

**TOWN OF NACHES COUNCIL MINUTES**  
**November 14, 2022**

Present:  
Mayor Williams

Absent:

Councilwoman Williams  
Councilman Weekes  
Councilwoman Hawver  
Councilman Hawver

Excused Councilman Henning

Others in Attendance: Attorney Shinn, Admin. Ranger and Clerk/Treasurer Birrueta

Call to Order  
Introductions  
Roll Call

The meeting was called to order at 6:30 P.M. by Mayor Williams. All Councilmembers were present with the exception of Councilman Henning. Mayor Williams led the Council/Audience in the Pledge of Allegiance.

Honors & Recognition

None

Additions to the Agenda  
Approve Agenda

None

Councilman Weekes moved to approve the agenda as presented. Seconded by Councilwoman Hawver. Motion carried unanimously.

Consent Agenda

Councilman Hawver moved to approve the consent agenda. Seconded by Councilwoman Williams. Motion carried unanimously. The consent agenda includes

- a) Approve Study Minutes of 10/10/2022.
- b) Approve minutes of 10/10/2022 Regular Council Meeting.
- c) Approve Claim checks, Second Payment October 21, 2022 claim check No. 5499 through 5504, 3 ACH Payments Dept. of Revenue, Banner bank & Cost Allocation Plan Total of \$30,034.51 Claim checks dated November 14, 2022 check# 21450 through 21488. 1 manual check# 5512. 2 ACH payments Exxon & Pitney Bowes. Total of \$152,220.60 check #21449 was voided
- d) Approve those Payroll Checks dated October 31, 2022 in the amount of \$41,992.81 Check #5505, through 5511, 3 ACH payments to

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Aflac, DRS, IRS.

## REPORTS/ANNOUNCEMENTS

Planning Commission	None
Sheriff's Report/	Lt. Hendrickson did not attend the meeting. The report shows 15 calls for the month of October.
YVCOG	None
Lion's Club	None
Naches Depot Advisory Committee	Christmas Night in Naches will be held the night of December 7 <sup>th</sup> from 5:00 p.m. to 8:00 p.m. Gail Welch will be asking for volunteers.
Addition to the Agenda	None
Public Hearing	a) The regular Council meeting closed at 6:33 p.m. A Public Record Hearing was open to receive comments regarding the proposed preliminary 2023 budget. No members of the Public gave testimony. The Public Record Hearing Closed at 6:33 and the regular Council meeting continue.
Presentation	Urban Growth Area: <u>Bill Hordan with Hordan Planning Services</u> of Yakima and Michael Uhlman from HLA, Inc., Bill Hordan 410 N 2 <sup>nd</sup> St Yakima WA 98901 made a brief presentation about the UGA. Back in March 2021 the Town submitted an emergency request to amend Urban Growth Area in that point and time the application included two components there was property in the Northwest of Town generally speaking west of Simmons and North of Old Naches Hwy consist of miscellaneous properties there was a South East component we are going to refer to as the Diener property at that point in time the Yakima County Staff had recommended approval of both component to the Yakima County Planning Commission. December of 2021 the County Planning Commission had a meeting they deliberated on those two component and the Yakima County Commission recommended that the

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Northwest component around Simmons Rd and Old Naches Hwy be added to the Naches UGA. Then they broke it in to two parts components the South East component vote ended up in a tied. Moved forward with no consensus one item that comes up continuously on this application at Northwest component and South East component was that the Town had approach the County to only include the South East component then the County Staff said well a couple of years back you wanted this Northwest component how about just included it on the application. February of 2022 Planning Commission Recommendation went to the board of Yakima County Commissioners at that time the Town withdrew that Northwest component and requested to only include the South East component which consist 100% of the Diener property to be included in the Naches UGA. After the public presentation the Board of the County Commissioner Chairman called for a motion to the other 2 commissioners regarding just this component of the South East property. No one made a motion everyone just sat there and looked at each other and the project died due to lack of a motion. However the Town still had this unresolved application pending with no decision. The Town discuss with the County Staff what the options were on this application, June of 2022 the Town submitted a revised application that requested only the South East component the Diener property to be added in the Naches UGA and no other lands. There was 2 agency comments regarding this process the first letter from Department of Commerce dated September 2, 2021. The comments states, we (Department of Commerce) encourage the County to work with the City of Naches to refine the proposal to ensure consistency with the GMA. One option is to identify property within the UGA not likely to develop over the next 20 years that could be removed in order to add land that is ready for development. When the Town submitted the revised application Staff took that into consideration. The County Staff then processed the Town's application and they prepared a staff report recommending approval of the South East component (Diener property) to be added to the Naches UGA. The County Staff provided their staff report to the Town of Naches about October 12, 2022 there was a scheduled Public Hearing for October 19, 2022. A week before that the Town planner Hordan,

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Michael Shinn Town Attorney, Michael Uhlman town engineer and the Mayor we prepared a presentation since the County Planning Staff had recommended approval of the Diener property, as we are ready to go make our presentations, about 1 o'clock October 19<sup>th</sup> I received a phone call from County Staff and they indicated to us that they were changing their recommendation and recommend denial. As I stated before there was 2 agency comment letters both from Department of Commerce. About a year later department of commerce sent another letter based on the revised application. They basically say since the first letter the Washington State Legislation amended RCW 36.70A.130, setting new requirements governing UGA land swaps. They listed 8 new requirements. No. 2 states, the areas added to the urban growth area are not or have not been designated as agricultural, forest, or mineral resource lands of long-term commercial significance. That particular statement includes the south east component the Diener property because is designated zone agriculture resource according to their letter we can't bring it in to the Naches UGA. This is a surprise to the Town of Naches and the fact that the County Staff changed the recommendation to denial. Staff attended the County Planning Commission meeting on October 19<sup>th</sup> and requested continuance of the revised application to prepared additional information and see if we can change the Staff mind and change their recommendation. The Town Staff has prepared a letter to the Department of Commerce and addressed specifically the revised application and the proposed request that we do have is to remove approximately 28 acres of property on the north east of the Naches high school refer to as the "Huck" property and swap for the Diener property which totals about 23 acres in reality the Town is reducing the UGA by 5 acres. In reality if the Huck property is removed it will go back to agricultural resource and agricultural zoning district. This is untested law the request is still pending Department of Commerce received the letter and we are still waiting their response. Yakima County Planning Commission is aware of the letter to commerce waiting their response for the Public Hearing. Councilwoman Williams asked where the Huck property located on the map staff is provided the map. Council discuss and asked questions of when the Huck property came into

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the Town of Naches UGA, it was brought in around 2004-2005. During the process of bringing this parcel into the Naches UGA the original owner last name Shinn sold the property to the Huck's. The original plan was that the High School was interested in purchasing this land and it was going to be designated public land. At this time Michael Uhlman with HLA, Inc., 410 S 98th Avenue. Presented to Mayor and Council the engineering infrastructure for the proposed UGA. The area in question is along Kellowery Rd. Naches is currently investing in the Wastewater Treatment plant phase 1 completed 1.8 million with the additional improvement totaling about 5.7 million upgrade to meet the requirements and deal with the ammonia levels and have the capacity to service growth for the next 20 years expansion. Increasing costs understanding ramifications on responsible growth. If the proposed UGA is expanded proposed improvements on the Old Naches Hwy and Kellowery Rd connecting to Bonlow Dr. Water/Sewer extensions and road improvements. Funding available through different agencies including safe route to schools. The Town has improved all their roads and there is really not a lot of room for improvements or funding. The Town attorney Mr. Shinn spoke next regarding the UGA. Mr. Shinn emphasize a comment from earlier about the Town putting land in the UGA or taking land out of the UGA. Truth of the matter is the Town can't do either the Town is an applicant just like a private citizen would apply for land use project. The Town submitted that application and being noticed the County processes the application and sends out notices to people within 300 feet around that project. The timing of that notice and the identity of the people who receive the notice is the providence of Yakima County. in this case Bill Hordan mentioned we had a letter from September 2021 the paragraph of the land quantity analysis in the Staff report requires for every UGA project requires a Staff supposed to do an analysis and inventory for commercial, industrial and residential properties, that letter that Bill was referencing to it states that Naches currently has 54 years of growth capacity within the its UGA and 66 years under the proposed expansion. The GMA requires UGA's to be sized to accommodate 20 years of growth Department of Commerce is operating under the impression that the Town has more property available

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for residential growth and expansion than we needed so why are we adding additional parcels. The conclusion was that if the Town wanted to proceed the County should work with the Town of Naches to redefine the proposal and ensure consistency and one of the options was land swap. One of the interesting things that have happened since the new revised application the new land quantity analysis what was conducted by Staff in this case in the newest Staff report it states that we are under budget if you will for residential property inventory and that's even leaving the Huck property in the UGA, which led the question from Mr. Shuttleworth why are you taking one out if you are not meeting the shred hold. Why not just add the Diener property in and exceed the shred hold require for the inventory, and that is a good question to take to the Planning Commission. Mr. Shinn also wanted to point out the comment letter from Department of Commerce that the Planning Staff focused on and decided the reason for the change sites a portion of the statue not all of it. Reading the statue is preceding by the language that the County determines revision of the Urban Growth Area is not require to accommodate the UGA projected to occur for the succeeding 20 year period then that's when this designation of agriculture resource land long term commercial significance takes a provision. We are not in this situation where the County is trying to accommodate UGA overabundance of residential property we don't even meet the shred hold of the statue it is not applicable. In this process Staff does an analysis whether or not the Diener is indeed property long-term commercial significance. County Staff report concluded weigh in 10 factors to analyze if the property meets 8 of the 10 factors it is concluded that this property is not a long-term commercial significance agriculture and it would be wrong to designate as such. Staff conclude that 7 of the 10 factors were met on the Diener property there is one missing factor that it would push this into this property is not a long-term commercial significance of agriculture. There's a lot of people hung up on saying that this is good ag land and it is, it's good soils and water that is not what long-term commercial significance means in agriculture it means that is capable of producing in viable commercial crop and it has been this property has been vacant for a dozen years. The key factor that County Staff couldn't make a

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decision on is the last one, one based on the tax features of joining parcels, at the time they did their staff report there was an joining 20 plus acres parcel, that is was owned by a private individual tax current use ag, after the staff report before to the Planning Commission that property was sold to the school district and immediately came out of current use agriculture at this point we satisfy the 8 out of the 10 factors at the time the Commissioners met. It was this criteria of having long-term commercial significance agriculture that hung up the Department of Commerce on this sub section of the statute, our argue that is no longer properly identify and designated as ag land of long-term commercial significance. A lot of people were upset that we asked for a continuance and it was granted but after studying the language of the letter by the way the letter is not the law the law is the law, I would argue that the statute that they are siting is not an impediment of our application number one and number two if you analyze the Diener property under the 10 factors it should be de designate and should not be deemed property of long-term commercial significance. It has been a confusing procedural land use matters I've ever witness. Councilwoman Williams asked if this process is going back and forth between the County and the Town. Attorney Shinn explained that this is a legislative matter, that the Planning Commission makes and recommendation and the County Commissioners make a decision, supposedly last time they made no decision leaving the emergency request as is. Councilman Hawver asked why there was an emergency. Bill Hordan answered with we can put it this way as of today the Town of Naches has not issue any water or sewer hook-ups because there is no land to develop. Developers don't want to have one lot and they want more land in size to do streets, utilities, lighting and develop. The Finney property ties Kellowry Rd together and all utilities that go with it. Since I started working for the Town everything is going east for developments. The school district the park, utilities to Allan Rd. Admin. Ranger stated the Mr. Diener wants his property in the Town Urban Growth Area he is pushing for it. Mr. Hordan stated that the Town is applying for more land for development.

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Unfished Business

- a) Wastewater Treatment Plant Improvements: No further discussion was desired by Council.
- b) Mobility Grant Application (DOT) Park & Ride. No further discussion was desired by Council.
- c) Urban Growth Boundary Request to Yakima County. No further discussion.
- d) USDA Rural Development Grant/Loan for Phase II of the Wastewater Treatment Plant. No further discussion was desired.
- e) Yakima County Fire District No. 3: No further discussion.
- f) Capital Budget request for the hydraulic stage for the Naches Event Center: no further discussion was desired by Council.
- g) US Hwy 12 Study Corridor
- h) 2023 Preliminary Budget

New Business

- a) 2023 Law Enforcement Agreement- there is no increase for 2023.
- b) 2023 Garbage Rates- the CPI increase of 3% the increase is forty three cents from \$14.42 to \$14.85 Yakima Waste did stated that the County has not given an updated dump fee for 2023, Yakima Waste anticipates notice of new dump fee rates in the spring of 2023 rates may have to be revisited once they have the new rates.
- c) 2023 Contract amount for Library Services. Contract amount of a little over 18K for library services.
- d) Yakima County Sheriff's Office local crime lab agreement with YVCOG. Mayor explained that now YVCOG is asking for matching funds on the new propose crime lab. Council had a discussion over the crime lab and fees associate with it. Mayor and Council would like further information on this matter and would like to have a presentation from YVCOG. Staff will request for a presentation. Mayor Williams explained that there is a crime lab available through the Sheriff's department since the Town contracts with Yakima County Sheriff for law enforcement. Councilman Weekes indicates that if the Town participates will the law

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- enforcement agreement increase. The proposed crime lab through YVCOG is partially funded through ARPA Funding.
- e) Cost Allocation Plan for 2022. Administration costs to Streets, Water/Sewer fund, and garbage fund are charged on time spent for the administrator and clerk/treasurer. After the cost allocation Clerk/Treasurer anticipates a new budget amendment. Per auditor's recommendation to allocate and charge each fund accordingly. Clerk/Treasurer stated that the budget amendment may not have covered all the expenses and will revisit in December.
  - f) Progress estimate No. 14 designated as the final for work performed by Pacific Civil & Infrastructure, Inc., through September 30, 2022. The amount due the contractor of \$6,105.05 is net, less retainage per contract documents.
  - g) 2023 RMSA assessment- Liability insurance was increase 15% about \$6K for 2023.
  - h) Warehouse Demolition- TAP funding for the demolition of the warehouse by the Depot park area. The LED is high and this building will need to be hauled to Oregon.
  - i) Charter Communication Franchise, Attorney Shinn received a drafted agreement from Charles Deister Director Government Affairs with Charter Communication in terms of the agreement that was provided, Mr. Shinn reviewed the agreement and sent it back most of the changes were accepted, section 10 of the drafted agreement doesn't exactly reflect that insofar as it said the provisions for the franchise govern in the event of any conflict. Mr. Shinn explained to Mr. Deister that the Town will preserve the Town's police power to protect public safety. Admin. Ranger explained that the Town has not received an application as of today. An application needs to be submitted with the fee.
  - j) ARPA Flock Camera application
  - k) Wastewater Treatment Plant phase 2 bid tabulation and recommendation for award.

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### Resolutions & Ordinance

- a) Proposed Resolution No. 2022-5: A resolution of the Town of Naches, Washington, authorizing the Mayor to sign the contract modification for Library Services addendum A regarding the fiscal year 2023. Councilwoman Williams moved to approve resolution No. 2022-5. Seconded by Councilman Weekes. Motion passed carried unanimously.
- b) Proposed Resolution No. 2022-6: A resolution of the Town of Naches authorizing the Mayor to sign the 2022 Town of Naches cost allocation plan enacted October 2019 and reviewed annually. Councilwoman Hawver moved approve resolution No. 2022-6. Seconded by Councilman Hawver. Motion carried unanimously.
- c) Proposed Resolution No. 2022-7: A resolution of the Town of Naches, Washington, authorizing the Mayor to sign the law enforcement agreement for fiscal year 2023 between Yakima County Sheriff's Office and the Town of Naches. Councilman Hawver moved to approve resolution No. 2022-7. Seconded by Councilwoman Williams. Motion carried unanimously,
- d) Proposed Resolution No. 2022-8: A resolution of the Town of Naches, Washington, authorizing the Mayor to sign a construction agreement with Pacific Civil & Infrastructure, Inc. Councilwoman Williams moved to approve resolution No. 2022-8. Seconded by Councilman Hawver. Motion carried unanimously.
- e) Proposed Ordinance No. 777: An ordinance of the Town of Naches, Washington, amending Chapter 8.12.230 A through C of the Naches Municipal Code pertaining to garbage service rates. Councilman Weekes moved to approve ordinance No. 777. Seconded by Councilwoman Williams. Motion carried unanimously.

### Audience Participation

Todd Huck address 11382 US Hwy 12 on the County side. Mr. Huck stated that he know how boards work a couple of times and he also stated that he served in the Naches School District board for 15 years. He has served the Wapatox board and he knows how they work. Mr. Huck stated that he cannot express how disgusted

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he is by the Town of Naches mainly the Mayor and Jeff, the fact that you guys go behind our backs all of this taking place since last summer trying to switch our property out, my mom has lived here in Naches for 80 years 79 years and no one contacted her anytime. I understand that you guys are Naches guys and theirs is thing you can't talk about at least put pressure on this guys is it ok with this people to kick us out without any representation. I got a letter 4 days before this October 19 meeting when I received this letter I came into the office to talk to Jeff and he stated that Mayor directed him to swap this property out, why was this not discussed with me. I find out I was in process of being swapped out without any representation. I go down there to the meeting and luckily one of the planning commission members suspend this, after the meeting I was approached by one of the members of the Yakima County Planning Commission and asked me they could not believe I did not know about this, they said you were not approached and Mr. Huck said no never. Mr. Huck stated that the Planning Commission member stated that Jeff had specifically talked to the Planning Commission and told them that he had spoken to both land owners and that they were both in agreement. Anyhow this Planning Commission member stated that this issue will not be address again until both land owners are in agreement as they should you can't do this. The biggest mistake I have ever made jokily is that I've said before if I ever do a development I would partner with Jeff because then I wouldn't have to pay for them pointing at the Town Planner and the Town Engineer out of pocket, if he does it on his own he would have to pay for his own representation, this has been going on for 20 years and besides a development and further development is turning into land of rentals in the past 5 years how many single family residences have you built it's all multi-family and where is this going to end, you guys really need to look at that hard is very important. Mayor Williams thanked Mr. Huck for addressing his concerns, Mr. Huck then said with that Paul referring to the Mayor you need to recused himself as Mayor and implores to Council to get rid of Jeff because he's going to get them in trouble. Mayor Williams thanked Mr. Huck again.

Bill Davis 23 W 3<sup>rd</sup> Street: I came to live in Naches I wasn't siding with Todd or anyone the reason why I'm

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here is trying to understand what's going on with this development is happening I don't know a reason for, I went through the minutes of the past 2 years and all of sudden there's an emergency for urban growth and there's an emergency session for this urban growth. I've been in situation with business and stuff where it screams out follow the money I don't know what's happening but this isn't quite right all of a sudden when an issue comes up Todd stands up and asks a question and you go hey you can't ask questions now you can ask at the end, well I have like 10 questions but is so far removed that I'm not sure I know all of them Jeff said if you don't keep growing you're going to die and I agree with that Jeff completely, that doesn't address the fact that you have a small community and I don't know that the community has been surveyed saying do you want to grow or not because being a small community doesn't mean you're going to die you will just stay a small community. The fact that you have this situation where you go yeah we need to grow by lips and bounds we will be like west valley in no time at all is wrong is flat wrong, this little town can stay the way it is, you can have the agriculture areas around us and the life style you want, trust me I've live in Portland, Santa Barbara, Seattle and come to Naches for what it had to offer and to hear that is gotten to grow or die I take my chances on dying to be honest with you because I don't see the growth you're talking about making sense. Let me go to another one with this did the Sheriff's department ever resolved the crimes here in Naches. Mayor Williams's response is there a specific crime I don't know which crime you're talking about. Mr. Davis well there's been 2 deaths here in Naches last year. Mayor Williams response is if you're talking in paper report no. Mr. Davis stated that the Town shouldn't be paying law enforcement. When I go around town there's always a feeling that there's something shady going on. I went through the minutes and I don't see any survey conducted for growth. I think that would be the first thing you want to do before growth is proposed. Mayor Williams appreciates all the input in that, and it doesn't work that way.

Todd Huck: Stated that one of the Naches School District board members told him that they cannot develop the property that connects to Bonlow Drive for

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10 years. Mayor Williams question if he can say which board member or who and he didn't disclose who told him that.

Executive Session                      None

Other Business                              None

Council FYI Items                      None

Continue meeting or adjourn: 7:48 pm.                      With no other business to be discuss, Councilman Weekes moved to adjourn the meeting. Seconded by Councilwoman Hawver. Motion carried unanimously. Meeting adjourned at 7:48 p.m.

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Paul D Williams, Mayor

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Elvira Birrueta, Clerk/Treasurer