

MINUTES
Ferndale City Council Meeting
Held Monday, May 6, 2002
City Hall Annex Building - 5694 Second Avenue
7:00 p.m.

PRESENT: **Councilmember Albert Lavine**
 Councilmember Mel Hansen
 Councilmember Mike Reilly
 Councilmember Marianne Elgart
 Councilmember Susan Cole
 Councilmember Jerry Landcastle
 Councilmember Ron Wilson

STAFF PRESENT : **City Administrator Roland Signett**
 City Clerk Linda Knutson
 Public Works Director Loren Sperry
 Planning Director Tom Black
 Police Chief Dale Baker
 Interim Parks and Recreation Director Pat Milliken

Mayor Carolyn Jensen presiding

EXECUTIVE SESSION

The Council, City Administrator and Mayor met in executive session at 6:00 p.m. to discuss real estate issues. The session adjourned at 7:05 p.m.

CALL TO ORDER

Mayor Jensen called the meeting of the Council to order at 7:10 p.m.

CONSENT AGENDA

The following consent agenda was moved for approval by Councilmember Hansen, with a second from Councilmember Wilson:

1. Approval of Minutes of 04/15/2002 Council Meeting
2. Approval of Payroll of 04/18/02; Auto-Deposit Amount: \$95,859.50;
Checks #20975 - #20984 Amount: \$28,392.23; Total Payroll:\$124,251.73

Motion passed unanimously.

PUBLIC COMMENT

James Kaufman had concerns regarding the nearby radio station located on Imhof Road. The station has recently been sold. Mr. Kaufman gave a brief history of ownership, stating that it was established as a non-profit operation, and the recent sale violated its non-profit status. Kaufman noted that many people besides himself have experienced extreme cases of ongoing problems of radio interference from the station. He said that now is the time for city officials and residents to provide input to the FCC, as the current license will expire in 2003. He asked the Council to consider contacting the FCC and further asked that administration follow-up on his request.

Earl Wilson stated that the radio station interferes with local telephone service.

Ernie Heinrich asked that the City look at "blind corners", particularly the one located at Vista and Ferndale Terrace, which is overgrown with vegetation. Also, parking lines are not evident in that area, causing people to park at dangerous angles. Director Sperry stated he would send out a crew to look at

this and the code enforcement officer to check the vegetation on the lot in question. Councilmember Reilly also asked Mr. Heinrich to attend the next Streets and Utilities Committee meeting.

UPDATE AND REVIEW OF POLICE FACILITY

Councilmember Reilly reviewed that several options regarding the new criminal justice facility were discussed during executive session. The opportunity to purchase the building and extra lot located at Fourth and Alder still exists, with the plan being to move the Police Department out of their currently leased building and into the building at the proposed location, while beginning to construct a new facility on the City Hall property.

Motion:

Councilmember Reilly motioned to enter into negotiations to purchase the property at Fourth and Alder Streets, which was seconded by Councilmember Lavine.

Discussion and Motion:

Councilmember Hansen felt that the public should be included in making a decision of this importance, and motioned to table this item.

Motion failed five to two, with Councilmembers Hansen and Landcastle voting yes.

Further Discussion:

Councilmember Landcastle felt that the building in question was inadequate to meet the needs of a law and justice building and that at least 30 to 60 days were needed for more discussion and study.

Councilmember Wilson stated that above and beyond the proposed purchase, a new facility needed to be built immediately.

Councilmember Reilly said that this was a temporary fix, and the City must go forward with building a new facility. He felt that this purchase accomplished space and property needs plus allowed for future expansion.

Councilmember Hansen agreed that a first class facility is needed, but that this purchase would delay that goal because of the cost. He felt that this approach was a “knee jerk reaction” to the accommodation problem.

Councilmember Lavine stated this has been going on for almost a year, and that it was time to stop talking about and just get it done.

Councilmember Elgart stated that she did not feel this decision was “knee jerk”, as the City has been studying and discussion the item for nearly a year. She said that the property is needed immediately for future expansion.

Councilmember Landcastle stated that with almost one million dollars in real estate excise and criminal justice tax monies, the Council has authority for councilmatic bonds, and that spending nearly half of that amount for an inadequate building made no sense and was a waste.

Councilmember Hansen stood behind his belief that this was a “knee jerk” decision, and felt that a two-storey building made more sense than buying this property.

Councilmember Reilly said that at least the whole council was in agreement that something needs to be done for police housing. He stated that although the proposal is not ideal, it provides a solution for immediate needs.

Councilmember Wilson said that there was no question that a new facility is needed, and that once the Police have moved out of the proposed building into a new facility, perhaps the Planning Department

could move in, as they have seriously outgrown their space on the second floor of City Hall.

Councilmember Landcastle said that he had just received information on this issue the previous Friday and only had three days to study it. He still felt that the public needed to be included in the decision making process.

Councilmember Elgart said that a major public workshop had been held on this subject, and that the architect had spoken at a Council meeting. She said that the information has been available to anyone that was interested in asking for it.

Cheryl Wilson wondered if Chief Baker should comment on the proposal since it was his department that would be directly affected. She was further concerned that a new facility break ground immediately so that the Police are not again faced with the prospect of spending several years in a building that they were told was temporary.

Barry Haddock pointed out that the City owns plenty of land, and they should consider either building on one of those sites, or selling some land to raise the money needed to accomplish the completion of a new facility.

Councilmember Reilly said that information was given to him when he asked for it several weeks ago, and that Council should recognize that when they need updates or information on ongoing issues, they need to ask staff. He further stated that nothing on this proposal has been rushed - it has been ongoing for a year, and the information has been available for the asking.

Councilmember Hansen stated that the Council needed in-depth study on this issue as a whole.

Councilmember Cole added that the current police facility is costing the taxpayers \$20,000 a year, and that money would be better spent on securing a new facility.

Previous Question:

The Council continued to discuss the proposed purchase, and the previous question was called. Motion failed three to four.

Councilmember Elgart moved to table the issue until Council has an opportunity to conduct a workshop session for further study.

Motion passed five to two.

A workshop will be set for the week of May 20th, with staff contacting the architect to attend. Council will make a final decision at the June 3rd meeting.

BREAK

The Mayor announced a five-minute break at 8:15 p.m. The meeting was reconvened at 8:20 p.m.

PLANNED UNIT DEVELOPMENT - PACIFIC HIGHLANDS

Mayor Jensen introduced the agenda item by reading an appearance of fairness statement. She then excused herself from the proceeding and Mayor Pro-Tem Hansen assumed the chair.

Mayor Pro-Tem Hansen said that he had some ex-parte communication with two citizens while having coffee at a local restaurant, but felt he was not influenced either way by their statements. Councilmember Landcastle had also heard from some citizens but felt he would be unbiased on this issue. City Attorney Langabeer pointed out that as public officials it was not out of the ordinary that citizens would wish to speak with them and voice their views on upcoming issues.

Staff Report

Planning Director Black presented the staff report regarding the PUD and Preliminary Plat for Pacific

Highlands, a proposed 183 lot residential PUD development on approximately 44 acres of land located in the RS 8.5 zone, north of Thornton Road and west of Church Road. The proposed density exceeds that which is allowed in the RS8.5 zone slightly, and therefore requires the approval of a density bonus. Proposed lot sizes average about 6250 sq. ft., and lot widths and setbacks are substantially less than required in the underlying zone. The plan includes passive open space areas, consisting mainly of several wetland preserves throughout the site, and active open space areas, consisting primarily of recreation facilities which include a pool and tennis court. Total open space does not meet the 20% minimum PUD requirement unless the perimeter buffer areas are included in the calculation. The PUD also does not meet the 10% minimum active open space requirement. The applicant argues that the perimeter buffer areas should be included in the open space calculation and that the quality of the recreational amenities being proposed compensate for any deficiency in open space area.

The Planning Commission held a public hearing on April 10, 2002 to consider the PUD and Preliminary Plat. The primary issues discussed centered around the deficiency in total; open space, and in particular, active open space. The proposed density bonus was also discussed. The Planning Commission did not feel the applicant met the criteria which would justify granting a density bonus. Similarly, the Commission did not accept the applicant's arguments aimed to justify the approval of a deficiency in the open space requirements. The Planning commission recommended that the proposed project be disapproved.

Of the six actions that could be taken when a recommendation or decision is forwarded to the City Council by the Planning Commission, two were applicable or appropriate in this instance. The Council could approve with additional conditions, or deny the proposal thus upholding the Planning Commission's recommendation.

Discussion:

Councilmember Reilly asked for clarification on "open space" and "buffers".

Councilmembers Wilson, Elgart, and Reilly felt that the Planning Commission has been consistent in their interpretation of open space and buffer requirements, noting that buffers have never been considered or defined as open space.

The Council further discussed their options in deciding this proposal. Clarification was sought regarding imposing further conditions at this point (approval with conditions), or waiting until the applicant resubmitted to the Planning Commission at some future point (uphold Planning Commission recommendation). The Council also agreed with the Planning Commission regarding density requirements and bonuses.

Motion:

Councilmember Elgart moved to affirm and uphold the Planning Commission's recommendation to disapprove the PUD and Preliminary Plat for Pacific Highlands. This was seconded by Councilmember Cole.

Motion passed unanimously.

MAYOR JENSEN RETURNED TO THE PANEL.

RECOMMENDATION ON DEPT. OF ECOLOGY LOAN

Streets and Utilities Committee Action Item

Councilmember Reilly, Chair of the Committee, reviewed that the Department of Ecology was asking for a commitment as to whether the City would be accepting the \$189,000 loan to complete a storm water plan. Previously, the Council authorized spending City funds which had been set aside in order to do aerial photography and digitalization which would be the basis of the plan. The estimated cost to complete the plan is approximately \$90,000. It had been staff's opinion that the plan will be of value to

the City in planning future projects and will also work as a tool which can be used by developers.

Motion:

Councilmember Reilly moved to accept the loan and return excess/unused funds to DOE after completion of the project. This was seconded by Councilmember Hansen.

Discussion:

Councilmember Cole clarified that the City would complete phases of the project and then incrementally invoice DOE for the costs incurred, rather than accepting \$189,000 up front and returning unused monies.

Motion passed unanimously.

BACKGROUND CHECKS

Planning and Judicial Committee Action Item

Councilmember Cole, Chair of the Committee, reviewed that the Police Department had recently been requested to perform background checks on two employees intended for hire for the summer tour program. Chief Baker was of the opinion that his department could not conduct an adequate check. He further recommended that there be a policy in place for performing background checks on new hires.

Councilmember Cole moved to direct staff to formulate a policy on background checks for new hires, dependant upon the position criteria. This was seconded by Councilmember Elgart.

Motion passed unanimously.

PIONEER PARK TOUR GUIDES

Planning and Judicial Committee Action Item

Councilmember Cole stated that both the Planning and Judicial Committee and the Recreation and Finance Committee have reviewed this item concerning the hiring of summer tour guides at Pioneer Park. At issue was determining the status of the tour guides as contractors or City employees. Administration reviewed the matter and discerned that the guides must be run through the City payroll system and would therefore be considered city employees. The \$3,500 allocated to the Heritage Society for these tours must now technically be moved, through interfund transfer, to a payroll line item. Councilmembers Reilly and Wilson felt that this constituted adding to staff, which was not approved during the 2002 budget process, and required a budget amendment with two public hearings. Councilmember Cole felt that since there was to be no monetary increase to the actual 2002 budget, this was only an unanticipated technicality that needed a fund transfer.

Councilmember Hansen moved to transfer \$3,500 from the Transient Lodging Tax Fund to an appropriate payroll fund to accomplish salary allocations for the tour guides. This was seconded by Councilmember Elgart.

Discussion:

Councilmember Reilly wished to make certain that when the ad is placed for an additional tour guide it is specified that it is a City of Ferndale position.

Motion passed with Councilmember Reilly voting no.

DEPARTMENT REPORTS

Planning and Building

Director Black reviewed a letter from Ferndale Foods, Inc. who has purchased the Ferry Brothers meat processing plan on Portal Way. The letter included a "Recruitment and Training Program" for Council review. Black reminded the Council that when the Board of Adjustment approved the variance last year to allow the operation to re-start, one of the conditions was that the applicant structure their employment recruitment efforts to target Ferndale residents. The Board asked that the Council review the recruitment

program, but indicated no specific action the Council should take.

Councilmember Cole requested that the Council be kept informed as to compliance with this and other conditions imposed by the Board.

Police

Chief Baker noted that the Department recently honored SCOPE volunteers with a banquet and recognition pins.

Parks and Recreation

Interim Director Milliken indicated that he has spend his first few weeks on the job getting acquainted with local civic groups and organizations.

ADJOURNMENT

There being no further scheduled City business, the meeting was adjourned at 10:06 p.m.

ATTEST:

Carolyn Jensen, Mayor

Linda Knutson, City Clerk

ATTACHMENT "A":

**STREETS AND UTILITIES COMMITTEE MEETING
5/1/02**

COMMITTEE MEMBERS PRESENT: MIKE REILLY, MEL HANSEN

STAFF: ROLAND SIGNETT, LOREN SPERRY

STATUS OF D.O.E. STORM WATER PLAN LOAN

The Department of Ecology is asking for a commitment as to whether the City is going to be accepting the \$189,000 loan to complete a storm water plan. Previously the Council authorized spending City funds which had been set aside to do the aerial photography and digitization which would be the basis of the plan. The estimated cost to complete the plan is approximately \$90,000. It is staff's opinion that the plan will be of value to the City in planning its own future projects and will also be a tool which can be used by developers. *It was moved by Councilmember Reilly and seconded by Councilmember Hansen to recommend that the City sign the agreement to accept the loan and to use only that portion necessary for completion of the comprehensive Storm Water Plan. Motion passed.*

ATTACHMENT "B":

**PLANNING AND JUDICIAL COMMITTEE MEETING
5/1/02**

COMMITTEE MEMBERS: SUSAN COLE, MIKE REILLY, RON WILSON

STAFF: ROLAND SIGNETT, TOM BLACK, DALE BAKER

GUESTS: DOUG CAMPBELL

REVIEW PROCEDURE AND COUNCIL OPTIONS ON PACIFIC HIGHLANDS

Planning Director Black reviewed the options open to the Council in its consideration of the recommendation to deny the Pacific Highlands P.U.D. by the Planning Commission. While the City Code provides for six options, discussions with the City Attorney have narrowed the options to only two which can be applied in this instance. Either the Council can uphold the Planning Commission recommendation to deny or the Council can approve the PUD. While the proponents would like to see the matter remanded to the Planning Commission, this option is open only if there is an error or omission in the record which does not appear to be the case. To accept with

modifications would require the Council to modify the proposal based only on the record as no additional public input is acceptable at the Council meeting other than to ask clarifying questions. Even this could open the subject to the introduction of new material which cannot be taken into consideration in the Council decision.

FERNDALE FOOD (FERRY BROTHERS) HIRING PLAN

When the Planning Commission granted the variance to reopen the old Ferry Brothers plant for operation a condition of the variance was the development of a plan for local employment recruitment. The plan has been submitted for the council's consideration. No formal action is required by the Council.

HIRING CONSIDERATIONS FOR SUMMER PARK TOURS

The Recreation Finance Committee had the following discussion at its meeting of 4/17/02:

HERITAGE SOCIETY TOURS

The City was of the understanding that the Heritage Society would completely take over the summer tours at Pioneer Park. They would hire and pay the tour guides and the City would provide the Society with a lump sum payment of \$3,500. It now appears that there will be some difficulty in the Society performing in this manner. For one thing, the Society cannot contract with the tour guides as under IRS regulations they would be considered employees. They will have to be treated as employees and paid as such with all applicable tax deductions and the provision of Labor and Industries coverage. Neither does the Society have liability insurance to act as an employer. The City has been asked to cover them through the City payroll department. While this is not a significant problem, this does mean that the City would keep the \$3,500 budgeted to the Heritage Society in order to pay the employees. This does raise some other issues which have not been resolved. In effect the Heritage Society has done the hiring, but the employees become City employees. This also adds new positions within the City for which Council authorization is needed.

Councilmember Reilly expressed concern that not only did the City Council need to authorize the of adding these positions, but that to pay them would require an amendment to the budget. City Administrator Signett indicated that the \$3,500 was already in the budget as an expenditure to the Heritage Society. This money could be used without increasing total expenditures and therefore would not require a budget amendment. ***Councilmember Reilly was in disagreement and moved to recommend that hiring be contingent on Council approval and that before hiring there be two public hearings to amend the budget to provide for salaries. Seconded by Councilmember Wilson. Motion passed with Councilmember Cole voting opposed.***

BACKGROUND CHECKS FOR NEW EMPLOYEES

The police department was recently requested to perform background checks on the two employees intended for hire for the summer tour program. Chief Baker was of the opinion that his department could not conduct an adequate check. He further recommended that there be a policy in place for performing background checks on new hires. ***It was moved by Councilmember Wilson that the Committee recommend to the Council that a policy be formulated by staff to provide for background checks on new hires with the level of the check to be dependent on the employment position. Motion passed.***