

**TOPPENISH CITY COUNCIL**  
**Regular Meeting Minutes**  
**August 13, 2012**

Mayor Jiménez called the meeting to order at 7:00 p.m.

**ROLL CALL**

Present: Mayor Clara Jiménez and Councilmembers Loren Belton, Zachary Dorr, Mark Oaks, Derald Ortloff, Randy Taylor, and Blaine Thorington.  
Staff Present: City Manager William C. Murphy (CM Murphy), City Attorney Gary Cuillier, MidValley Television Manager Judy Devall, and Executive Assistant/Deputy City Clerk Heid Riojas.

**PUBLIC COMMENT**

None.

**CONSENT AGENDA**

Councilmember Thorington moved, seconded by Councilmember Taylor to approve Consent Agenda items a through e:

- a. Approve Minutes of the July 23, 2012 Regular Council Meeting.
- b. Receive July 2012 Budget Report and Update memorandum submitted by Finance Director/City Clerk Linda Mead.
- c. Approve Pay Estimate #1 to Granite Construction Company for the Franklin Avenue Resurfacing project in the amount of \$50,799.06 with retainage held in the amount of \$2,673.64.
- d. Approve Payroll Checks Number 31738 through 31765 in the total amount of \$235,731.82 dated July 31, 2012.
- e. Approve Claims Checks Number 75538 through 75658 in the total amount of \$365,412.55 dated August 13, 2012 and void Check Numbers 75529, 75539, and 75542.

Motion carried unanimously.

**NEW BUSINESS**

**Proclamation to Declare the Weekend of August 17, 2012 through August 19, 2012 as “Friends of Fred Weekend” In Honor of Fred Oldfield.**

Mayor Jiménez recited the Proclamation for the record thereby declaring the weekend of August 17, 2012 through August 19, 2012 as “Friends of Fred Weekend” in honor of Fred Oldfield.

**Award Low Bid for the Pioneer Park Pathway to Granite Construction Company in the Amount of \$138,400.**

City Manager Murphy (CM Murphy) reported that the City has the written recommendation from the City’s engineering firm to accept the low bid from Granite Construction Company in the amount of \$138,400 for the Pioneer Park Pathway Project. He stated that the funding for the project will be from multiple sources including proceeds from the City employee yard sale, a

donation from the Yakima Valley Farm Workers Clinic, the funds generated over the years for bicycle licenses, and the remainder from Fund 150, which is income generated from old housing and rehabilitation loans. CM Murphy reported that the project can be funded without impacting the General Fund and without impacting the level of services the City provides elsewhere.

Councilmember Belton moved, seconded by Councilmember Oaks to award low bid for the Pioneer Park Pathway to Granite Construction Company in the amount of \$138,400. Motion carried unanimously.

**Resolution 2012-12:**

**Resolution Approving Local Agency Agreement with the Washington State Department of Transportation for the Jackson Street Extension Project.**

CM Murphy reported that the City has been awarded a federal grant to pay for the professional engineering services for the design of the Jackson Street Extension Project. He stated that the funds are administered through the Washington State Department of Transportation (WSDOT) and that the City needs an agreement with the WSDOT to have the agency disburse the funds for the project.

Councilmember Belton moved, seconded by Councilmember Taylor to adopt Resolution 2012-12, a Resolution Approving Local Agency Agreement with Washington State Department of Transportation for the Jackson Street Extension Project. Motion carried unanimously.

**Resolution 2012-13:**

**Resolution Approving Local Agency Agreement with the Washington State Department of Transportation for the L Street Improvements Project.**

CM Murphy reported that the City has been awarded a federal grant to pay for the professional engineering services for the design of the L Street Improvements Project. He stated that the funds are administered through the Washington State Department of Transportation (WSDOT) and that the City needs an agreement with the WSDOT to have the agency disburse the funds for the project.

Councilmember Thorington moved, seconded by Councilmember Oaks to adopt Resolution 2012-13, a Resolution Approving Local Agency Agreement with Washington State Department of Transportation for the L Street Improvements Project. Motion carried unanimously.

**Resolution 2012-14:**

**Resolution Approving Drinking Water State Revolving Fund Loan Agreement for the Construction of Water System Improvements, in the Amount of \$1,199,072, with an Interest Rate of 1%.**

CM Murphy reported that the proposed agreement encompasses four elements of the City's Comprehensive Water Plan by improving the water delivery system on East Toppenish Avenue, on North D Street, in the Maple Court area and on Chehalis Avenue and North Beech Street. He stated that in each of the areas it will improve the fire flow very substantially. The repayment of the loan has been included in the rate study and is payable under the current water rates.

Councilmember Thorington moved, seconded by Councilmember Taylor to adopt Resolution 2012-14, a Resolution Approving Drinking Water State Revolving Fund Loan Agreement for the Construction of Water System Improvements, in the Amount of \$1,199,072, with an Interest Rate of 1%. Motion carried unanimously.

**[Proposed] Ordinance 2012-7:**

**Ordinance Granting Northwest Open Access Networks, D/B/A “NoaNet” a Washington Mutual Nonprofit Corporation, a Non-Exclusive Franchise to Construct, Install, Operate and Maintain a Fiber Optic Telecommunications Network within the City of Toppenish; Establishing an Effective Date; and Providing for Severability.**

CM Murphy reported that a Public Hearing was held on July 9, 2012 pursuant to public advertisement. He stated that there were no public comments for or against the proposed franchise with NoaNet. CM Murphy reported that the proposed agreement is modeled after the franchise agreement that Council approved with LS Networks. The franchise agreement with LS Networks is for a private, for profit Telecommunications Company, and that NoaNet is a nonprofit corporation comprised of a group of rural utilities districts in the State of Washington. He stated that NoaNet has obtained \$140 million in federal grants to build a fiber broadband network throughout the State to connect underserved communities. CM Murphy further reported that the proposed franchise will allow NoaNet to provide wholesale access only. CM Murphy stated that since the NoaNet funding is primarily with federal funds, the federal government has the right to take over the franchise if the Grantee, NoaNet, fails to do what it was given the money for. The proposed franchise reads that if the federal government takes over the franchise it must agree to comply with the terms and conditions of the franchise. Because NoaNet is self-insured it will be required to cover liabilities that would otherwise be covered by insurance. The proposed franchise allows NoaNet to self-insure. CM Murphy stated that the City reserves the right to require a performance bond if it perceives during the life of the franchise that there is an additional risk that would require the City to demand the posting of a bond.

Councilmember Belton moved, seconded by Councilmember Ortloff to adopt Ordinance 2012-7, an Ordinance granting Northwest Open Access Networks, d/b/a “NoaNet” a Washington Mutual nonprofit corporation, a non-exclusive franchise to construct, install, operate and maintain a fiber optic telecommunications network within the City of Toppenish; Establishing an Effective Date; and Providing for Severability. No vote was taken on the motion.

CM Murphy interrupted to report that State Law provides the Council an opportunity to read the proposed franchise ordinance twice before adoption and requested Council to put the matter over to the August 27, 2012 meeting for adoption, if Council so decides.

Mayor Jiménez stated that the second reading for the proposed franchise ordinance will be during the August 27, 2012 meeting.

**COUNCIL MEETING REPORTS/COMMUNITY ANNOUNCEMENTS**

Mayor Jiménez reported that she attended the National Night Out in Toppenish on August 7, 2012 and thanked the police officers for their participation at the event.

Councilmember Belton reported that he participated at the National Night Out by volunteering for the Crime Stoppers table and noted that attendance was down this year throughout the valley.

Councilmember Belton reminded the public to attend the Toppenish Western Art Show during the weekend of August 17, 2012 through August 19, 2012.

Councilmember Thorington reported for the record that he has talked with the City Manager regarding complaints he received concerning a loud concert at the Toppenish Rodeo Grounds on August 12, 2012 and that CM Murphy is handling the matter.

### **CITY MANAGER REPORTS**

CM Murphy reported that Yakima County Commissioner Kevin Bouchey contacted him to inform him that after serving three years as the Chairman for the Driving Rural Yakima Valley Economy he is interested in resigning the position to an elected official. He encouraged any Councilmember to let him or Commissioner Bouchey know if they are interested in the position. CM Murphy stated that he and staff will interview seven applicants on August 14, 2012 to fill the vacant Deputy Finance Director/City Clerk position.

### **ADJOURNMENT**

There being no further business to come before the Council, the meeting was adjourned at 7:22 p.m.

---

CLARA R. JIMÉNEZ, MAYOR

---

HEIDI RIOJAS, EXECUTIVE ASSISTANT/DEPUTY CITY CLERK