

**MINUTES**  
**Ferndale City Council Meeting**  
**Held Monday, November 18, 2002**  
**City Hall Annex Building - 5694 Second Avenue**  
**7:00 p.m.**

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

**ABSENT:**      Councilmember Marianne Elgart (Excused)

**Mayor Carolyn Jensen presiding**

**STAFF:**              City Administrator Roland Signett                      City Clerk Linda Knutson  
                 Planning Director Tom Black                      Public Works Director Loren Sperry  
                 Police Chief Dale Baker                      Assistant Planner Corey Smith  
                 Interim Parks Director Pat Milliken

**CALL TO ORDER**

The meeting was called to order at 7:00 p.m. by Mayor Carolyn Jensen.

**CONSENT AGENDA**

Councilmember Cole pointed out two mis-spelled words in the Council minutes of November 4th, 2002. City Clerk Knutson has made the corrections. Councilmember Hansen then moved to approve the following consent agenda, with the noted corrections. Councilmember Cole seconded:

1. Approval of Minutes of 11/04/2002 Council Meeting
2. Approval of Payroll of 11/18/02; Auto-Deposit Amount: \$91,812.63; Checks #21613 - #21622 Amount: \$29,108.46; Total Payroll: \$120,921.09
3. Approval of Claims Run for November, 2002; Checks #37812 - #38829; Total Claims: \$449,445.29

Motion passed unanimously.

**APPEAL OF STORMWATER REGULATIONS - PACIFIC HIGHLANDS**

This item was continued to the December 2<sup>nd</sup> Council meeting. Moved by Councilmember Reilly, seconded by Councilmember Landcastle.

Motion passed unanimously.

**PUBLIC HEARING - 2003 PROPOSED BUDGET**

Mayor Jensen outlined the protocol for the public hearing regarding the proposed 2003 budget.

**Staff Report:**

Administrator Signett reviewed that the 2003 budget, as presented, was balanced. He noted that it reflected no layoffs or new hires in personnel. A one-percent property tax increase was built in. Revenues and expenditures for all of the funds were reviewed.

**Public Hearing Opened**

Cheryl Wilson stated that she had attended a recent meeting regarding street light choices for the Main Street project. She was concerned that the final choice for lighting fixtures was much more expensive than the second choice. She felt that because of the budget shortfalls, the less expensive lights should be selected so as to save approximately \$33,000. Ms. Wilson said those funds could be expended on a full-time employee.

Administrator Signett said that her point was well taken, however any funds saved within the project fund

would have to be expended or reinvested on capital projects only and could not be used to fund an employee.

### **Public Hearing Closed**

Councilmember Wilson asked why the 2002 column listed in the budget was an estimate and not an actual. Administrator Signett replied that the City cannot predict actuals at this point in time.

The next public hearing on the proposed 2003 budget will be held on December 2<sup>nd</sup>, 2002. A budget workshop will be held Tuesday, November 19<sup>th</sup>, from 2:30 p.m. to 5 p.m.

### **ORDINANCE #1290 - 2003 PROPERTY TAX LEVY**

A public hearing was held at the last regular Council meeting regarding setting the property tax levy for 2003. Ordinance #1290 included a one-percent property tax levy for fiscal year 2003.

Councilmember Lavine moved to approve Ordinance #1290 setting the property tax levy for 2003 at one-percent over 2002. This was seconded by Councilmember Landcastle.

### **Discussion**

Councilmember Cole said that she could not support the motion at one-percent because she felt that one-percent plus two-percent banked capacity was a more logical approach to the budget shortfalls.

Councilmember Reilly said he would not support the motion as he did not feel any increase was needed.

Councilmember Hansen stated that because the City was facing possible staffing cuts, along with the virtual elimination of the Parks Department, he would support a one-percent plus two-percent banked capacity.

Councilmember Wilson said he would not support a one-percent property tax unless the gambling tax was reinstated.

Councilmember Landcastle said that he would support the motion because the funds raised by the increase would be passed through to the increased fire department contract.

Councilmember Lavine felt that not raising the property tax would be irresponsible and hurt the City in the future.

An amendment to the main motion to add an additional banked capacity of two-percent resulted in a tie, three to three. Motion failed.

### **Main Motion Vote**

The main motion passed four to two, with Councilmembers Reilly and Wilson voting no.

### **PUBLIC HEARING - COMPREHENSIVE PLAN AMENDMENT - CHARLOTTE OLSON**

Mayor Jensen presented the protocol on quasi-judicial public hearings, including the Appearance of Fairness Doctrine. All Councilmembers stated that they would be fair and impartial in their deliberations in all of the evening's public hearings.

### **Staff Report**

Director Black presented the Council with a Comprehensive Plan Amendment filed by Charlotte Olson. This is a proposed addition of approximately 12 acres to the City's Urban Growth Area, and re-designation of the property from Rural on the Whatcom County Comprehensive Plan to Commercial on the Ferndale Comprehensive Plan. The area is located north of the intersection of Portal Way and Enterprise Road, addressed as 6601 Enterprise Road.

The applicant wishes to include the property within the City of Ferndale UGA in order to increase its development potential. The applicant has submitted a corresponding application to Whatcom County. It is understood that if the amendment is approved by the City, it will be reconsidered by the County. The Planning Commission held a public hearing on October 16<sup>th</sup> on the proposal. No citizen requested to speak either for or against the proposed amendment. The Commission voted unanimously to recommend approval of the proposed Comp Plan Amendment to the City Council. They agreed that it was a logical addition to the City's UGA.

Councilmember Landcastle asked about right-of-way responsibility on Enterprise Road. Director Black explained that should the area be annexed into the City at some point in the future, the responsibility for r-o-w maintenance becomes the City's. Until then it remains the responsibility of the County. Councilmember Landcastle also inquired as to the annexation potential of the properties east of Enterprise. Director Black responded that although the property owners are generally the ones filing for comp plan amendments, the City can also initiate such applications.

### **Public Hearing Opened**

Rozanne Stevens, 6246 Portal Way, Ferndale, Washington, daughter of the applicant, introduced herself, explaining that her mother was ill, and if anyone had any questions she was present to answer them.

Roy Jones, 782 Bennett Road, Fairbanks Alaska, owns property across the road from the subject property. He felt that the owners of adjacent and nearby properties would also be interested in filing comp plan amendments. He had no concerns about the matter and stated he was fully in favor of the application.

Douglas Knight, 2167 Robyn Drive, Ferndale, Washington, stated that he was neither a proponent or opponent of the proposed amendment, but had concerns regarding a stretch of Portal Way being used as a garbage dump. He felt that the Council should be cautious of assuming responsibility of constantly having to clean up Enterprise Road once it is annexed.

### **Public Hearing Closed**

### **Motion**

Councilmember Reilly moved to approve the Comprehensive Plan Amendment file by Charlotte Olson to include the property addressed as 6601 Enterprise Road into the City of Ferndale's Urban Growth Area.. Councilmember Wilson seconded.

### **Discussion**

Councilmember Hansen responded to Mr. Knight's comments, saying that the City already deals with garbage being discarded on the roadways or wide shoulders on Portal Way. He noted that Enterprise has not been a problem.

Motion passed unanimously.

## **PUBLIC HEARING - COMPREHENSIVE PLAN AMENDMENT - JIM UNRUH**

### **Staff Report**

Director Black reviewed the Comprehensive Amendment filed by Jim Unruh which proposes to re-designate approximately 0.88 acres of land from Commercial to High Density Residential on the Ferndale Comprehensive Plan. The subject property is located one-quarter mile south of Newkirk Road, addressed as 5980 Portal Way. The applicant's property (a 3.75 acre parcel) is actually divided by both the Comp Plan boundary and the associated zoning line, with the westerly 0.88 acres of the parcel designated Commercial and the easterly 2.86 acres designated Residential.

The applicant wishes to develop the entire parcel for multiple residential use (apartments), and therefore is requesting that the entire parcel be designated Residential on the Comp Plan and rezoned accordingly. On October 16<sup>th</sup>, the Planning Commission held a public hearing on the issue. After

discussion, the Planning Commission voted unanimously to recommend approval of the proposed amendment to the City Council. The Planning and Judicial Committee also felt that the parcel in question should logically be in one designated zone, through the Comp Plan Amendment process.

Director Black pointed out that Mr. Unruh and some of his neighbors are engaged in a dispute over property boundaries, and some of these neighbors spoke or submitted written comments at the Planning Commission's public hearing. Any change to zoning and comp plan status is based on the legal description of the property. Any boundary disputes are to be worked out among the property owners either on their own or through the courts. The City has no place in such a civil matter.

Councilmembers Wilson and Lavine both asked about the letters from the neighboring property owners concerning the boundary disputes. Director Black again explained that the boundary dispute is a civil matter in which the City cannot interfere.

**Public Hearing Opened**

No one spoke.

**Public Hearing Closed**

**Motion**

Councilmember Reilly moved to approve the Comprehensive Plan Amendment submitted by Jim Unruh for the property addressed as 5980 Portal Way as recommended by the Planning Commission with their Findings of Fact on October 16<sup>th</sup>, 2002 . Councilmember Landcastle seconded.

Motion passed four to two with Councilmembers Lavine and Wilson voting no.

**REZONE - JIM UNRUH - IN CONJUNCTION WITH COMP PLAN AMENDMENT**

Director Black stated that along with the approval of the Comprehensive Plan Amendment for Jim Unruh's property, zoning must be consistent. Mr. Unruh's property is "split-zoned" and he has requested that the smallest portion of the parcel, 0.88 acres, be rezoned from Highway Commercial to High Density Residential, which the rest of the parcel, 2.86 acres, is already zoned.

Councilmember Reilly moved to approve the request for rezone by Jim Unruh, as recommended by the Planning Commission on October 16<sup>th</sup>, to make it consistent with the Comprehensive Plan. Seconded by Councilmember Hansen.

Motion passed four to one, with Councilmember Wilson voting no and Councilmember Lavine abstaining.

**REQUEST FOR SEGREGATION OF ASSESSMENT ON LID - OTTO BOUMA**

**Streets and Utilities Committee Action Item**

Assistant Planner Smith reviewed that Otto Bouma was granted approval of a short plat variance, to allow access by easement, by the City Council in November of 2001. One of the conditions at that time was that "the LID assessment on the existing lot shall either be paid off in full, or segregated at the applicant's expense prior to the City signing final mylars for the proposed short plat. Any action to segregate the LID assessment must be approved by the City Council".

Mr. Bouma has submitted a written request to the Council to be allowed to segregate the LID assessment on this property. The Streets and Utilities Committee was not inclined to recommend approval of the request, as they saw no benefit to the City for doing so. Mr. Bouma explained to the Council that he is eager to finish this project and would pay off the smaller assessment immediately, leaving the larger assessment to be paid on schedule.

Administrator Signett explained that any resolution prepared by staff for segregation would have figures different from those listed in the staff report, and went on to clarify the process for the Council.

Councilmember Reilly moved to approve the request for segregation of assessment by Otto Bouma,

which was seconded by Councilmember Lavine.

Motion passed five to one, with Councilmember Landcastle voting no.

A resolution will be prepared and brought before the Council at their next regular meeting.

### **ORDINANCE #1288 - ANIMAL CONTROL FEES**

#### **Planning and Judicial Item**

Councilmember Cole reviewed that this ordinance had been remanded back to the Planning and Judicial Committee for further study. The ordinance itself updates the animal control fees to match up with those agreed upon with the contracted animal control provider.

Councilmember Cole moved to approve Ordinance #1288, with Councilmember Hansen seconding.

Councilmember Reilly stated that he could not support the ordinance because Ferndale is the only city in Whatcom County that requires the licensing of cats.

Motion passed five to one, with Councilmember Reilly voting no.

#### **Break**

**The Council took a short break from 8:50 p.m. to 8:55 p.m.**

### **RECOMMENDATIONS FOR 2003 BUDGET BY LODGING TAX ADVISORY COMMITTEE**

Interim Parks and Recreation Director Milliken stated that the Lodging Tax Advisory Committee had reviewed revenues and expenditures of the related fund, noting a shortfall in projections of perhaps \$3,000 for 2002. The Committee was recommending that an additional two-percent tax be added to the current two-percent lodging tax, with the reasoning that there could be benefits to the Ferndale economy in general, and also to those businesses that provide overnight accommodations. After further explaining how the tax operates, and with projections based on 2002 levels, Milliken added that appropriations for 2004 would work on an application basis, and that funds would also be set aside yearly to build a reserve balance for the fund.

Kathy Chasteen and Jim Elliott spoke briefly regarding how the increase in revenues would benefit the City, the local economy, and their organizations.

Councilmember Hansen moved to approve the additional two-percent to the lodging tax, bringing the total to four-percent. This was seconded by Councilmember Wilson.

Motion passed unanimously.

### **SET COMMITTEE MEETINGS**

No meetings were set for the next two weeks.

### **COUNCIL REPORTS**

Councilmember Landcastle reported that he had discussed the new fire contract figures with the District Commissioners at their last meeting.

### **ADJOURNMENT**

There being no further scheduled city business, the meeting was adjourned at 9:45 p.m.

**ATTEST:**

**ATTACHMENT "A":**

**MINUTES**

**Planning and Judicial Committee - Held Wednesday, November 13, 2002  
City Hall Conference Room - 1:00 p.m.**

**COMMITTEE: Councilmembers Susan Cole (Chair), Mike Reilly**

**STAFF: Roland Signett, Linda Knutson, Tom Black**

**COMP PLAN AMENDMENT - CHARLOTTE OLSON**

Director Black presented the Committee with a Comprehensive Plan Amendment filed by Charlotte Olson. This is a proposed addition of approximately 12 acres to the City's Urban Growth Area, and re-designation of the property from Rural on the Whatcom County Comprehensive Plan to Commercial on the Ferndale Comprehensive Plan. The area is located north of the intersection of Portal Way and Enterprise Road, addressed as 6601 Enterprise Road.

The applicant wishes to include the property within the City of Ferndale UGA in order to increase its development potential. The applicant has submitted a corresponding application to Whatcom County. It is understood that if the amendment is approved by the City, it will be reconsidered by the County.

The Planning Commission held a public hearing on October 16 on the proposal. No citizen requested to speak either for or against the proposed amendment. The Commission voted unanimously to recommend approval of the proposed Comp Plan Amendment to the City Council. They agreed that it was a logical addition to the City's UGA.

After reviewing maps and discussing the area, the Committee unanimously recommended that the matter proceed to the public hearing scheduled for the regular Council meeting to be held Monday, November 18, 2002.

**COMP PLAN AMENDMENT - JIM UNRUH**

Director Black reviewed the Comprehensive Amendment filed by Jim Unruh which proposes to re-designate approximately 0.88 acres of land from Commercial to High Density Residential on the Ferndale Comprehensive Plan. The subject property is located one-quarter mile south of Newkirk Road, addressed as 5980 Portal Way. The applicant's property (a 3.75 acre parcel) is actually divided by both the Comp Plan boundary and the associated zoning line, with the westerly 0.88 acres of the parcel designated Commercial and the easterly 2.86 acres designated Residential.

The applicant wishes to develop the entire parcel for multiple residential use (apartments), and therefore is requesting that the entire parcel be designated Residential on the Comp Plan and rezoned accordingly. On October 16, the Planning Commission held a public hearing on the issue. After discussion, the Planning Commission voted unanimously to recommend approval of the proposed amendment to the City Council.

The Committee felt that the parcel in question should logically be in one designated zone, through the Comp Plan Amendment process. The Committee unanimously recommended that the matter proceed to the public hearing scheduled for Monday, November 18<sup>th</sup> Council meeting.

**REZONE APPLICATION - JIM UNRUH**

The rezoning of Jim Unruh's parcel referred to in the Comprehensive Plan Amendment item should be considered only if approved by the City Council after the scheduled public hearing.

**ORDINANCE #1288 - UPDATED ANIMAL CONTROL FEES**

The Committee briefly discussed the updated Animal Control Fee ordinance which had been remanded back to the Committee after the last regular Council meeting.

It was the Committee's unanimous decision to send the ordinance back to the full Council for discussion and possible adoption.

**ATTACHMENT "B":**

**MINUTES**

**Streets and Utilities Committee - Held Wednesday, November 6, 2002  
City Hall Conference Room - 10:00 a.m**

**COMMITTEE: Councilmembers Mike Reilly (Chair), Jerry Landcastle, Mel Hansen  
STAFF: Loren Sperry, Linda Knutson, Greg Ebe, Luis Ponce**

**CERTIFIED LAND SERVICES - MALLOY PROJECT AND DOUGLAS PROJECT**

City Engineer Luis Ponce explained that right-of-way issues are holding up some of the major projects scheduled for next year. It is being proposed that Reichhardt and Ebe use a sub-consultant, Certified Land Services Corporation, to accomplish all of the work necessary in securing the outstanding rights-of-way on these two projects. Extensive relocation work will be needed per the Washington Administrative Code, along with legal document preparation, status reports, offer letters, personal contacts with owners, parcel files, and so on. On the Douglas project, the consultant will use the appraisals already secured by the City. The consultant will be given an end date and will provide all documentation to the City through Reichhardt and Ebe, and will keep the City advised throughout the process.

The Committee felt that this would be an efficient and practical use of staff and contractor time. No additional funds are requested, as the costs are merely being allocated to a sub-consultant rather than the contracted engineering firm.

**BRAC FUNDING - MAIN STREET BRIDGE REHABILITATION**

The Committee was updated on additional funding that will be needed to complete the bridge rehabilitation. In 1999, BRAC recommended funds of \$1.6 million (\$1.28 Federal with a \$320,000 local match) for this project. The \$1.6 million was the estimated cost for the entire project, including design, environmental permitting, utility coordination, construction, and all other project costs. Reichhardt and Ebe have dedicated a tremendous amount of time to the project since 1999, and are now at 90% design completion. At this point the costs are better defined since the details and the effort needed to rehabilitate the bridge are better understood. With the actual inspection of the bridge itself, new and unanticipated structural deficiencies have come to light. The new projected estimated cost of the project totals \$3,024,873 . Reichhardt and Ebe have related that WashDOT is willing to work to provide the additional funding needed. A meeting has been set up, and the City should know within two weeks.

**OTHER**

- X Councilmember Reilly asked Director Sperry to get him an update on the walkway discussed at a previous meeting.
- X The Committee asked that staff write to Rick Larsen regarding the distribution of funds to the City of Blaine to address sewer issues.
- X Councilmember Reilly said that \$13,000,000 in flood money has been collected from residents of Whatcom County, none of which has been spent on projects as yet. In the meantime the interest on this money is being allocated to Whatcom County's general fund. This item will be discussed further at the upcoming budget workshop.

**ATTACHMENT "C":**

**STREETS AND UTILITIES COMMITTEE MEETING**  
**11/13/02**

**COMMITTEE MEMBERS PRESENT: MEL HANSEN, MIKE REILLY, JERRY LANDCASTLE**  
**STAFF: ROLAND SIGNETT, LOREN SPERRY, COREY SMITH**

**DISCUSSION OF PLOWING ROUTES**

Public Works Director Sperry provided the Committee with a map which shows the areas the city currently plows during a snow storm. The first area of emphasis is major arterials. Residential areas are plowed where problem areas exist. The Committee was of the consensus that there should be no change to the current policy. Plowing is a basic service to the citizens. It was reiterated that sanding should only be done when a storm has subsided or in areas which begin to ice up.

It was noted that this past winter WTA ignored the road closed signs on Church Rd. A letter will be drafted to WTA regarding this matter.

Also discussed was designation of snow routes in the downtown core. A policy needs to be drafted which would prohibit parking and provide for signage along these routes in order that the plow can operate.

**STREET SWEEPING POLICY**

Director Sperry provided a map of the areas which the City sweeps on a regular basis. It was explained that the downtown area is swept on a weekly basis. This is approximately a 4 hour task. After sweeping the downtown one of four residential areas will be swept on a rotating basis, once every four weeks.

**PARK MEADOWS PATH**

The Committee has discussed the complaint of residents in Park Meadows subdivision regarding the vandalism and litter on the path leading to Alexander Estates on several occasions. The residents have requested that the City close the path which is over a City easement. On the advice of the City attorney, the procedure would be for the residents to seek a plat amendment which would allow for the closing of the path. The City Attorney will be requested to draft a letter to the residents of the subdivision detailing the process they need to follow.

**OTTO BOUMA REQUEST FOR SEGREGATION OF ASSESSMENT**

Mr. Bouma recently obtained a short plat to create two lots from one for his property on Portal Way. The original lot was subject to a U.L.I.D. assessment. Without a segregation both new lots would be subject to the full amount of the original assessment. The City Council has the authority to provide for a segregation of the assessment, allocating a portion of the original assessment to each lot, or to require payment in full of the assessment. The Committee was of the opinion that no benefit derived to the City from a segregation. In fact segregations create additional tracking and billing. *It was moved by Councilmember Reilly and seconded by Councilmember Landcastle to recommend denial of the request for segregation and that the amount due be paid in full. Motion passed.*