Rinehart Riverfront Park. Ellensburg is the first city in Washington to reach this Milestone. Festivities will include a ceremonial tree planting, a nature scavenger hunt, and a sapling giveaway.

3. City Poem Unveiling Ceremony

Ellensburg Poet Laureate Marie Marchand will unveil the official Ellensburg City Poem at 1:00 p.m. on Tuesday, April 25 at City Hall. The event will feature songs by the CWU Chamber Choir as well as remarks by Mayor Lillquist.

4. Human Library

The Ellensburg Human Library in collaboration with CWU EthicsLab, CWU Libraries and the City of Ellensburg will be open on April 22, from 10:30 a.m. – 2:30 p.m. at Hal Holmes Community Center. Stop by to borrow an open "book" for a conversation on topics such as mental health, disability, ethnicity, gender, ideology, recovery, occupation, and race.