

MINUTES
Ferndale City Council Meeting
Held Monday, May 16, 2005
City Hall Annex – Council Chambers
7 p.m.

PRESENT BY ROLL CALL:

Councilmember Mel Hansen
Councilmember Marianne Elgart
Councilmember Carol Brumet

Councilmember Mike Reilly
Councilmember Susan Cole
Councilmember Ron Wilson

ABSENT: Councilmember Steve Oliver (Excused)
Mayor Jerry Landcastle

STAFF:

City Administrator Greg Young
Planning Director Tom Black
Lt. Travis Glass

City Clerk Linda Knutson
Public Works Director Bob Cecile
Associate Planner Michael Jones

Mayor Pro-Tem Susan Cole Presiding

EXECUTIVE SESSION 6:00 - 6:55 p.m.

The Council met in executive session from 6:30 to 6:55 p.m. to discuss real estate and personnel matters.

CALL TO ORDER

Mayor Pro-Tem Cole called the Meeting of the Ferndale City Council to order at 7:00 p.m.

CONSENT AGENDA

The following consent agenda was moved for approval by Councilmember Hansen and seconded by Councilmember Brumet:

1. Approval of Minutes of 05/02/05 Council Meeting
2. Approval of Payroll of 05/03/05; Automatic Deposit
Amount: \$103,845.99; Checks #22526 - #22538 Amount:
\$40,940.55; Total Payroll:\$144,786.54
3. Approval of Claims Run Of 05/16/05; Checks #43384 -
#43456; Total Claims: \$115,530.71

Motion passed unanimously.

PUBLIC COMMENT

Mike Pennylegion, 6364 Woodlyn Road, state that as a children's softball coach, he feels that the new ConocoPhillips Sports Complex should be available to the Boys and Girls Club. He also said that a Parks and Recreation Director needs to be hired to run the fields correctly.

POLICE OFFICE AND SCOPE OFFICER OATHS OF OFFICE

City Clerk Knutson administered the oath of office to Jared Haechton. Officer Haechton joins the Ferndale Police Department as its newest full-time officer.

The oath of office was then administered to the City's newest SCOPE officer, Richard Hartley.

PUBLIC HEARING – MORATORIUM ON SHORELINE APPLICATIONS

Mayor Pro-Tem Cole reviewed the protocol governing public hearings, including the Appearance of Fairness Doctrine.

Planning Director Tom Black stated that on April 4th, 2005 the Council imposed a moratorium on the acceptance of shoreline applications, due to the ongoing review of the City's Shoreline Master Program by the Washington State Department of Ecology. The public hearing scheduled must be held within sixty days of the moratorium's passage, as mandated by state law.

Public hearing Opened

No one spoke

Public Hearing Closed

There was no Council discussion.

PUBLIC HEARING – LAMPLIGHTER MOBILE HOME LATECOMERS AGREEMENT

Mayor Pro-Tem Cole noted that public hearing protocol was still in effect.

Public Works Director Bob Cecile stated that this latecomers agreement for a waterline installed by the Lamplighter Mobile Home Park in 2002 had been discussed with City staff over the past couple of years, but was just now being brought forward to be formalized. The Streets and Utilities Committee had reviewed several latercomer scenarios and ultimately recommended that staff use the more traditional method of frontage benefit assessment in figuring latecomers charges. He noted that two of the frontage benefit properties all already on City water, and will not be assessed latecomer fees until they further develop their properties.

Public Hearing Opened

Doug Campbell, engineer for Lamplighter, stated that he appreciated the Council's consideration of the proposed latecomers agreement so that his client may be able to recoup some of the costs of the waterline installation. He added that City staff had been cooperative and helpful through this process.

Public Hearing Closed.

It was moved by Councilmember Reilly and seconded by Councilmember Elgart to approve the latecomers agreement with Lamplighter Mobile Home Park, using the frontage methodology. Motion passed unanimously.

MOTION FOR RECONSIDERATION – COUNCILMEMBER ELGART

A motion for reconsideration of a previous question, raised by Councilmember Elgart, initially failed. After parliamentary review, it was noted that Councilmember Elgart was entitled to briefly state her case for reconsideration, which she did.

It was moved by Councilmember Elgart and seconded by Councilmember Wilson to reconsider Ordinance #1352, passed at the last Council meeting. Motion passed five-to-one, with Councilmember Reilly voting no.

RECONSIDERATION OF ORDINANCE #1352 – TRAFFIC MITIGATION PAYMENTS

The motion in consideration of Ordinance #1352 made at the Council meeting of May 2 read as follows:

It was moved by Councilmember Reilly and seconded by Councilmember Hansen to approve Ordinance #1352. Motion passed six-to-one, with Councilmember Cole voting no.

Council Discussion (Reconsideration of Question):

At the request of Councilmember Elgart, Administrator Young explained that as written, the Ordinance allows businesses to pay one-half of assessed traffic mitigation fees at the time of building permit, and one-half to be collected at the time of occupancy (certificate of occupancy). This scenario had been proposed to help businesses that were expanding or relocating within the City

Councilmembers Elgart and Cole both felt strongly that too many things can happen to a project between permit and occupancy that could result in the City being out half of the total fee. Councilmember Wilson felt that the Ordinance amounted to special treatment, and perhaps a bond could be required for amount of the fee to be collected a occupancy. Councilmember Reilly felt that the ordinance allowed for more business expansion and retention.

Amendment to Main Motion

It was moved by Councilmember Hansen and seconded by Councilmember Wilson to add language to Ordinance #1352 requiring that a bond be posted for the amount of traffic mitigation fees due at occupancy. Amendment passed four-to-two, with Councilmembers Cole and Elgart voting no.

Vote on Main Motion as Amended

Motion passed four-to-two, with Councilmembers Cole and Elgart voting no.

ZONING TEXT AMENDMENT – MANUFACTURED HOUSING SITING

Planning Director Black reviewed that with the passage of the Manufactured Home Law 2005, the state has precluded local jurisdictions from regulating manufactured homes differently than they regulate stick-built housing. After July 1, 2005 the city of Ferndale will no longer be able to restrict the location of manufactured homes to mobile home parks or mobile home subdivisions. After July 1st, single manufactured homes may be placed on any lot where a stick-built single-family home would be allowed.

The Council was informed that homeowners associations will still have the right to exclude or restrict the siting of manufactured homes by way of CCR's. Cities may place some restrictions on their placement, but cannot exclude them outright. Director Black reviewed proposed changes to the zoning code that include several such restrictions, and adding language that includes "title elimination", thus making the structures permanent and tied to the land of placement.

It was moved by Councilmember Hansen and seconded by Councilmember Reilly to approve Ordinance #1355, a zoning text amendment allowing for the siting of manufactured homes in the City of Ferndale. Motion passed unanimously.

ZONING TEXT AMENDMENT – ESSENTIAL PUBLIC FACILITIES

Associate Planner Michael Jones reviewed that the purpose of this Zoning Text Amendment is to address additions to the Ferndale Municipal Code to manage the appropriate siting of essential public facilities. He added that the moratorium on the siting of essential public facilities expires on June 6, 2005.

Planner Jones stated that on March 16, 2005 the Planning Commission held a public hearing on the proposed amendment, and there was no public testimony. The Planning Commission made several changes to the ordinance as follows: Correctional Facilities and Secure Community Transition Facilities were limited to the Manufacturing (M) zone east of the Nooksack River; extra parking was added to work release facility standards, and separation from some risk potential facilities was required for mental health facilities. Those changes are reflected in the proposed text. The Planning Commission voted unanimously to recommend approval of the zoning text amendment, as revised.

The Council had some questions regarding the nature of what constitutes an essential public facility. Planner Jones explained the various categories, as well as providing a written explanation as defined by RCW in the body of the staff report.

It was moved by Councilmember Wilson and seconded by Councilmember Brumet to approve Ordinance #1356, a zoning text amendment regarding the siting of essential public facilities. Motion passed unanimously.

ZONING TEXT AMENDMENT – MULTI-FAMILY DWELLINGS

Planner Jones stated that the Planning staff proposes several revisions to the zoning code section related to the multi-family residential zone. Changes include the deletion of language that allows for a small density bonus for indoor parking, a limitation of 27 units (MF) per acre, a height adjustment increase from 35 feet to 45 feet, the clarifying of some contradictory measuring standards, and set-back clarity. The Planning Commission held a public hearing at which there was no public testimony. They voted unanimously to recommend approval of the revisions to FMC§18.36 as presented by staff.

It was moved by Councilmember Brumet and seconded by Councilmember Wilson to approve the zoning text amendment addressing multi-family dwellings as outlined.

Discussion

Councilmember Reilly was not in favor of the height restriction increasing to forty-five feet.

Councilmember Elgart believed that most of the proposed changes were sound, but that future work was needed concerning views. Councilmember Hansen agreed, saying that all changes were acceptable with the exception of the forty-five foot height change.

Vote

Motion failed three-to-three, with Councilmembers Hansen, Reilly and Cole voting no.

ZONING TEXT AMENDMENT – GENERAL AND SPECIAL REGULATIONS – ALL ZONES

Planner Jones reviewed that staff proposes several revisions to the zoning code section related to general regulations that affect all zones. These changes remove language that is unnecessary, clarify vague language, and revise language to be more consistent with the Comprehensive Plan. In some instances, the changes allow for development more consistent with the existing pattern of development, and consistent with what staff believes to be a reasonable use.

A copy of the code section was reviewed point-by-point, with the proposed changes noted in red font, with strikethrough font indicating proposed deletions, and underlined font indicating additions.

The Planning Commission held a public hearing on the changes, and there was no public testimony. They voted unanimously to recommend approval of the revisions to FMC§18.72 as presented by staff.

It was moved by Councilmember Elgart and seconded by Councilmember Brumet to recommend approval of the text amendments as presented. Motion passed unanimously.

ZONING TEXT AMENDMENT – ZONING MAP – DOWNTOWN PEDESTRIAN CORE

Planner Jones explained that the purpose of this Zoning Text Amendment is to replace a missing map that defines portions of the CB zone as special parking zones. There are no proposed changes to the parking standards or the actual text in the code. The revision is simply the replacement of the missing map that staff needs in order to apply the City's existing parking standards.

On March 16, 2005 the Planning Commission held a public hearing. There was no public testimony. The Planning Commission voted unanimously to recommend approval of the presented Core Area Parking Map. Further, the Planning Commission unanimously recommended that the City Council direct staff to study the cost of providing "in-lieu" parking and report back to the Planning Commission and City Council, so that they may consider amendments to the code to require a payment generally equivalent to the cost of providing in-lieu parking.

It was moved by Councilmember Wilson and seconded by Councilmember Brumet to approve the proposed map as a zoning text amendment. Motion passed unanimously.

TEN MINUTE BREAK – 9 pm to 9:10 p.m.

ACCEPTANCE OF BID – BIOSOLIDS

Director Cecile said that one bid was received for the removal and land application of the biosolids from the treatment plant. Fire Mountain Company has bid \$69,451.04 for the project. They are the same company that performed the biosolids contract last year, and reportedly did a commendable job.

In answer to some Council questions, Director Cecile noted that while most of the biosolids removed from the treatment plant are piped to and injected nearby, some are hauled by truck to another site in the County. He said that the Department of Ecology and the County Health Department determine each year how much can be injected into the City's land. Some Councilmembers stated that they were under the impression that hauling and de-watering of biosolids were no longer needed, and requested staff to look into this

It was moved by Councilmember Hansen and seconded by Councilmember Reilly to accept the bid from Fire Mountain in the amount of \$69,451.04 for biosolids removal and application. Motion passed unanimously.

RESOLUTION #05-05-16 – HAZARD MITIGATION

Administrator Young reviewed a Resolution to adopt the Whatcom County Multi-Jurisdictional Hazard Mitigation Plan. This plan addresses natural hazards and disasters, such as earthquakes, volcanic eruption, floods, tsunami, and wildfires, and the associated plans to take action to reduce or eliminate the long-term risk to human life and property. All cities and the County have been working on this plan for many months. He added that passage of this resolution makes the City eligible for possible post disaster grants and funding, and is intended to facilitate cooperation between state and local authorities. Director Cecile stated that this is a mitigation plan, and not an actual emergency plan

It was moved by Councilmember Brumet and seconded by Councilmember Wilson to recommend approval of Resolution #05-05-16 adopting the Multi-Jurisdictional Hazard Mitigation Plan. Motion passed unanimously.

CONTRACT FOR JANITORIAL SERVICES

City Clerk Knutson presented a contract for janitorial services, as currently provided by Coast Building Maintenance for all City buildings at a cost of \$945.00 per month.

It was moved by Councilmember Reilly and seconded by Councilmember Hansen to approve the contract for janitorial services with Coast Building Maintenance. Motion passed unanimously.

LTAC GRANT REQUEST – BLEACHER PURCHASE

The Lodging Tax Advisory Committee forwarded to the Council a recommendation to approve a grant request from the City to approve the purchase of five sets of bleachers for the ConocoPhillips Sports Complex in an amount not to exceed \$5,000.

It was moved by Councilmember Wilson and seconded by Councilmember Brumet to approve the request for five sets of bleachers for the Sports Complex in an amount not to exceed \$5,000 as recommended by LTAC. Motion passed unanimously.

COUNCIL REPORTS

Councilmember Wilson reported that over 9,000 pounds of food was collected by mail carriers in their recent food drive.

Councilmember Elgart stated that the Port of Bellingham would like local officials support in persuading Delta Airlines move to Bellingham International Airport.

Councilmember Brumet reported that the Boys and Girls Club Auction of the previous weekend had raised approximately \$197,000.

ADJOURNMENT

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

ATTEST:

Susan Cole, Mayor Pro-Tem

Linda Knutson, City Clerk

ATTACHMENT A:

**MINUTES
Planning and Judicial Committee
Held Wednesday May 4, 2005
City Hall Conference Room
11 a.m.**

**COMMITTEE: Councilmembers Susan Cole, Carol Brumet and Marianne Elgart
CITY ADMIN: Jerry Landcastle, Greg Young, Linda Knutson, Tom Black, Michael Jones**

ZONING TEXT AMENDMENT – ESSENTIAL PUBLIC FACILITIES

The purpose of this Zoning Text Amendment is to address additions to the Ferndale Municipal Code to manage the appropriate siting of essential public facilities. Associate Planner Michael Jones reviewed that the moratorium on the siting of essential public facilities expires on June 6, 2005.

Planner Jones stated that on March 16, 2005 the Planning Commission held a public hearing on the proposed amendment, and there was no public testimony. The Planning Commission made several changes to the ordinance as follows: Correctional Facilities and Secure Community Transition Facilities were limited to the Manufacturing (M) zone east of the Nooksack River; extra parking was added to work release facility standards, and separation from some risk potential facilities was required for mental health facilities. Those changes are reflected in the proposed text. The Planning Commission voted unanimously to recommend approval of the zoning text amendment, as revised.

The committee had some questions regarding the nature of what constitutes an essential public facility. Planner Jones explained the various categories, as well as providing a written explanation as defined by RCW in the body of the staff report.

It was moved by Councilmember Brumet and seconded by Councilmember Elgart to recommend approval of the Zoning Text Amendment addressing the siting of essential public facilities. Motion passed unanimously.

ZONING TEXT AMENDMENT – MAP OUTLINING PARKING IN THE CB ZONE

Planner Jones explained that the purpose of this Zoning Text Amendment is to replace a missing map that defines portions of the CB zone as special parking zones. There are no proposed changes to the parking standards or the actual text in the code. The revision is simply the replacement of a map that staff needs in order to apply the City's existing parking standards.

On March 16, 2005 the Planning Commission held a public hearing. There was no public testimony. The Planning Commission voted unanimously to recommend approval of the presented Core Area Parking Map. Further, the Planning Commission unanimously recommended that the City Council direct staff to study the cost of providing "in-lieu" parking and report back to the Planning Commission and City Council, so that they may consider amendments to the code to require a payment generally equivalent to the cost of providing in-lieu parking.

Mayor Landcastle noted that he had seen the missing map approximately eight years ago, and noted for staff and the committee his recollection of the boundaries at that time.

It was moved by Councilmember Elgart and seconded by Councilmember Brumet to forward the proposed map, with the discussed adjustments, to the full Council for approval. Motion passed unanimously.

ZONING TEXT AMENDMENT – GENERAL AND SPECIAL REGS – ALL ZONES

Planner Jones reviewed that staff proposes several revisions to the zoning code section related to general regulations that affect all zones. These changes remove language that is unnecessary, clarify vague language, and revise language to be more consistent with the Comprehensive Plan. In some instances, the changes allow for development more consistent with the existing pattern of development, and consistent with what staff believes to be a reasonable use.

A copy of the code section was reviewed point-by-point, with the proposed changes noted in red font, with strikethrough font indicating proposed deletions, and underlined font indicating additions.

The Planning Commission held a public hearing on the changes, and there was no public testimony. They voted unanimously to recommend approval of the revisions to FMC§18.72 as presented by staff.

It was moved by Councilmember Brumet and seconded by Councilmember Elgart to recommend approval of the text amendments as presented. Motion passed unanimously.

ZONING TEXT AMENDMENT – MULTI-FAMILY DWELLINGS

Planner Jones stated that the Planning staff proposes several revisions to the zoning code section related to the multi-family residential zone. Changes include the deletion of language that allows for a small density bonus for indoor parking, a limitation of 27 units (MF) per acre, a height adjustment in crease from 35 feet to 45 feet, clarifying some contradictory measuring standards, and set-back clarity.

The Planning Commission held a public hearing at which there was no public testimony. They voted unanimously to recommend approval of the revisions to FMC§18.36 as presented by staff.

It was moved by Councilmember Brumet and seconded by Councilmember Cole to recommend approval of the test changes to the Multi-Family sections as presented. Motion passed unanimously.

AGREEMENT FOR JANITORIAL SERVICES

City Clerk Knutson presented a basic agreement for janitorial services, currently being provided by Coast Building Maintenance. She noted that this service is being provided with only a scope of services, but no formal, signed agreement.

It was moved by Councilmember Brumet and seconded by Councilmember Elgart to approve the agreement for janitorial services. Motion passed unanimously.

PERSONNEL AGREEMENT

The Committee considered a personnel agreement. This will be brought to the Council in executive session at the Council meeting of May 16th as a personnel consideration.

ATTACHMENT B:

**MINUTES
Planning and Judicial Committee
Held Wednesday May 11, 2005
City Hall Conference Room
3 p.m.**

**COMMITTEE: Councilmember Susan Cole, and Marianne Elgart
CITY ADMIN: Greg Young, Linda Knutson**

RESOLUTION #05-05-16 – HAZARD MITIGATION PLAN

Administrator Young reviewed a Resolution to adopt the Whatcom County Multi-Jurisdictional Hazard Mitigation Plan. This plan addresses natural hazards and disasters, such as earthquakes, volcanic eruption, floods, tsunamis, and wildfires, and plans to take action to reduce or eliminate the long-term risk to human life and property. All cities and the County have been working on this plan for many months.

Passage of this resolution makes the City eligible for post disaster grants and funding, and is intended to facilitate cooperation between state and local authorities.

It was moved by Councilmember Elgart and seconded by Councilmember Cole to recommend approval of Resolution #05-05-16 adopting the Multi-Jurisdictional Hazard Mitigation Plan. Motion passed unanimously.

REVIEW OF DEVELOPER AGREEMENT

Administrator Young reviewed an agreement with developer Don Leavitt that outlines the responsibilities of the developer and the City regarding his plans for the recently annexed Blomquist property.

Councilmember Cole had some concerns about County authority regarding the zoning of this land. Administrator Young will work with the City Attorney to clarify the regulatory authority of both jurisdictions in this process.

ATTACHMENT C:

**MINUTES
Recreation and Finance Committee
Held Wednesday May 11, 2005
City Hall Conference Room
8:45 a.m.**

**COMMITTEE: Councilmembers Ron Wilson, Steve Oliver and Marianne Elgart
CITY ADMIN: Jerry Landcastle, Greg Young, Linda Knutson**

CONSIDERATION OF GRANT RECOMMENDATION FROM LODGING TAX ADVISORY COMMITTEE

City Clerk Knutson reviewed that the Lodging Tax Advisory Committee was recommending the approval of \$5,000 for the purchase of bleachers for the ConocoPhillips Sports Complex. This amount will allow for five sets of three-tiered bleachers to be purchased and located on the softball quad, which is now complete and in use.

Mayor Landcastle added that the Complex dedication is scheduled for June 11th.

It was moved by Councilmember Wilson and seconded by Councilmember Oliver to recommend to the full Council approval of the purchase of five sets of three-tiered bleachers from the Hotel/Motel Lodging Tax Fund. Motion passed unanimously.

ATTACHMENT D:

**MINUTES
Streets and Utilities Committee
Held Wednesday May 4, 2005
City Hall Conference Room
7:30**

COMMITTEE: Councilmembers Mel Hansen, and Steve Oliver
CITY ADMIN: Jerry Landcastle, Bob Cecile, Linda Knutson

FURTHER REVIEW OF SIX YEAR TRANSPORTATION IMPROVEMENT PLAN

The Committee reviewed the annual Six-Year Transportation Improvement Plan. There were several suggestions for moving some projects up in priority (Church Road improvements) as well as dropping some from the list altogether (Scout Place connector). It was also suggested to combine the three Main Street projects into one overall project.

Director Cecile pointed out that a couple of the listed projects should be considered for Local Improvement District status, as the benefit ratio is fairly straight forward.

REVIEW OF COG PRIORITY FUNDING

As requested by Councilmember Reilly at the last committee meeting, Director Cecile provided a list of current COG and STP funded projects.

OTHER

Administration updated the committee on the status of bleacher funding for the ConocoPhillips Sports Complex, contracting for catch basin cleaning, and the Lamplighter Latecomers agreement.

ATTACHMENT E:

**MINUTES
Streets and Utilities Committee
Held Wednesday May 11, 2005
City Hall Annex
7:30**

COMMITTEE: Councilmembers Mel Hansen, and Steve Oliver
CITY ADMIN: Jerry Landcastle, Bob Cecile, Linda Knutson

LATECOMERS AGREEMENT – LAMPLIGHTER MOBILE HOME PARK

Director Cecile explained that the Lamplighter Mobile Home Park installed a waterline to their property a couple of years ago when their well was failing. They now would like to enter into a latecomers agreement with the City in order to recoup some of the money spent for that extension.

There are two ways to apportion the costs. The first and more traditional method is by frontage assessment. The other is a proximity based assessment, which takes into consideration likely access to, in addition to frontage on, the line.

It was the consensus of the Committee that the option for actual frontage assessment be considered by the Council as a whole. This will be heard as a public hearing at the Council meeting of May 16th.

A city-owned parcel will be left out of the equation as it is unlikely that it will ever be developed, therefore making any reimbursement to the applicant improbable during the fifteen year active collection period of a latecomers agreement.

ACCEPTANCE OF BID – BIOSOLIDS

Director Cecile said that one bid was received for the removal and land application of the biosolids from the treatment plant. Fire Mountain Company has bid \$69,451.04 for the project. They are the same company that performed the biosolids contract last year, and reportedly did a commendable job.

It was moved and seconded to send this item forward to the full Council with a recommendation of approval of the bid from Fire Mountain Company for the biosolids project. Motion passed.