

MINUTES
Ferndale City Council Meeting
Held Monday December 17, 2007
City Hall Annex – Council Chambers
7 p.m.

PRESENT BY ROLL CALL:

Councilmember Steve Oliver	Councilmember Mel Hansen
Councilmember Paul Ingram	Councilmember Gary Jensen
Councilmember Keith Olson	

Councilmember Reilly had asked to be excused due to illness.
Councilmember Downey has also asked to be excused.

STAFF: City Administrator Greg Young Public Works Director Bob Cecile
 City Treasurer Mark Peterson Police Chief Michael Knapp
 Planning Director Dennis Rhodes Deputy City Clerk Sylvia Stiles

Mayor Jerry Landcastle Presiding

CALL TO ORDER

The regular meeting of the Ferndale City Council was called to order at 7:00 p.m. by Mayor Jerry Landcastle.

It was moved by Councilmember Hansen and seconded by councilmember Oliver to excuse Councilmembers Reilly and Downey.
Motion passed unanimously

PUBLIC COMMENT

No public comment

CONSENT AGENDA:

The following consent agenda was moved for approval by Councilmember Oliver and seconded by Councilmember Ingram:

- *Approval of Minutes of Council meeting of December 3, 2007.*
- *Approval of Payroll of December 10, 2007 – Auto Deposit amount \$ 2,891.62, Federal Tax Deposit Amount \$707.57, Checks # 0 - # 0 Amount \$3,599.19, Total Payroll \$3,599.19 (extra week vacation checks for Bryant, Cain & Gamage)*
- *Approval of Claims Run of December 17, 2007 – **Manual** Checks #63185 - #63194; amount: \$27,182.31; **Regular** Checks #63195- #63307 amount: \$554,056.89, Totaling \$581,239.20 (void checks)*
- *Ordinance # 1449 Closing the Library Bond Redemption Fund*
- *Stormwater Maintenance Contract*

Motion passed unanimously.

LIST OF NEW BUSINESSES

Planning Director, Dennis Rhodes, has distributed a list of the new business applications as information for the council. The two new businesses this month are Black and Associates and 1890 Carmel Corn Co.

INTRODUCTION OF NEW SCOPE OFFICER

Michael Knapp, Police Chief introduced the newest SCOPE officer, Lee Carter, to the council.

EDC MONTHLY REPORT

Brent Goodrich, Ferndale membership totals have changed by one and they are looking for additional membership. EDC recommends the construction proposal and location of Cherry and First Street for the placement of the Boys and Girls Club.

BOYS & GIRLS CLUB SITE SELECTION PRESENTATION

Mr. Templeton & Chet Lackey from the Boys and Girls Club was present to discuss with the council the progress of the construction of the New Boys and Girls Club. This is approximately one acre of land. They will work out joint use of the fields. There will be an amendment to the existing ground lease. The Boys and Girls Club needs approval of the Council in order to process the documents to begin the permitting and construction of this facility. The location selected for the new building is the northeast corner of the entrance to Pioneer Park located at First Ave. and Cherry St. Councilmember Olson asked about the relocation of the small ball field. Councilmember Hansen asked if Old Settlers and Heritage Society were informed of the relocation of the building. Mr. Templeton showed plans to the councilmember who had not yet seen them. This building is also designed to also be a community center. Don, president of the Old Settlers stated that a number of the members had not yet seen the plans. Councilmember Jensen reminded the Council the Club has a need to progress this process in order to continue the process. Councilmember Ingram would like formal consent from the Old Settlers and Heritage Society. Mr. Templeton informed the Council they hope to have biddable drawings in early spring. With all of the other steps involved there are some time restraints on this project. This will be brought back to council on February 4, 2008.

FINAL 2007 BUDGET AMENDMENT ORDINANCE

Treasurer Peterson defended the need for several temporary transfers of funds until anticipated revenue is received from various sources. A permanent transfer of \$400,000 is being proposed from the Real Estate Excise Tax Fund to the Sewer Fund due to large construction projects.

It was moved by Councilmember Jensen and seconded by Councilmember Hansen to approve the Ordinance # 1448 to amend the 2007 budget.

Motion passed unanimously.

REAL ESTATE ISSUE (The following item was typed verbatim from the recorded council session)

7:54:17 p.m. Mayor Landcastle: The next item is a new item. Item G1 proposed by Councilman Jensen.

Councilmember Jensen: My first order of business I would be asked that Councilperson Oliver be removed from the proceedings.

Councilmember Hansen: Because of conflict of interest?

Councilmember Jensen: As a conflict of interest.

Councilmember Hansen: Thank you.

Councilmember Jensen: Sorry Steve (*Councilmember Oliver left the room*)

(*Councilmember Jensen distributed copies of a letter written to Mr. James Wright on November 5, 2007 from Mayor Landcastle, a Petition for Real Estate Excise Tax Refund from Mr. Wright to the Whatcom County Treasurer and a letter written to Mayor Landcastle written on November 29, 2007. Each copy was in reference to property located on First Avenue previously owned by Mr. Wright and sold to the City of Ferndale for the construction of the Centennial Riverwalk.*)

Councilmember Jensen: I've cleared this through council, Mr. Langabeer, that it's okay to bring this up in this venue and he's ah, he's agreed that it's okay. The issue is Mr. Wright is the seller of the property we purchased for the Riverfront Plaza area. On November 27th he requested a refund of his real estate excise tax. The refund request amount is seven thousand, seven thousand three hundred thirty eight dollars and sixty cents. Mr. Wright is basing this claim on a

letter dated November 5th essentially thanking him for avoiding condemnation process. Barbara Cory in the first letter is requesting the minutes of a council executive session most likely March 5th or April 2nd. There will be no minutes from executive session we don't take them. So with this in mind, it's this councilpersons recollection that we, as a council, did not recommend condemning the property in fact we discussed it in a fair amount of detail. So I'm wondering what the Cities response to Mrs. Cory regarding minutes that don't exist.

Mayor Landcastle: Ah, I actually responded to Mrs. Cory's inquiry today and I don't have a copy of the letter. Had I been notified I would have been happy to bring that this evening. So, If you want to hold this over to the next council meeting that would be just fine.

Councilmember Olson: Perhaps you could paraphrase your letter.

Mayor Landcastle: No, I won't paraphrase it because it's specific.

Councilmember Olson: Okay then, be specific.

Mayor Landcastle: I don't have it with me.

Councilmember Olson: And you can't recollect that, something you just did, but you can remember votes that didn't happen earlier. That's amazing.

Mayor Landcastle: The answer to your question is

Councilmember Olson: It wasn't a question

Mayor Landcastle: No, I am not going to paraphrase it. I don't care whether you like it or not.

Councilmember Olson: It doesn't really matter to me. I would think we could make a motion tonight saying that that wasn't made. Then there would be a record of it. There was no talk of condemnation.

Mayor Landcastle: There are no minutes from an executive session. Do you not understand that?

Councilmember Olson: I'm talking about right now. We can say what our recollection was.

Mayor Landcastle: Go right ahead, do what you please.

Councilmember Olson: We will.

Councilmember Jensen: Well, it's clear that every councilperson that was at this would remember that we did not go down the condemnation line. We discussed it, we said no, we said no the guy does not deserve a refund (on) his taxes because we didn't do condemnation and then you wrote a letter thanking him for avoiding it. That's what I want here

Mayor Landcastle: Because the conversation that I had was with his agent. Not with Mr. Wright.

Councilmember Jensen: Recommending condemnation?

Mayor Landcastle: No! It was a, I'm not going to go over the contents of that letter without having it here. Now, you can do what you want ah but the letter is not available. I wrote it and it got mailed today.

Councilmember Jensen: So, you wrote a letter to Barbara Cory cause she asked "I would prefer to see the minutes of the council meeting where the condemnation or process was authorized." So you wrote a letter in response based on what you thought our intent was that night? Or based on what you thought your intent was that night?

Mayor Landcastle: Mel

Councilmember Hansen: There was a motion to buy the property without any mention of condemnation. I remember very specifically that we authorized the Mayor to enter into a contract with Mr. Wright without any discussion of condemnation because in the meeting at the executive session and I believe it's okay to now to discuss what occurred in that executive session because the purpose of an executive session, for the purpose of real estate, is to make sure that information regarding what we're going to offer for price and terms and what have you do not become public prior to the extension of that offer. That offer has been extended, it's been accepted therefore what occurred during that executive session is now, ah, it's now moot in terms of whether or not it's to continue to be protected. The discussion from my point of view, and I can only speak for one councilmember, but as I was one of the ones those of you that

were there that recall that I was incensed by the thought that all we had to do was mention condemnation and a seller who has agreed to a price and a buyer who has agreed to a price could avoid a tax just by mentioning the word. And so the instructions were, and that's why the motion was made the way it was made was that we buy the property for whatever the price was \$460, \$480, \$490 whatever it was without any mention of condemnation therefore Mr. Wright would have to pay that tax. The discussion that occurred in the executive session was if he turns that down, then we could come back in a future meeting and decide what we would do at that point and at that point we might have to threaten condemnation but we were to avoid it and my understanding is the purchase accepted by Mr. Wright for a price with no mention of condemnation.

Councilmember Olson: That's correct.

Councilmember Jensen: I strongly object to a letter dated November 5th that congratulates him avoiding the condemnation process and that he applies for the real estate excise tax refund on the 27th of November. He had applied for this tax refund then he gets a letter on November 5th congratulating him avoiding it and then all of a sudden he's applying for a real estate tax refund that what I object to. So, why was it mentioned November 29th?

Mayor Landcastle: Why, because you'll be able to read that, Gary, in the letter between now and the next council meeting. If you want to deal with that at that point you may once you see the contents of the letter. If you had talked to me about this earlier today that letter would be here. But, for whatever reason, you decided to not discuss it with me and the letter isn't here so you can deal with it any way you wish but I can tell you that until you have that letter it is inappropriate for you to deal with this.

Councilmember Jensen: I will be anxious to see what your response is to what councils intent was that night.

Councilmember Hansen: I would request then, Mr. Mayor, that a copy of that letter be placed in every councilpersons box in the next couple of days.

Mayor Landcastle: I will see to it that every councilperson gets the letter.

Councilmember Hansen: Thank you.

Mayor Landcastle: It may be part of the, ah next packet but you will certainly get it.

Councilmember Hansen: It's not possible to have it in the next couple of days?

Mayor Landcastle: It's possible.

Councilmember Hansen: So

Mayor Landcastle: I'm not telling you that you're not going to get it.

Councilmember Hansen: Well then I'll make a public records request for it.

Mayor Landcastle: Okay, you can all you have to do is come in the office I'll give it to you.

Anything else?

8:03:12 p.m.

2008 CITY FEE SCHEDULE ORDINANCE

Treasurer Peterson highlighted three suggested changes in the Fee Schedule. The first change is the removal of the Infrastructure inspection fee - 2% of public improvement value and adding Development Administration and Inspection Fee to read 2% of engineer's estimate for all items that were reviewed on the "civil drawings" for the project. The second proposed change is on water/sewer billing late fee. The current charge is \$20.00. The proposed change would be 1.5% of the unpaid balance with a minimum of \$20.00. The final proposed change to the fee code is the addition of a late fee of 1.5% on the Solid Waste Utility Tax assessed six business days after the due date. Some of the fees will also be tied to a COLA.

It was moved by Councilmember Hansen and seconded by Councilmember Ingram to approve Ordinance # 1446 to change the fee code ordinance as recommended.

Motion passed unanimously.

Ordinance # 1447 is an ordinance to adopt a 1.5% late fee for Solid Waste Utility Tax payments. ***It was moved by Councilmember Hansen and seconded by Councilmember Olson to approve Ordinance # 1447 adopting a late fee of 1.5% for Solid Waste Utility Tax payments.***

Motion passed unanimously

RIVERWALK PUBLIC ART SELECTION

Administrator Young admitted his dilemma concerning the selection of Public Art for the Centennial Riverwalk fountain. The public will be allowed to comment on this issue. Barbra Ingram, Ferndale from the selection committee explained the procedure for selection of the artist. She stated that in the beginning most of the selection committee had selected one artist. She felt the committee was in error in not selecting this artist. Donna Pullman, Ferndale, was also on the selection committee state she felt she needed to become more educated in public art. Mike Hovander, Ferndale, from the selection committee also stated the process of selection was flawed and a formal arts commission needs to be formed to select the art for this project. There also needs to be a policy in place to establish procedure for selection of art. Alex Wiley, chair of the Bellingham Arts Commission felt it was important the public be involved in the selection of the art piece. She explained the structure of the Bellingham Arts Commission. Shawn Hawes, Ferndale, felt the art on the Riverwalk should stimulate Economic Development. He asked the council what they would do differently. Steve Malpezzi, Ferndale, from a community standpoint the committee should start over again. Beth Buckland, Ferndale, stated she enjoys art but is not an expert. She felt the City should consider other artists. Terese VanAshe, Ferndale, was please to be on the committee. She does not see the purpose in rushing the selection of this art piece. Councilmember Jensen felt the City should consider the creation of an arts commission. Councilmember Hansen cautioned the council that this will delay the placement of an art piece in the park. He also stated this will be a contentious process. Councilmember Ingram asked that all those members of the public volunteer for this commission.

After a lengthy discussion It was moved by councilmember Jensen and seconded by councilmember Hansen that they hold off on selection of the art piece and begin the formation of an arts commission.

Motion passed unanimously

PUBLIC DEFENDER CONTRACT

Lester & Hyldahl has sent notice that they do not wish to renew their contract with the City for Public Defender services. Councilmember Olson asked why the change from \$125 to \$250. He also indicated that in section III of the proposed contract he would like to keep the six months instead of changing it to two months. Administrator Young will check with the Clerk of the Court on these two matters.

It was moved by Councilmember Oliver and seconded by Councilmember Hansen to approve the selection of Dan Parsons for Public Defender services contract.

It was moved by Councilmember Olson moved to amend the motion to change the duration from two to six months. This motion was accepted by Councilmember Oliver and Councilmember Hansen.

Motion passed unanimously

ADVERTISEMENT FOR OPEN COUNCIL SEAT APPOINTMENT

Administrator Young explained to the council the process as outlined in section 42.12.070 of the RCW for the selection of vacated council seats. Councilmember Olson and Hansen both thought this process should not be rushed and suggested we hold off on allowing applications to

be submitted until after the January 7, 2008 council meeting. Councilmember Ingram also felt this process should not be rushed.

MAYORS REPORT

Appointment to the Civil Service Commission of Mr. Parry Eskridge this term will end in 2010.

COUNCIL REPORTS/COMMENTS

Councilmember Olson asked if the amount of outstanding court fines was actually \$5,000,000. Administrator Young will check into this. Councilmember Oliver state the outstanding amount for the County is more than \$30,000,000.

DEPARTMENT REPORTS

Administrator Young thanked the council and staff for setting goals and working toward them. He suggested there be no committee meetings on January 2, 2008.

Council adjourned to executive session at 9:15 p.m.

ADJOURNMENT

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

ATTEST:

Jerry Landcastle

Sylvia Stiles, Deputy City Clerk

**MINUTES
Streets and Utilities Committee Meeting
Held Wednesday, December 12, 2007
City Hall Conference Room
7:30 a.m.**

PRESENT: Councilmembers Jensen, Oliver and Hansen
ADMINISTRATION: Greg Young, Bob Cecile, Mark Peterson, Sylvia Stiles, Dennis Rhodes

FEE CODE REVISIONS

Treasurer Peterson distributed copies of the Fee Code Ordinance and the Fee Code. Highlighted in the code were three suggested changes to the Code. The first change is the removal of the Infrastructure inspection fee - 2% of public improvement value and adding Development Administration and Inspection Fee to read 2% of engineer's estimate for all items that were reviewed on the "civil drawings" for the project. The second proposed change is on water/sewer billing late fee. The current charge is \$20.00. The proposed change would be 1.5% of the unpaid balance with a minimum of \$20.00. Treasurer Peterson added the final proposed change to the fee code is the addition of a late fee of 1% on the Solid Waste Utility Tax assessed six business days after the due date. It was suggested by Councilmember Oliver that the Solid Waste Utility Tax be 1.5% for consistence with other late fees, the committee agreed. The committee discussed the frequency of review of all fees in the code. Councilmember Hansen suggested that some of the fees be tied to a COLA. It was also pointed out that all of the park fees are currently being reviewed by staff.

MALLOY VILLAGE LATECOMERS

Director Cecile emphasized the formula for calculation of latecomers agreements is not consistent from one agreement to another. Committee member Oliver defended the need to allow existing dwellings to connect with out charge. Each committee member expressed concern that the evaluation be calculated equally.

After a brief discussion it was moved by Councilmember Oliver and seconded by Councilmember Hansen to move this forward to the full council for discussion. Motion passed.

HERON CREST & LAKERIDGE PONDS

Director Cecile related to the committee the concerns of a property owner in Lakeridge Estates concerning the storm pond a neighboring Heron Crest. He has concerns the pond will overflow onto his property during a severe storm and would like assurance from the City his property will be protected. Lakeridge Estates is required to carry a million dollar liability policy which he feels should be required for all storm ponds. Director Cecile explained to the committee the two ponds differ in construction which is the reason for the liability policy requirement. Director Cecile will send a letter to the homeowner explaining the difference in construction of the ponds.

STORMSEWER CONTRACT

Bravo Environmental has given the City an estimate for cleaning the remainder of the City Stormsewer. This puts the city on a two year rotation for this cleaning.

It was moved by Councilmember Oliver and seconded by Councilmember Hansen to move the Stormsewer proposal for Brovo Envirmental to the full council with a recommendation for approval. Motion passed.

UONG – UNEXPECTED SPIKE IN WATER USAGE

Treasurer Peterson related to the committee this is the fourth time a consumer has experienced an unexplained spike in water usage. Mr. Uong is requesting relief of excessive charges for water usage. The committee denied Mr. Uong's request.

PUBLIC ART SELECTION

Administrator Young admitted his dilemma concerning the selection of Public Art for the Centennial Riverwalk fountain. The committee briefly discussed the selection process.

It was moved by Councilmember Hansen and seconded by Councilmember Oliver to more this item forward to the full council without recommendation. Motion passed.

MINUTES

**Recreation and Finance Committee Meeting
Held Wednesday, December 12, 2007
City Hall Conference Room
9:00 a.m.**

PRESENT: Councilmembers Oliver, Jensen, and Downey
ADMINISTRATION: Sylvia Stiles, Mark Peterson, Bob Cecile, Dennis Rhodes

2007 FINAL BUDGET AMENDMENT ORDINANCE

Treasurer Peterson defended the need for several temporary transfers of funds until anticipated revenue is received from various sources. He also announced the closure of the 1998 Refunding Library Bonds fund, the bonding for this fund has ended.

It was moved by Councilmember Oliver and seconded by Councilmember Downey to move this forward to the full council with a recommendation for approval. Motion passed.

BOYS AND GIRLS CLUB UPDATE

Mr. Templeton from the Boys and Girls Club was present to discuss with the committee the progress of the construction of the New Boys and Girls Club. The footprint for the new building is on the council

agenda for December 17. They will need approval of the council in order to process the documents to begin the permitting and construction of this facility.

FEE CODE REVISIONS

Treasurer Peterson distributed copies of the Fee Code Ordinance and the Fee Code. Highlighted in the code were three suggested changes to the Code. The first change is the removal of the Infrastructure inspection fee - 2% of public improvement value and adding Development Administration and Inspection Fee to read 2% of engineer's estimate for all items that were reviewed on the "civil drawings" for the project. The second proposed change is on water/sewer billing late fee. The current charge is \$20.00. The proposed change would be 1.5% of the unpaid balance with a minimum of \$20.00. Treasurer Peterson added the final proposed change to the fee code is the addition of a late fee of 1% on the Solid Waste Utility Tax assessed six business days after the due date. The Recreation and Finance Committee was informed that In the Streets and Utilities Committee It was suggested by Councilmember Oliver that the Solid Waste Utility Tax be 1.5% for consistence with other late fees, the committee agreed. The Streets and Utilities Committee also suggested that some of the fees be tied to a COLA.

LIBRARY REMODEL

Director Cecile explained to the committee the details of the remodel request of the library. The project would require installation of a window and door to a staff restroom. This remodel could be done by public works staff. The library would also like additional parking spaces. Councilmember Downey recommended the staff get a cost estimate for the remodel and consider ways to increase the parking.

PUBLIC DEFENDER SERVICE FOR 2008

Court Clerk, Shirley Zimmerman provided the committee with a proposal for public defender services from Dan Parsons. Ms. Zimmerman explained that Lester & Hyldahl has expressed they do not wish to renew their contract with the City. Councilmember Oliver asked how the selection of Mr. Parsons was done. Ms. Zimmerman related that advertising had been done and three proposals had been received.

It was moved by Councilmember Jensen and seconded by Councilmember Downey to move this forward to the full council with a recommendation for approval. Motion passed.

Treasurer Peterson asked Ms. Zimmerman for a rough estimate of the amount of outstanding Court fines. Ms. Zimmerman replied the amount was over \$5,000,000. The City works with AllianceOne, a collection agency, in actively attempting to collect of these debts.

MINUTES

Planning and Judicial Committee Meeting Held Wednesday, December 12, 2007 City Hall Conference Room 10 a.m.

PRESENT: Councilmembers Jensen, Ingram, Downey
ADMINISTRATION: Greg Young, Sylvia Stiles, Dennis Rhodes, Bob Cecile

PUBLIC DEFENDER SERVICE FOR 2008

Court Clerk, Shirley Zimmerman provided the committee with a proposal for public defender services from Dan Parsons. Ms. Zimmerman explained that Lester & Hyldahl has expressed they do not wish to renew their contract with the City. Councilmember Oliver asked how the selection of Mr. Parsons was done. Ms. Zimmerman related that advertising had been done and three proposals had been received.

DEIS UPDATE

Director Rhodes advised the committee or receipt of comments from DOT and Department of Ecology on Pioneer Plaza Development. The comment period ended at the end of the day on December 12th Councilmember Ingram asked for clarification between regional vs. local use.

PARKING STUDY UPDATE

Director Rhodes announced the EDC is forming a subcommittee to consider the recommendations highlighted in the recent parking study done for downtown.

GIS CONTRACT PROPOSAL

Director Cecile submitted a proposal from Weden Engineering for GIS data updating. Director Rhodes remarked they have an intern which has been considered for this project. Director Rhodes continued this intern has the skill set to do this job. The committee asked that Planning and Public Works work with the intern. There will be on going information to add to the system as well as several years of catch up to be added.

Director Rhodes asked for clarification on council intent with regard to design standards. If a commercial establishment is replacing a heating unit does that establishment have to conform to the design standards. The committee stated that if the establishment was replacing a unit and not doing a remodel it should not have to conform to the new standards. On another matter of clarification Director Rhodes questioned if an entire structure had to conform even if there were two different uses. The response was yes.

Director Cecile will be looking into a temporary building at a site on LaBounty Drive.