

**MINUTES**  
**Ferndale City Council Meeting**  
**Held Monday, March 15, 2004**  
**City Hall Annex Building, 5694 Second Ave.**  
**7:00 p.m.**

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**PRESENT BY ROLL CALL:**

<b>Councilmember Steve Oliver</b>	<b>Councilmember Mel Hansen</b>
<b>Councilmember Mike Reilly</b>	<b>Councilmember Marianne Elgart</b>
<b>Councilmember Susan Cole</b>	<b>Councilmember Carol Brumet</b>
<b>Councilmember Ron Wilson</b>	

**STAFF:**      **Deputy City Clerk Sylvia Stiles**      **Planning Director Tom Black**  
                 **Police Chief Dale Baker**                      **City Attorney Dick Langabeer**

**Mayor Jerry Landcastle Presiding**

**CALL TO ORDER**

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

**CONSENT AGENDA**

***The following consent agenda was moved for approval by Councilmember Ron Wilson and seconded by Councilmember Brumet:***

1. Approval of Minutes of 3/01/04 Council Meeting
2. Approval of Payroll of 3/03/04; Auto-Deposit Amount: \$99,323.96; Checks # 22139 - #22150 Amount: \$31,842.90; Total Payroll: \$131,166.86
3. Approval of Claims Run for March 2004; Checks # 41093 - #41252 - Total Claims: \$1,203,593.27

Councilmember Elgart asked which employees are drug tested and how they are chosen. Mayor Landcastle stated that the employees with CDL=s are tested at random. Councilmember Elgart also asked whom Lester & Hyldahl, PLLC is. Police Chief Baker informed the council that they are the City=s Public Defender.

***Motion passed unanimously.***

**PUBLIC COMMENT**

Kim Fox 5380 Bel West Dr., Bellingham, WA.

Ms. Fox presented a request to the council for consideration of a one time only use of the Tosco Fields for a softball tournament to be held during Old Settlers. Mayor Landcastle stated that this item would be discussed later in the meeting.

**TOSCO FIELD HOUSE - BID AUTHORIZATION**

**Recreation and Finance Committee Action Item**

Councilmember Wilson stated that the committee recommended a bid authorization for construction of the field house to be located at the Tosco Sports Complex. The field house is a two-story building with restrooms, storage and a concession area on the first floor, and score keeping facilities on the second floor.

**Motion:**

***It was moved to go to bid for the construction of a field house at the Tosco Sports Complex by Councilmember Wilson and seconded by Councilmember Oliver.***

Mayor Landcastle suggested the Public Works Department has a list of contractors in the Small Works Roster. The building meets the requirements and it would allow construction to begin sooner.

**Motion Amendment:**

***It was moved to amend the motion that the City seek a contractor through the small works roster for construction of the Tosco Sports Complex field house by Councilmember Wilson and seconded by Councilmember Oliver.***

**Vote:**

***The motion passed unanimously***

**AGREEMENT - NORTHWEST WATER ASSOCIATION**

**Streets and Utilities Committee Action Item**

Councilmember Reilly informed the council that the agreement between the City of Ferndale and the Northwest Water Association has been completed. This agreement provides for installation of a four-inch master meter at the point of interconnection with a limit of three million gallons per month. Northwest Water Association agrees to pay \$2.79 per 100 cubic feet of usage (748 gallons). They will also pay \$600 for each new connection in their system. They will be subject to restrictions and rationing due to water shortages the same as the City's consumers.

**Motion:**

***It was moved that the City accept the agreement between the City of Ferndale and Northwest Water Association as proposed by Councilmember Reilly and seconded by Councilmember Hansen.***

**Discussion**

Councilmember Elgart asked what the boundaries are for Northwest Water Association. There was no staff person present who could answer this question however Michael Robins (4988 Aldrich Rd., Bellingham), from the water association, told the council the area was Byers Road east to one parcel east of Aldrich Road and West Smith Road south to one parcel south of Slater Road.

Councilmember Brumet questioned whether the City would profit from this agreement. Councilmember Cole wanted to make sure there would be cross connection control and that it would be inspected annually.

**Vote:**

***Motion passed unanimously.***

**WASHINGTON STREET TO PORTAL WAY TRAFFIC STUDY**

**Streets and Utilities Committee Action Item**

Councilmember Reilly presented a scenario for the Portal Way exchange. The City has received approval by Washington Department of Transportation. It was suggested that channelization be accomplished by widening the stretch leading to the southbound

entrance, allowing for Portal Way traffic to flow straight. And freeway traffic to channel to a dedicated left turn lane. Estimated cost for the channelization is approximately \$40,000 - \$50,000.

**Motion:**

***It was moved that the Portal Way Channelization scenario be accepted by Councilmember Reilly and seconded by Councilmember Hansen.***

**Discussion:**

Councilmember Reilly asked if the channelization would be done before the bridge on Main Street is closed. Mayor Landcastle did not know, and he has a meeting with Department of Transportation on March 22, 2004. Councilmember Hansen stated that the illumination and channelization was needed. Councilmember Elgart supports the motion she would like to be able to use the right shoulder. Councilmember Wilson asked if there was any DOT funding of this project. Mayor Landcastle did not know at this time. Councilmember Reilly wanted to know if the Thornton Road Connector could benefit from this. Mayor Landcastle responded that Thornton Road is still an option. Councilmember Cole asked how this project would be funded. The reserve fund was Mayor Landcastle=s reply.

**Vote:**

***The motion passed unanimously.***

**CONNECTOR - LABOUNTY TO NORDIC**

**Streets and Utilities Committee Action Item**

Councilmember Reilly reported that there are grants available from the Port of Bellingham to aid in the cost of preliminary engineering to improve transportation issues for industrial and commercial areas. The Streets and Utilities committee felt the area of Nordic and LaBounty would benefit from a connector that would ease traffic flow and encourage less traffic on Main Street for those area businesses.

**Motion:**

***It was moved that staff go forward with grant applications from the Port of Bellingham by Councilmember Reilly and Seconded by Councilmember Oliver.***

**Discussion:**

Councilmember Cole asked if the City would be required to have matching funds. Mayor Landcastle did not know at this time.

**Vote:**

***The motion passed unanimously.***

**POSITIONS TO BE HIRED**

Pursuant to the Ferndale City Council Rules and Procedures, the following Councilmembers request that an item "Positions to be Hired" be added to the Council agenda. Signed by Councilmembers Reilly, Hansen and Cole dated March 15, 2004.

Councilmember Reilly informed the council that there are four positions they would like to discuss, Treasurer, City Administrator, Engineer, and Assistant Planner. In the case of the latter three, they were put in the budget. They have recently become aware that State Statute

once put these positions into the budget they needed to be hired. The three signers are requesting that the positions of City Administrator, Engineer and Assistant Planner be posted. Mayor Landcastle responded that he would begin advertising for the Assistant Planner position sometime in the next quarter. He expects that it will take four to six weeks before there will be a name to bring forward to the Council.

The engineers position which was funded in the budget did not create a position and the need for and engineers position is being filled by the Public Works Director who is a professional engineer, land surveyor, and public works director. The Interim Public Works Director is expected to fill that position for approximately 180 days. The City will begin advertising in mid May for the Public Works Position.

The Mayor is presently filling the City Administrators position and he will continue to do so for the time being.

Mayor Landcastle stated that, in his opinion, the City Treasurers position is the most important one for the Council to talk about. Mayor Landcastle has accumulated information and has asked the City Attorney, Dick Langabeer, to provide to the council in the form of a memo his opinion of where we stand with regard to the Treasures Position. This information was distributed to the council (see attachment). The City has begun advertising for a person to fill the Treasurers position. This position does exist it was never done away with since the last time it was created. In 1999 the City had a Treasurer, however, two years later that person requested that they be changed to Assistant Treasurer and the City Administrator took over the duties and responsibilities of the Treasurer. The Mayor is not going to leave those two positions combined.

Councilmember Reilly felt there was a conflict in opinion between the City Attorney and the Attorney at Municipal Research. He would like to see all positions filled at the same time. Councilmember Reilly asked the City Attorney if the positions were put in the budget do they need to be hired.

City Attorney Langabeer emphasized that it was his opinion that whether it is a Treasurer or a person who fulfills the function of the treasurer, which is established by State Statute, is a position to be appointed by the Mayor. He further stated that the position of Treasurer was not abolished; it was the office, which was combined with the clerk. The office of treasurer was abolished in 1962 not the position. Mr. Langabeer explained the history of this decision and the duties and responsibilities of Treasurer. Current ordinances acknowledge that there is a combined position of Clerk Treasurer and City Administrator. The duties and responsibilities of the treasurer position have not been abolished. It is the discretion of the Mayor to combine these positions. Legal council is not aware of an ordinance that requires the confirmation of the treasurer by the City Council. City Council is responsible to establish compensation for the positions.

Councilmember Reilly asked if the positions that were budgeted needed to be hired. Mr. Langabeer responded that it is the Mayors discretion whether that position is to be part time, full time and when it will be filled. The Mayor is required to fill the position of administrator as created by Ordinance # 1216.

Councilmember Cole referenced Ordinance # 1218 (City of Ferndale Council Rules of Procedure which gives the City Council confirmation authority of Mayor appointments.

Councilmember Hansen felt that there would have to be a budget amendment to allow for a treasurer. He asked if the council had the power to create the title of its employees.

Mr. Langabeer stated that by providing for a position in the budget does not require hiring that position. The budget does not create the position.

Mayor Landcastle quoted an excerpt from a publication of AWC entitled Conflict in the Financial Arena A...the mayor may decide not to take full advantage of the budget authorized by the council. The council may authorize a certain position at a certain salary, and the mayor may

decide either not to fill the position or may do so at half time and half salary. There were several minutes of discussion and questions regarding the council's responsibility and authority in filling the budgeted positions. Councilmember Brumet felt that we would be saving money by not filling these positions yet. Councilmember Reilly asked if there was a time frame that these positions needed to be filled. Legal Council will check on this item. The Mayor would like to put the City in a stable financial position before he hires an Administrator. The interim financial person is leaving the City at the end of March.

Mayor Landcastle called for a motion.

***Motion:***

***It was moved to reconsider the hiring of a City Treasurer by Councilmember Elgart and seconded by Councilmember Brumet.***

***Motion passed unanimously.***

***Motion:***

***It was moved approval that the council reconsider the position of City Treasurer along with the determinable date on recommendation of the City Attorney to hire City Administrator by Councilmember Brumet and seconded by Councilmember Wilson.***

***Discussion:***

Councilmember Reilly asked when would we have a time frame? He does not like an undetermined date.

City Attorney Langabeer is not aware of a time frame set out by State Statute. He will check City Ordinances and State Statute for time frame

Councilmember Reilly asked the mayor when he thought the administrator position would be posted. The Mayor responded that it would be posted as early as possible after he determined the funds were available.

Councilmember Cole asked if May 1, 2004 was a reasonable date.

Mayor Landcastle said he would go by state statute.

Councilmember Reilly wanted to know if there was no money left what do we do.

Mayor Landcastle replied that we would work through it procedurally.

Councilmember Oliver stated that he voted for the hiring of a treasurer the first time and he will vote for it again. His personal belief is that the council should be determining when the administrator position should be filled.

***Vote:***

***The motion passed five-to-two with Councilmember Wilson, Brumet, Elgart, Hansen and Oliver voting yes. Councilmembers Cole and Reilly voted no.***

**MAYOR REPORTS**

1. The City had received a letter of resignation from the Parks Board of Patty Elliott.
2. The Mayor would like the council to consider what kind of parking signs they would like to have place on Main Street. The Parking Ordinance allows for two hour parking from 4<sup>th</sup> to the bridge but the signs say one hour parking.
3. The Mayor has a request to allow a one time only softball tournament on the Tosco Complex

Fields July 31 - August 1, 2004. A turf expert from Northwest Soccer Organization has determined that the fields should not be played on this year. The Mayor stated the soil has not been applied to the infield as yet. Councilmember Hansen asked if the final turf had been applied to the fields. He does not think the field will be damaged by playing on it for one weekend but that the City should not allow it to be used for the balance of the year. Councilmember Reilly agrees with what has been said. He thinks that the tournament will help the downtown businesses. He supports the use of the field during Old Settlers. Councilmember Cole felt that one time only would be allowable. Final seeding was done in the spring of 2003.

Mike Fox, 5380 Bel West Dr., Bellingham explained the use of the fields during the tournament.

**Motion:**

***It was moved to allow the use of the Tosco Complex Fields for a one time only softball tournament to be held on July 31 to August 1, 2004 by Councilmember Hansen and seconded by Councilmember Reilly.***

**Vote:**

***Motion passed unanimously.***

4. Mayor Landcastle read a letter of commendation to the Chief of Police and his staff from the mayor.

Streets & Utilities Committee meeting set for Wednesday March 17, 2004 at 7:30 a.m.

**COUNCIL REPORTS**

Councilmember Cole commented that the information that she obtained from MRSC was an attempt to gather information. Mr. Langabeer supports that he is glad that the council does their homework.

**ADJOURNMENT**

There being no further scheduled City business, the meeting was adjourned at 9:10 p.m.

**ATTEST**

Jerry Landcastle, Mayor

Sylvia Stiles, Deputy City Clerk

**ATTACHMENT A:**

**MINUTES  
Planning and Judicial Committee  
Held Wednesday, March 3, 2004  
City Hall Conference Room  
11 a.m.**

**COMMITTEE:** Councilmembers Cole and Brumet  
**ADMINISTRATION:** Jerry Landcastle, Linda Knutson, Tom Black, Dale Baker

CHAMBER OF COMMERCE AGREEMENT

City Clerk Knutson stated that no revisions had yet been made to the Chamber of Commerce Agreement, as the provisions for the funds given to the Chamber each year by the City are only tied to tourism promotion. The Committee agreed that a meeting should be set up with the Chamber President for further input.

CITY TREASURER POSITION

Councilmember Brumet suggested that the position of City Treasurer be re-worked at the Committee level for possible alternatives, since being voted down at the last Council meeting. She wondered if the Ordinance creating the position of City Administrator should be revised to separate out the financial duties. Councilmember Cole stated that she could not speak for the rest of the Council, but in her opinion the position should stand as written.

**ATTACHMENT B:**

**MINUTES  
Streets and Utilities Committee  
Held Wednesday, March 3, 2004  
City Hall Conference Room  
7:30 a.m.**

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**COMMITTEE:** Councilmembers Reilly, Hansen, and Oliver  
**ADMINISTRATION:** Jerry Landcastle, Linda Knutson, Bob Cecile

LETTER FROM PUBLIC UTILITY DISTRICT

Mayor Landcastle shared with the Committee a letter from the PUD regarding providing potable water to the Deer Creek Water Association located in the Smith Road/Guide Meridian area. The DOT's Guide Meridian widening project will impact more than a dozen wells that need to have either new wells drilled or another source found. The DOT is very interested in the PUD's ability to supply potable water to this area as a source replacement for these wells.

The PUD is requesting the opening of formal negotiations for a contract under which Ferndale will treat water to potable standards; provide storage and transportation for the water to the edge of the City's service area.

The Committee asked if lines were already in place, and told that there is approximately one-quarter of a mile of line needing to connect to this area. Also in question was how much water is needed, and other alternatives for water to this area. The Committee wishes to be cautious in setting any precedence, but felt that it is a matter for the entire Council to discuss at the Workshop of March 22.

WASHINGTON STREET TO PORTAL WAY TRAFFIC STUDY

Engineer Greg Ebe presented some preliminary schematics for the different areas of concern regarding traffic flow from Washington Street to the Portal Way freeway exchange. Different scenarios showed one-way options for the areas around Eaton and Somerset, widening for that area, and removal of stop signs at some intersections.

At the Portal Way exchange it was suggested that channelization be accomplished by widening the stretch of roadway leading to the southbound entrance, allowing for Portal Way traffic to flow straight, and freeway traffic to channel to a dedicated left turn lane. The estimated cost for this is approximately \$40,000 - \$50,000. Illumination is also required for these types of channelization.

It was moved by Councilmember Reilly and seconded by Councilmember Oliver to forward the Portal Way Channelization scenario to the full Council. Motion passed unanimously.

#### **POTENTIAL CONNECTOR – LABOUNTY TO NORDIC**

Mayor Landcastle said that grants are now available from the Port of Bellingham to aid in the cost of preliminary engineering to improve transportation issues for industrial and commercial areas. It was felt that the area of Nordic and LaBounty would benefit greatly from a connector that would east traffic flow and encourage less traffic on Main Street for those area businesses.

It was moved by Councilmember Hansen and seconded by Councilmember Reilly to direct staff to move forward with the grant application. Motion passed unanimously.

#### **MALLOY PROJECT UPDATE**

Engineer Ebe updated the Committee on the progress of the Malloy Road project. The design is approximately 95% complete, with relocation of some driveways and walls remaining. The target date for going to bid is mid to late April. Some changes in the scope of the project may inflate some of the original estimates, which Ebe will bring to the Committee at an upcoming meeting.

#### **BRIDGE GUARDRAIL**

It was noted that the recently installed galvanized guardrail on the Main Street Bridge is very bright and somewhat distracting in appearance. The Committee agreed, and requested that “if we can afford it – paint it”.

#### **OTHER**

Councilmember Reilly noted that customers are having some difficulties accessing Delancy's because of construction equipment. Mayor Landcastle will talk with the contractor.

Councilmember Reilly stated that a developer in the Grandview Industrial area is interested in obtaining water from the City. Councilmember Reilly will invite him to an upcoming meeting.

The agreement with the North West Water Association is nearing completion, and will come back to this Committee soon.

#### **ATTACHMENT C:**

**MINUTES  
Streets and Utilities Committee  
Held Wednesday, March 10, 2004  
City Hall Conference Room  
7:30 a.m.**

**COMMITTEE: Councilmembers Reilly, Hansen, and Oliver**  
**ADMINISTRATION: Jerry Landcastle, Linda Knutson, Bob Cecile**

AGREEMENT WITH NORTHWEST WATER ASSOCIATION

Public Works Director Cecile reviewed that a final draft of the Water Connection Agreement between the City of Ferndale and the Northwest Water Association has been completed, with all final provisions, as discussed by parties, in place. The basic provisions include the installation of a four inch master meter at the point of interconnection, a limit of three million gallons per month at the initial rate of \$2.79 per 100 cubic feet (748 gallons). The Association will also pay the City \$600 for every new connection (or share) in their system, with all current connections exempt. The Association will be subject to the same restrictions and rationing due to water shortages as the City's consumers, should any such circumstance arise.

It was moved by Councilmember Reilly and seconded by Councilmember Hansen to forward the Water Connection Agreement between the City of Ferndale and the Northwest Water Association to the full Council for approval. Motion passed unanimously.

DISCUSSION ON TREASURER POSITION

Mayor Landcastle noted that he is working on resolving the situation of filling the City's lead financial position, which was voted down at the previous Council meeting. While asking for Council support, he explained that this is probably an administrative decision. The Committee all agreed that it was important to fill the position as soon as possible, however there was disagreement in dealing with splitting the City Administrator position.

FLOWER BASKETS

Councilmember Hansen stated that he understood the Heritage Society was re-thinking the annual flower basket hangings on Main Street. Mayor Landcastle will meet with the Society to see how the City might be able to help.