

**MINUTES**  
**Ferndale City Council Meeting**  
**Held Monday, July 17, 2006**  
**City Hall Annex – Council Chambers**  
**7 p.m.**

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**PRESENT BY ROLL CALL:**

**Councilmember Steve Oliver**  
**Councilmember Mike Reilly**

**Councilmember Mel Hansen**  
**Councilmember Gary Jensen**

**ABSENT:**      **Councilmember Ken Downey (Excused)**  
                  **Councilmember Marianne Elgart (Excused)**  
                  **Councilmember Keith Olson (Excused)**

**STAFF:**

**City Administrator Greg Young**  
**City Treasurer Mark Peterson**  
**Public Works Director Bob Cecile**  
**Senior Planner Robb Millspaw**

**City Clerk Linda Knutson**  
**Planning Director Tom Black**  
**Police Chief Michael Knapp**

**Mayor Pro Tem Steve Oliver Presiding**

**WORK SHOP – SMP STUDY SESSION: 5:30 p.m. – 6:15 p.m.**

The Council reviewed the revised Shoreline Master Program Revisions in a workshop setting. Planning Director Tom Black stated that the SMP Revision process began in 1999. Planning staff submitted text and map revisions to the Department of Ecology in 2002. DOE rejected the proposed revisions and provided the City with an extensive list of items that need to be included and/or revised. Those items have now been completed and were discussed with the Council, who asked that the following be included before official re-submission to DOE:

- 1.) Include a provision that allows for a pedestrian/bicycle footbridge and trail system crossing the Nooksack River near to and in conjunction with the Riverview Plaza and Trail Project.
- 2.) Include language that will allow for zoning, setbacks, and building heights that are compatible with the Riverview Plaza and Trail Project.

**WORKSHOP – POLICE STAFFING STUDY SESSION: 6:15 – 6:50 P.M.**

As a follow-up to the Workshop of the previous Council meeting, a general discussion of police staffing needs and recommendations was summarized by Chief Michael Knapp.

Chief Knapp spoke to the Council regarding the proposed plans to hire/promote a third Sergeant immediately, then “backfill the officer position as soon as possible. This item will be added to the agenda for possible action later in the meeting.

**CALL TO ORDER**

**Mayor Pro-Tem Oliver called the meeting to order at 7 p.m.**

**CONSENT AGENDA**

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

- Approval of Minutes of Council meeting of July 17, 2006
- Approval of Payroll of July 18, 2006 – Auto Deposit amount \$118,708.54; Checks #23114 - #23132 amount: \$49,498.24; Total Payroll: \$168,206.78 (Regular Payroll)
- Approval of Payroll of August 1, 2006 – Auto Deposit Amount: \$962.54; Check #23133 - #23151 amount: \$5,361.88; Total Payroll: \$6,324.42; (Uniform Allowance)
- Approval of Payroll of August 3, 2006 – Auto Deposit amount \$124,073.86; Checks #23152 - #23173 amount: \$51,456.81; Total Payroll: \$175,530.67
- Approval of Claims Run of August 7, 2006 – **Manual** Checks #46106 - #46120; amount: \$808,240.69; **Regular** Checks #60000 - #60122; amount: \$135,834.72, Totaling \$944,075.41

***Motion passed unanimously.***

### **PRESENTATION: SOUTHWEST REGIONAL STORMWATER FACILITY**

Public Works Director Bob Cecile stated that the City has been working on a way to provide a regional stormwater facility to alleviate the need for the installations of several ponds in the areas of new development. He introduced Joe Simler from Otak Engineering who gave an overview of how that firm has successfully constructed such facilities in nearby cities.

Mr. Simler illustrated how stormwater facilities are designed, landscaped, and maintained, as well as how safety issues can be addressed. He added that at this time, cost estimates are not available for a Ferndale facility.

Director Cecile concluded that Public Works hopes to have a proposal in front of the Council by October.

### **PUBLIC HEARING: SHORELINE MASTER PROGRAM REVISIONS**

Planning Director Tom Black reviewed that changes that have been made to the Shoreline Master Program since its last return and rejection from the Department of Ecology. The City has worked over the past several years to update the SMP according to Department of Ecology directions. The comments and suggestions made by Council at the Workshop preceding the meeting, and any comments arising out of the public hearing, will be incorporated into the document and a resolution will be drawn up for Council approval for a near future meeting.

Mayor Pro Tem Oliver reviewed the protocol governing public hearings, the Appearance of Fairness Doctrine, and the Open Public Meetings Act.

#### **Public Hearing Opened**

No one spoke.

#### **Public Hearing Closed**

**Council will review the discussed revisions and the proposed SMP support resolution at an upcoming meeting.**

### **ZONING TEXT AMENDMENT AFFECTING THE R-O AND RM 1.5 ZONES**

Planning Director Black reviewed that the proposed amendment would remove "single-family dwelling" from the list of principal permitted uses in the R-O and RM 1.5 zones.

The Ferndale City Council has expressed concern about the number of single-family residential subdivisions being approved and constructed in the "multiple" residential zones, including RM 1.5 (Multi-Family Dwelling Units) and R-O (Residential-Office). Existing code language, which list "single-family dwelling" as a Permitted Principal Use, has made single-family residential developments in the RM 1.5 and R-O zones possible. Conversely, the language made it difficult or impossible for the Council to disapprove such low-density developments in high density zones since they do technically comply with the code provisions.

In response to this circumstance, the City Council directed staff to prepare an ordinance that would amend both zones by removing "single-family dwelling" from the list of Permitted Principal Uses.

At the Planning Commission's public hearing related to this proposed amendment, the Commission identified two previously existing circumstances that they felt should be reviewed, and some sort of accommodation made in the revised ordinances: 1). Existing single-family dwellings in the two zones, and 2). Recently approved single-family subdivisions in the two zones.

Regarding the issue of "vesting", discussion with the City Attorney since the Planning Commission meeting suggests that there may be vesting issues involved with some of the options proposed for addressing the "vacant parcel" issue. The City Attorney feels that if a plat in a multiple-residential zone was approved as a subdivision of 4-plex lots, the City cannot preclude development of 4-plexes even if it later changes the zoning to single-family residential. Exactly what constitutes a clearly stated intention to develop a particular housing "product" is not completely clear, and how far back in time this principal applies is also a matter for debate.

Based on this legal concern, one approach to dealing with the "vacant parcel" issue might be to write the zoning text amendment such that it "grandfathered" in lots in all four of the recently approved projects previously noted, but no other vacant parcels. The City Attorney would recommend a more conservative (read safer) approach. His recommendation would be to grandfather in any lots that were legally created in the two zones since the adoption of the zoning categories, not just the lots in the four recent projects. Adoption of the zoning category would mean

October 22, 1996, the date that the existing zoning categories were “re-adopted” to implement the 1996 Comprehensive Plan.

In response to some Council questions, Director Black reviewed the currently affected properties that were identified by a map in the packet report.

***It was the consensus of the Council that staff develop an ordinance containing the discussed information for official zone changes as outlined.***

#### **BRUNER PRELIMINARY PLAT AND VARIANCE REQUEST**

Director Black reviewed that this is a proposed 13-lot residential Preliminary Plat and associated boundary street, and street width variance request located on approximately 3.94 acres of land in the RS 8.5 zone located approximately 600 feet north of the intersection of Malloy Avenue and Seamount Drive on the east side of Malloy Avenue, addressed as 5944 Malloy Avenue.

The applicant requests City approval of a land division to create 13 lots for single-family residential development. The applicant also requests 2 plat variances from the City code. The applicant proposes to serve the parcel from Malloy Avenue through a narrow strip of land bordered on 2 sides by existing single-family homes, thus creating a “boundary street”. The applicant also requests a street width reduction at the entrance of the plat due to the property’s existing configuration, which does not contain sufficient width to accommodate a full standard 60-foot right-of-way.

The Hearings Examiner held a public hearing on June 29, 2006 and recommends approval of the Preliminary Plat Application, based on the Findings of Fact and Conclusions of Law contained in the Hearings Examiner Decision, and subject to the Conditions of Preliminary Plat Approval contained in the Staff Report dated June 29, 2006.

Councilmember Jensen thought it would be appropriate to require the developer to install a trail/pathway to be used primarily for school-age children for walking to and from school and school events.

Councilmember Hansen said that while the intention for the proposed trail was good, in reality it probably would not work well for the neighborhood. In similar situations, people going to school events will pack the neighborhood and use the trail, oftentimes blocking driveways of area residents. Councilmember Hansen added that he has seen this happen many times and does not want to create another such situation.

Mayor Pro Tem Oliver tended to agree that some kind of path or trail would be more of an enhancement than a liability.

***It was moved by Councilmember Jensen and seconded by Mayor Pro Tem Oliver to approve the Bruner Preliminary Plat based on the Findings of Fact and Conclusions of Law contained in the Hearings Examiner Decision, and subject to the Conditions of Preliminary Plat Approval contained in the Staff Report dated June 29, 2006, with the inclusion of a five foot wide gravel trail between lots 6 and 7. Motion failed two-to-two, with Councilmembers Reilly and Hansen voting no.***

***It was moved by Councilmember Hansen and seconded by Councilmember Reilly to approve the Bruner Preliminary Plat based on the Findings of Fact and Conclusions of Law contained in the Hearings Examiner Decision, and subject to the Conditions of Preliminary Plat Approval contained in the Staff Report dated June 29, 2006, Motion passed unanimously.***

#### **SUNSET PARK PRELIMINARY PLAT AND PLAT VARIANCE**

Director Black reviewed a proposed 14-lot residential Preliminary Plat and associated lot-width variance request located on approximately 4.77 acres of land located in the Residential Office (RO) zone, located approximately 700 feet west of the intersection of Rural Avenue and Sunset Avenue on the north side of Sunset Avenue, addressed as 1422 Sunset Avenue.

The applicant requests City approval of a land division to create 14 lots for single-family residential development and 3 tracts of land for the purposes of stormwater treatment and wetland impact mitigation. The applicant also requests a plat variance to be allowed to create a lot with less than 40’ of frontage on the cul-de-sac.

The Hearings Examiner held a public hearing on July 6, 2006 and recommends approval of the Preliminary Plat Application, based on the Findings of Fact and Conclusions of Law contained in the Hearings Examiner Decision, and subject to the Conditions of Preliminary Plat Approval contained in the Staff Report dated July 6, 2006.

***It was moved by Councilmember Jensen and seconded by Councilmember Hansen to approve the Sunset Park Preliminary Plat Application, based on the Findings of Fact and Conclusions of Law contained in the Hearings Examiner Decision, and subject to the Conditions of Preliminary Plat Approval contained in the Staff Report dated July 6, 2006.***

Councilmember Reilly wondered if this plat was in the latecomers area that was created during the Sunset Improvement Project. No one in attendance was certain.

***It was moved by Councilmember Hansen and seconded by Councilmember Jensen to amend the Main Motion to include a condition that any latecomers fees and other monies owed shall be paid by the developer. Motion passed unanimously.***

#### **Main Motion Vote**

***Motion as amended passed unanimously.***

#### **LABOUNTY II PRELIMINARY PLAT**

Director Black presented the LaBounty II Preliminary Plat, an application to create 10 single-family residential lots 1.86 acres in the RO zone and located at the northwest corner of Seahawk Drive and LaBounty Drive, addressed as 5245 LaBounty Drive.

The applicant requests City approval of a land division to create 10 lots for residential development on land zoned accordingly. This also has an existing Conditional Use Permit to allow a mini-storage facility on the site. One correction to the staff report was noted during the Hearings Examiner meeting; that is that Page 1 of the staff report erroneously indicates one open space lot is being created. No open space lot is being created.

The Hearings Examiner held a public meeting on June 29, 2006 and recommends approval of the Preliminary Plat Application, based on the Findings of Fact and Conclusions of Law contained in the Hearings Examiner Decision, and subject to the Conditions of Preliminary Plat Approval contained in the Hearings Examiner Decision.

Staff recommends one additional condition of approval (to become Condition #26) that revokes the CUP for a mini-storage facility. The condition is mentioned in the staff report text, but was not included at the end of the report. Condition #26 should read as follows:

26. The Conditional Use Permit to operate a mini-storage facility issued under application number 03003.CUP is hereby revoked.

Councilmember Jensen stated that while he would support the project, he did not believe that it was an appropriate location for a housing development.

***It was moved by Councilmember Jensen and seconded by Councilmember Reilly to approve the LaBounty II Preliminary Plat Application, based on the Findings of Fact and Conclusions of Law contained in the Hearings Examiner Decision, and subject to the Conditions of Preliminary Plat Approval contained in the Hearings Examiner Decision, as well as the addition of Condition #26 that the Conditional Use Permit to operate a mini-storage facility issued under application number 03003.CUP be hereby revoked. Motion passed unanimously.***

#### **VISTA RIDGE DIVISION 2 PLAT/PUD AMENDMENT**

Director Black reviewed the Vista Ridge Division 2 Plat/PUD Amendment, a proposed 3-lot subdivision of Lot 54, Vista Ridge Division 2, on a 27,043 sq ft lot within the Vista Ridge PUD in the RS 8.5 zone, and located at the intersection of Hamilton Avenue and Lincoln Avenue, addressed as 6187 Hamilton Avenue, and also adjacent to Vista Drive.

The applicant requests City approval to subdivide Lot 54 of the existing Vista Ridge, Division 2 plat into 3 lots to allow for future residential development. The City code requires that amendments or alterations to subdivisions be processed in accordance with Washington State law, thus the proposal is subject to a public hearing process in the same manner as a Preliminary Plat.

The Hearings Examiner held a public hearing on July 6, 2006 to consider the application and recommends approval of the Plat/PUD Amendment Application, based on the Findings of Fact and Conclusions of Law contained in the Hearings Examiner Decision, and subject to the Conditions of Approval contained in the Staff Report dated July 6, 2006.

***It was moved by Councilmember Hansen and seconded by Councilmember Reilly to approve the Plat/PUD Amendment Application, based on the Findings of Fact and Conclusions of Law contained in the Hearings Examiner Decision, and subject to the Conditions of Approval contained in the Staff Report dated July 6, 2006.***

Councilmember Jensen stated that he was disappointed that so many of the original plat intentions had been abandoned, and that so many people had bought houses in the area believing that the open space area would never be developed. He was further displeased that the planned for trail never materialized.

Councilmember Hansen stated that he would not support his own motion after hearing Councilmember' Jensen's arguments against the proposal.

Mayor Pro Tem Oliver said that he would support the motion, as Mr. Barlean had the legal right to subdivide his property, and had followed proper procedure to do so.

Dan Barlean said that the majority of residents in his division supported this request. He added that approving this proposal was consistent with GMA and density/infill requirements mandated by the state.

#### **Vote on Motion**

***Motion failed three-to-one, with Mayor Pro Tem Oliver voting yes.***

**Planning Director Black noted that the Council needed to state on the record their findings of fact and or conclusions of law that supported this denial. The Council directed that this be determined at the Committee level for statement at the next scheduled Council meeting.**

#### **DISCUSSION ON TOURNAMENT SCHEDULING**

***(This item was moved up on the agenda through unanimous Council approval)***

Tournament scheduling practices have led to a dispute between the Old Settlers Association and the Bob's Burger and Brew Ball Teams.

Councilmember Jensen stated that he had contacted the cities of Anacortes and Sedro-Woolley and that they both have provisions in their tournament scheduling policies that allows the same tournaments to have priority scheduling year-to-year. He added that the Old Settlers have been having baseball tournaments as part of their festivities since the 1920's.

Councilmember Hansen gave a brief history of the tournament which just finished its third year.

He felt that it was always intended to be an Old Settlers event, and that the City was not following its own policies. He said that the situation have caused a rift between two good organizations, and he was pondering introducing a suspension of reservations at the fields until something was worked out.

Councilmember Reilly asked if one of the many representatives of Bob's B&B who were present at the meeting would act as a spokesperson for the group and present their side of the story.

Bo Westford spoke on behalf of the team. He said that a representative of the Old Settlers had approached the team the first year of the tournament and asked for payment from the team for being allowed to play on the OSA weekend. Team sponsor Bob's Burger and Brew responded with a check for \$700. The following year they also paid, but this year decided that such a donation was not necessary.

It appeared that this was the cause of the rift between the two entities, with the OSA believing that any tournaments played on the CP fields the weekend of the OSA Picnic should come under the umbrella of that organization and donate accordingly, and the BB&B group believing that the CP fields have nothing to do with OSA Picnic other than a close proximity. This, along with scheduling disputes, is the crux of the problem.

***It was moved by Councilmember Hansen and seconded by Councilmember Reilly to table this item to the first meeting in September to allow representatives of the Old Settlers and the Bob's Burger and Brew***

**teams to work out a mutually acceptable resolution for the weekend of the OSA Picnic. Motion passed unanimously.**

Cathy Raymond who sits on the City of Ferndale Parks Board stated that the Conoco-Phillips fields have nothing to do with Pioneer Park and are not shown on the deed that allows Pioneer Park to revert back to the Old Settlers on the last weekend in July. She felt it inappropriate for the OSA to presume otherwise. She added that the Parks Board is slated to look at the City's tournament scheduling policies at their next meeting and hoped that the Council would consider their recommendations as an advisory board.

#### **WHATCOM COUNTY JAIL AGREEMENT**

Administrator Greg Young reviewed the proposed Interlocal agreement with Whatcom County for the financing of the interim jail facility. The agreement would have the City pay an upfront amount of \$228,260. In return the City would receive progressive "bed-credits" through the year 2014.

Administrator Young and Treasurer Peterson noted that this does appear to be a fairly good deal for the City. What the City has little or no control over is the daily bed rate over the next eight years. Administrator Young stated that he had met earlier in the day with small city Administrators and Dewey Dessler from Whatcom County. The Administrators suggested that there be created an Interim Jail Advisory Committee made up of representatives of the contributing jurisdictions who would review and advise on any proposed bed rates. Mr. Dessler was amenable to this idea.

After a lengthy discussion, the Council recommended that the City "bank" its yearly savings to pay back the up-front money being paid to the County for the interim jail.

***It was moved by Councilmember Reilly and seconded by Mayor Pro Tem Oliver to approve the interim jail contract with Whatcom County and banking the yearly credits back into reserves. Motion passed unanimously.***

#### **EXTENTION OF MEETING**

***At 10 p.m. it was moved by Councilmember Reilly and seconded by Councilmember Jensen to extend the Council meeting for an additional thirty minutes to 10:30 p.m. Motion passed unanimously.***

#### **PROFESSIONAL SERVICES CONTRACT REVISION**

Administrator Young reviewed that the City's agreement with Paul Koch, who has been performing Economic Development services since early this year, has been much more labor intensive than originally thought. The City would like to retain Mr. Koch through at least December in order to maintain the momentum that has been generated in the community through the Steering Committee and various task forces. He is also currently working on the Parks Comprehensive Plan to bring it up-to-date.

It is estimated that authorization for an additional 461 hours will take the contract through the end of the year. This works out to approximately \$25,000 which can be funded through Park Mitigation and unused Ferndale University funds.

The Recreation and Finance Committee agreed that Mr. Koch has done an outstanding job of coordinating and motivating the community and recommended to the full Council that he should be funded at least through the end of the year to continue the positive direction of this program.

***It was moved by Councilmember Jensen and seconded by Councilmember Reilly to approve funding the additional funding for Mr. Koch's contract as presented. Motion passed unanimously.***

#### **SUGGESTIONS FOR FUNDING UPCOMING CITY PRIORITIES – SOLID WASTE FUND**

City Administrator Young reviewed that he and City Treasurer Peterson had been working on possible funding sources for some of the many short and long-term needs and requests for 2007 and beyond. While most of the funds generated by property tax and retail sales tax revenues are covering existing needs, the Solid Waste Fund could potentially fund some of the more pressing requested services. Administrator Young noted that these are recommendations only, in anticipation of upcoming budget talks.

The Council briefly discussed the suggested uses. Councilmember Reilly stated that he preferred to not commit Solid Waste funds to ongoing expenses, such as personnel, but rather one time expenses for pressing needs, such as sidewalks and grant matches.

**AUTHORIZATION FOR ADDITIONAL STAFFING OF POLICE DEPARTMENT**

As discussed in the workshop prior to the meeting, Chief Knapp spoke to the Council regarding the proposed plans to hire/promote a third Sergeant immediately, then “backfill the officer position as soon as possible. The Council agreed that this was an appropriate request and that it should be accomplished as soon as possible.

*It was moved by Councilmember Hansen and seconded by Councilmember Reilly to immediately hire a 17<sup>th</sup> officer, and to promote from within, through civil service procedure, a third sergeant effective September 1, 2006. Motion passed unanimously.*

**PARK DONATION POLICY**

Administrator Young reviewed a policy that outlines how the City will accept donations for the City parks. The template of this policy was taken from another City and revised to fit with Ferndale’s parks. Draft copies were sent to the Heritage Society and Old Settlers for comment. The Parks Board is recommending approval of this policy.

*It was moved by Councilmember Jensen and seconded by Councilmember Reilly to approve the Park Donation Policy as presented. Motion passed unanimously.*

**THIRD AVENUE SEWER PROJECT – ADD ON DISCUSSION**

Public Works Director Cecile indicated that he had finally received some estimates from Puget Sound Energy regarding the installation of conduit and utility vaults along Second Avenue and down Vista to Third. The City had originally estimated approximately \$20,000 for conduit material. PSE is estimating between \$90,000 to \$135,000 for engineering, conduit, vaults, and material costs. Director Cecile noted that this would be only for PSE because utilities do not share vaults or conduit.

The Council was in agreement that the City abandon both the conduit/vault add-on and extension of street improvements due to higher than anticipated costs and pare the project back to its original specifications. They agreed that a project for street improvements and undergrounding for this area would be better served as a completely separate project.

**DEPARTMENT REPORTS**

City Treasurer Mark Peterson shared a letter from a citizen who appreciated the service received from Utility Billing Clerk Patti Papetti.

**ADJOURNMENT**

There being no further scheduled City business, the meeting was adjourned at 10:33 p.m.

**ATTEST:**

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Steve Oliver, Mayor Pro-Tem

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Linda Knutson, City Clerk

**ATTACHMENT A:**

**MINUTES - Recreation and Finance Committee Meeting Held Wednesday, August 2, 2006**  
**SUGGESTIONS FOR FUNDING UPCOMING CITY PRIORITIES – SOLID WASTE FUND**

City Administrator Young reviewed that he and City Treasurer Peterson had been working on possible funding sources for some of the many short and long-term needs and requests for 2007 and beyond. While most of the funds generated by property tax and retail sales tax revenues are covering existing needs, the Solid Waste Fund could potentially fund some of the more pressing requested services. Administrator Young noted that these are recommendations only, in anticipation of upcoming budget talks.

There was also a brief discussion on the City of Bellingham’s intent of collecting B&O taxes on point of delivery, which would affect many Ferndale businesses.

**WHATCOM COUNTY JAIL AGREEMENT**

The Committee reviewed the proposed Interlocal agreement with Whatcom County for the financing of the interim jail facility. The agreement would have the City pay an upfront amount of \$228,260. In return the City would receive progressive "bed-credits" through the year 2014.

Administrator Young and Treasurer Peterson noted that this does appear to be a fairly good deal for the City. What the City has little or no control over is the daily bed rate over the next eight years. It was suggested that there be created an Interim Jail Advisory Committee made up of representatives of the contributing jurisdictions who would review and advise on any proposed bed rates.

***It was the consensus of the Committee to move this item forward to the full Council for consideration.***

#### **PROFESSIONAL SERVICES CONTRACT REVISION**

Administrator Young updated the Committee that the City's agreement with Paul Koch, who has been performing Economic Development services since early this year, has been much more labor intensive than originally thought. The City would like to retain Mr. Koch through at least December in order to maintain the momentum that has been generated in the community through the Steering Committee and various task forces. He is also currently working on the Parks Comprehensive Plan to bring it up-to-date.

It is estimated that authorization for an additional 461 hours will take the contract through the end of the year. This works out to approximately \$25,000 which can be funded through Park Mitigation and unused Ferndale University funds.

The Committee agreed that Mr. Koch has done an outstanding job of coordinating and motivating the community and that he should be funded at least through the end of the year to continue the positive direction of this program.

***It was the consensus of the Committee to move this item forward to the full Council for consideration.***

#### **PARK DONATION POLICY**

Mayor Landcastle presented the Committee with a policy that outlines how the City will accept donations for the City parks. The template of this policy was taken from another City and revised to fit with Ferndale's parks. Draft copies were sent to the Heritage Society and Old Settlers for comment. The Parks Board is recommending approval of this policy.

***It was the consensus of the Committee to move this item forward to the full Council for consideration.***

#### **TOURNAMENT SCHEDULING**

Councilmember Jensen had some concerns regarding how tournaments are currently being scheduled. Specifically, he felt that any tournaments schedule for the weekend of the Old Settlers picnic should be sanctioned/sponsored by that group. Councilmember Hansen agreed, adding that historically the OSA has always had such tournaments under their "event umbrella" during that weekend.

Mayor Landcastle felt that the procedure currently in place was adequate, and that such procedures were administrative in nature. He felt that whichever group had a tournament on any given weekend should be able to book that weekend for the following year, or at least have the right of first refusal.

***It was decided that this item will be discussed by the full Council at the upcoming Council meeting.***

#### **ATTACHMENT B:**

##### **MINUTES - Planning and Judicial Committee Meeting Held Wednesday, August 2, 2006**

#### **ZONING TEXT AMENDMENT AFFECTING THE R-O AND RM 1.5 ZONES**

Planning Director Black reviewed that the proposed amendment would remove "single-family dwelling" from the list of principal permitted uses in the R-O and RM 1.5 zones.

The Ferndale City Council has expressed concern about the number of single-family residential subdivisions being approved and constructed in the "multiple" residential zones, including RM 1.5 (Multi-Family Dwelling Units) and R-O (Residential-Office). Existing code language, which list "single-family dwelling" as a Permitted Principal Use, has made single-family residential developments in the RM 1.5 and R-O zones possible. Conversely, the language made it difficult or impossible for the Council to disapprove such low-density developments in high density zones since they do technically comply with the code provisions.

In response to this circumstance, the City Council directed staff to prepare an ordinance that would amend both zones by removing "single-family dwelling" from the list of Permitted Principal Uses.

At the Planning Commission's public hearing related to this proposed amendment, the Commission identified two previously existing circumstances that they felt should be reviewed, and some sort of accommodation made in the revised ordinances: 1). Existing single-family dwellings in the two zones, and 2). Recently approved single-family subdivisions in the two zones.

Regarding the issue of "vesting", discussion with the City Attorney since the Planning Commission meeting suggests that there may be vesting issues involved with some of the options proposed for addressing the "vacant parcel" issue. The City Attorney feels that if a plat in a multiple-residential zone was approved as a subdivision of 4-plex lots, the City cannot preclude development of 4-plexes even if it later changes the zoning to single-family residential. Exactly what constitutes a clearly stated intention to develop a particular housing "product" is not completely clear, and how far back in time this principal applies is also a matter for debate.

Based on this legal concern, one approach to dealing with the "vacant parcel" issue might be to write the zoning text amendment such that it "grandfathered" in lots in all four of the recently approved projects previously noted, but no other vacant parcels. The City Attorney would recommend a more conservative (read safer) approach. His recommendation would be to grandfather in any lots that were legally created in the two zones since the adoption of the zoning categories, not just the lots in the four recent projects. Adoption of the zoning category would mean October 22, 1996, the date that the existing zoning categories were "re-adopted" to implement the 1996 Comprehensive Plan.

***This item will move forward to the full Council for consideration.***

#### **BRUNER PRELIMINARY PLAT AND VARIANCE REQUEST**

Director Black reviewed that this is a proposed 13-lot residential Preliminary Plat and associated boundary street, and street width variance request located on approximately 3.94 acres of land in the RS 8.5 zone located approximately 600 feet north of the intersection of Malloy Avenue and Seamount Drive on the east side of Malloy Avenue, addressed as 5944 Malloy Avenue.

The applicant requests City approval of a land division to create 13 lots for single-family residential development. The applicant also requests 2 plat variances from the City code. The applicant proposes to serve the parcel from Malloy Avenue through a narrow strip of land bordered on 2 sides by existing single-family homes, thus creating a "boundary street". The applicant also requests a street width reduction at the entrance of the plat due to the property's existing configuration, which does not contain sufficient width to accommodate a full standard 60-foot right-of-way.

The Hearings Examiner held a public hearing on June 29, 2006 and recommends approval of the Preliminary Plat Application, based on the Findings of Fact and Conclusions of Law contained in the Hearings Examiner Decision, and subject to the Conditions of Preliminary Plat Approval contained in the Staff Report dated June 29, 2006.

***This item will move forward to the full Council for consideration.***

#### **SUNSET PARK PRELIMINARY PLAT AND PLAT VARIANCE**

Director Black reviewed a proposed 14-lot residential Preliminary Plat and associated lot-width variance request located on approximately 4.77 acres of land located in the Residential Office (RO) zone, located approximately 700 feet west of the intersection of Rural Avenue and Sunset Avenue on the north side of Sunset Avenue, addressed as 1422 Sunset Avenue.

The applicant requests City approval of a land division to create 14 lots for single-family residential development and 3 tracts of land for the purposes of stormwater treatment and wetland impact mitigation. The applicant also requests a plat variance to be allowed to create a lot with less than 40' of frontage on the cul-de-sac.

The Hearings Examiner held a public hearing on July 6, 2006 and recommends approval of the Preliminary Plat Application, based on the Findings of Fact and Conclusions of Law contained in the Hearings Examiner Decision, and subject to the Conditions of Preliminary Plat Approval contained in the Staff Report dated July 6, 2006.

***This item will move forward to the full Council for consideration.***

**LABOUNTY II PRELIMINARY PLAT**

Director Black presented the LaBounty II Preliminary Plat, an application to create 10 single-family residential lots 1.86 acres in the RO zone and located at the northwest corner of Seahawk Drive and LaBounty Drive, addressed as 5245 LaBounty Drive.

The applicant requests City approval of a land division to create 10 lots for residential development on land zoned accordingly. This also has an existing Conditional Use Permit to allow a mini-storage facility on the site. One correction to the staff report was noted during the Hearings Examiner meeting; that is that Page 1 of the staff report erroneously indicates one open space lot is being created. No open space lot is being created.

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26. The Conditional Use Permit to operate a mini-storage facility issued under application number 03003.CUP is hereby revoked.

***This item will move forward to the full Council for consideration.***

**VISTA RIDGE DIVISION 2 PLAT/PUD AMENDMENT**

Director Black reviewed the Vista Ridge Division 2 Plat/PUD Amendment, a proposed 3-lot subdivision of Lot 54, Vista Ridge Division 2, on a 27,043 sq ft lot within the Vista Ridge PUD in the RS 8.5 zone, and located at the intersection of Hamilton Avenue and Lincoln Avenue, addressed as 6187 Hamilton Avenue, and also adjacent to Vista Drive.

The applicant requests City approval to subdivide Lot 54 of the existing Vista Ridge, Division 2 plat into 3 lots to allow for future residential development. The City code requires that amendments or alterations to subdivisions be processed in accordance with Washington State law, thus the proposal is subject to a public hearing process in the same manner as a Preliminary Plat.

The Hearings Examiner held a public hearing on July 6, 2006 to consider the application and recommends approval of the Plat/PUD Amendment Application, based on the Findings of Fact and Conclusions of Law contained in the Hearings Examiner Decision, and subject to the Conditions of Approval contained in the Staff Report dated July 6, 2006.

***This item will move forward to the full Council for consideration***

**ATTACHMENT C:**

**MINUTES - Streets and Utilities Committee Meeting Held Wednesday, August 2, 2006**

**REQUEST FOR CONSIDERATION OF SEPTIC TANK POLICY DEVIATION**

Mike Toner was present to request that the Council deviate from the requirement that specifies mandatory hook-up to city sewer under certain conditions. Mr. Toner is remodeling his home and expanding its footprint by about forty-percent. According to policy, as based on the number of bedrooms and bathrooms, this triggers the requirement that he abandon his current septic system and hook-up to City sewer. Mr. Toner stated that the system is fairly new, with good technology, and was built with the expectation to last the lifetime of the home. He was hoping the Council would consider making an exception to current policy.

Both Councilmember Hansen and Jensen explained that while they were sympathetic to Mr. Toner's request, such a deviation to policy would open the door for other septic users to request exceptions.

Mr. Toner will request tentative approval from the Health Department and return to the Council with this request.

**REGIONAL STORMWATER POND**

Public Works Director Cecile explained that the engineering firm that is doing preliminary project costs for the Southwest Regional Stormwater Pond will be at Monday's Council meeting to present information and answer questions about this proposed project.

**DOUGLAS AND MAIN STREET – DISPOSITION OF FEDERAL FUNDING**

Public Works Director Cecile updated the Committee that federal funding that had been approved for the Douglas and Main Project of several years ago may be in jeopardy unless that City can re-work the project to coincide with nearby projects. He feels it would not be economically feasible for this project to remain a stand-alone undertaking.

Councilmember Hansen requested that the City explore all aspects and possibilities, and work with COG and the Federal government in order to be able to take advantage of the available monies for needed improvements. Director Cecile agreed and will report back to the Committee.

**SUGGESTIONS FOR FUNDING UPCOMING CITY PRIORITIES – SOLID WASTE FUND**

City Administrator Young reviewed that he and City Treasurer Peterson had been working on possible funding sources for some of the many short and long-term needs and requests for 2007 and beyond. While most of the funds generated by property tax and retail sales tax revenues are covering existing needs, the Solid Waste Fund could potentially fund some of the more pressing requested services. Administrator Young noted that these are recommendations only, in anticipation of upcoming budget talks.