Mayor Jon Mutchler

Councilmembers

Rebecca Xczar Greg Hansen Keith Olson Teresa Taylor Kate Bishop Ryan O'Larey Ramon Llanos



SPECIAL MEETING AGENDA

WEDNESDAY, November 27, 2019

City Administrator Jori Burnett
Chief of Police Kevin Turner
Public Works Director Kevin Renz
Finance Director Sirke Salminen
Comm. Dev. Director Haylie Miller
City Clerk Susan Duncan
Communications Officer Riley Sweeney
City Attorney Dannon Traxler

SPECIAL MEETING 11 a.m.

- A. SWEARING IN OF NEW COUNCILMEMBERS Ryan O'Larey & Ramon Lianos
- B. DISCUSSION: Mayoral Veto of Ordinance 2117
- C. DISCUSSION: 2020 Budget (Public Hearing Scheduled)



City of Ferndale

CITY COUNCIL STAFF REPORT

MEETING DATE: November 27, 2019 BILL #_____

SUBJECT: Mayor Veto: Council Reconsideration

DATE: November 27, 2019

FROM: Jori Burnett

PRESENTATION BY: Jori Burnett

EXHIBIT 1: Mayoral Veto Letter (November 25, 2019)

RECOMMENDATIONS: The City Council is asked to reconsider an ordinance vetoed by Mayor Jon Mutchler on November 25, 2019. The ordinance will become null and void unless at least five councilmembers vote to override the veto at a special meeting November 27th, to be held immediately following the Finance and Administration Committee. A special meeting has already been called for a budget study session that will occur following Council consideration of this issue.

BACKGROUND: Per RCW 35A.12.130, Mayor Jon Mutchler has vetoed Ordinance 2117, which would have levied an increase of \$473,437.64 over the amount levied for collection in 2019. The Mayor's reasoning for the veto is attached in Exhibit 1.

The ordinance, which would have taken 33% of the City's available banked capacity (in addition to the normal rate of increases resulting from growth and overall property value increases), was intended to address law enforcement staffing issues, including both direct compensation as well as the addition of a new police officer in 2020. The Council had indicated that any remaining balance be utilized in 2020 for studying permanent new City facilities.

Based upon Council's direction, City Staff re-engaged with the City's Police Guild the night of November 18th, and the Police Guild ratified the draft contract the night of November 19th.

<u>ANALYSIS:</u> The matter before the City Council on November 27th is focused exclusively on Ordinance 2117. Should the Mayor's veto be upheld and the property tax not taken, City Staff will properly analyze other options for funding law enforcement, Municipal Court, and other items.

At least five votes are necessary to overturn a mayoral veto. Provided that the November 4th election is certified as expected on November 26th, Councilmembers Llanos and O'Larey will be sworn in and be able to vote.

The Council cannot consider a variation to the original ordinance on November 26th – proposing a higher or lower property tax take.

LEGAL REVIEW: The City Council is authorized to reconsider ordinances that have been vetoed by the mayor.

<u>FISCAL IMPACT</u>: Various. By overturning the mayoral veto the City Council would levy an increase of \$473,437.64 as per Ordinance 2117. If the veto is not overturned, the City would not provide the Whatcom County Assessor with its expected property tax levy amount; the Assessor would then default to the existing levy amount.

If the ordinance is not overturned, the 2020 budget will need to be re-balanced, most likely through a combination of additional cost-cutting and by identifying other ways to expand revenues.

<u>ALTERNATIVES:</u> November 30th is the deadline per state law for providing the Whatcom County Assessor with new levy amounts; if the City were not able to call a special meeting or have a quorum of Council on November 27th, it is possible that the matter could be considered at the Council's regular meeting on December 2nd. However, at least one councilmember has indicated that they will be absent on the December 2nd meeting.

Staff does not recommend that any other motions be made, such as a motion to increase the amount of banked capacity proposed to be taken. Such an act could result in an additional veto without the Council having the ability to reconsider or overturn it in time to be included by the Assessor.

CONCLUSIONS: The Council is provided the opportunity to reconsider Ordinance 2117. A potential motion to overturn the mayor's veto is as follows:

I move that the City Council overturn a mayoral veto of Ordinance 2117, thereby retaining the language and intent of Ordinance 2117.

No potential motion is necessary if the City Council wishes to accept the veto. Additionally, should the motion above not receive five votes, the veto would not be overturned.

ORDINANCE #2117

AN ORDINANCE OF THE COUNCIL OF THE CITY OF FERNDALE, WASHINGTON, FIXING THE AMOUNT OF REVENUE TO BE RAISED BY PROPERTY TAXATION FOR THE YEAR 2020

WHEREAS, the Ferndale City Council did properly give notice of the public hearing on revenue sources held on November 4, 2019; and

WHEREAS, it is the intent of the Council to take an additional amount to include a portion of banked capacity, which includes the statutory 1% increase; and

WHEREAS, the Ferndale City Council, after hearing, and after duly considering all relevant evidence and testimony presented, has determined that the City of Ferndale requires an increase in property tax revenue from the previous year, in addition to the increase resulting from the addition of new construction and improvements to property, annexations, and any increase in the value of state-assessed property, in order to discharge the expected expenses and obligations of the City of Ferndale an in its best interest;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF FERNDALLE DO ORDAIN AS FOLLOWS:

<u>Section 1</u> That there be levied an increase of **\$473,437.64**, an increase of **38.7411%** over the amount levied for collection in 2019 (which amount was \$1,222,055.49), plus an increase equal to the maximum amount allowed under the new construction provisions of RCW 84.55.010 and plus the maximum allowable amount to be derived from state-assessed property and new annexations.

APPROVED AND ADOPTED by the City Council of the City of Ferndale in regular session this 18th day of November, 2019.

Jon Mutchler, Mayor

ATTEST:

Susan Duncan, CMC, City Clerk

Approved as to form:

Dannon Traxler, CITY ATTORNEY

Dear Council and Staff:

Regarding property tax Ordinance #2117, I am returning the ordinance with a "veto" according to RCW 35A.12.130. Council will need to bring another ordinance *or* override the mayor's veto (5 votes needed). The mayor has authority to call a special meeting (Rule 3), and if a quorum is available, I wish to include this as part of the November 27, 11 AM budget meeting.

My reason for the veto was summed up convincingly by Councilmember Keith Olson. We were told, and the records show, that the Whatcom County Fire District 7 annexation in 2015 wouldn't increase property taxes.

I am concerned that an *outgoing* council and mayor are on the verge of approving the largest tax increase in Ferndale's history: \$483,438, when a typical annual increase is around \$12,000/year.

Following the November 18, 2019 council meeting I listened to the July 21, 2014 council meeting audio and read the staff report and minutes. This is when annexation was approved by Council, then sent to the voters who approved it in February 2015.

According to the staff report for the July 21, 2014 meeting of the Council (attached), District 7 annexation would have "absolutely no impact on the property tax bill of property owners...property tax payers will see no net change in their property tax bill due to this annexation."

Discussion questions by both Councilmembers Olson and Mutchler (see 7/21/2014 minutes, attached) led Council to believe this decision was "a wash, and there is no change to tax bills." Administrator Greg Young assured Councilmember Keith Olson "that no resident would see an increase in property taxes."

I believe the expectation of Council was that banked capacity was preserved at 2015 levels. That was my understanding.

Unbeknownst to us, annexation gave this or a future council the ability to more-than-double city property taxes from current levels. *I'm certain that had the citizens known this possibility, the discussion about the merits of annexation would have been different and I'm unsure the annexation would have occurred* since annexation did not change the level of fire district service to the City, only the taxing methodology.

I'm painfully aware that my veto would be a challenge to the 2020 budget, so I'm obligated to offer a solution to a \$300,000 need to fund law enforcement. I recommend to council the following remedy as reasonable and effective, and less of an impact on Ferndale taxpayers who will already see property taxes increase significantly next year:

- 1. *Pass a property tax ordinance* that would reflect taking the previously banked capacity (before annexation) along with our allowable 1% increase. In round numbers, I believe that would be about \$90,000.
- 2. Raise the Solid Waste tax. Several months ago, I reached out to our lobbyist, who contacted those representing solid waste in Ferndale. He said there wouldn't be pushback on raising the solid waste tax. Raising this tax another 1.5% would net another \$240,000/year for the city and spread the tax among 230,000 county residents rather than just 14,000 Ferndale residents. Combined with a fair property tax increase, \$330,000 would cover the needs of law enforcement going forward.
- 3. We need to replace our Municipal Court. I commend a careful look at the current facilities, per drawings and sketches drawn by architect David King, and use the "sales tax bump" the city will receive when the WWTP, the Thornton bridge, and the new Ferndale High School are built. Mr. King has looked at these two buildings at Vista & 2nd, indicating they both had "good bones" and could meet our needs. We also heard some creative ideas at the last council meeting; let's continue to pursue them.

I spoke to the County Assessor today and he is fine with receiving our property tax request in early December.

I fully appreciate the challenge this veto places upon staff and council and know it will disappoint people who work hard for our city. For this mayor and former council member, it is a matter of keeping my word to citizens.

Mayor Jon Mutchler

11/25/19

WASHINGTON

City of Ferndale

CITY COUNCIL STAFF REPORT

MEETING DATE: July 16, 2014 Committees; July 21, 2014 Reg. Meeting

SUBJECT: Approval of Ordinance Declaring Intent to Annex into Whatcom County Fire District No. 7

DATE: July 10, 2014

FROM: Sam Taylor, City Clerk

PRESENTATION BY: Staff

RECOMMENDATIONS: Council approves the ordinance declaring an intent to annex into WCFD No. 7.

BACKGROUND: The City of Ferndale has had a robust partnership with Whatcom County Fire District No. 7 since 1957 when the City retired its own fire department and began contracting for services with WCFD No. 7.

This relationship has gone very well for nearly 60 years.

The contract between the two entities calls for the City to pay the district an amount equal to the property tax levy rate calculated by the Whatcom County Assessor's Office for the district multiplied by the City's assessed valuation of taxable property.

Because the City does not have its own fire service and contracts for services, Ferndale is able to levy a higher property tax rate than it otherwise would be able to were the City within the district. The additional amount levied allows the City to pay the District for services. Over the last several years, however, there has been a substantial increase in that payment that has been unforeseen by both the City and the District, largely due to property value decreases in the District's service area.

Property taxes are budget based. For example, if a government has a property tax budget of \$1 million, the Assessor's Office takes that much budget needed and divides it by the total valuation of all property within that government's boundaries. The greater the valuation, the less money it takes from each individual property to pay that \$1 million. When property values decline, however, it takes more money from each property to pay the same amount of tax. What is happening is that the levy rate is increasing per \$1,000 of assessed value.

Over the last several years, the economic recession has greatly impacted property values in the county. A reduction in values, most especially the major industrial properties at Cherry Point, means that more property tax must be

collected from all properties to pay the same amount of budget for the Fire District. It ends up increasing the levy rate, meaning Ferndale's bill to the District is also increasing.

We are now at a crucial tipping point where the amount of tax levied is not necessarily able to accommodate the growth in the City's bill owed to the District. Again, to be very clear, this is out of the control of the District. Per the contract, Ferndale is charged for services based on the levy rate calculated by the Assessor, and it's all tied to property values in the District.

Unfortunately, also, this levy rate is generally not finalized before the City is required to adopt its annual budget each year. That means the City is basically in the dark about the true cost of the fire contract each year. Some of the rate increases have been truly shocking – including one year where costs went up 17 percent due to a drastic decrease in the property values of Cherry Point industries.

Benefits of Annexation: Annexing into the Fire District has benefits for both the City and the District.

For both entities, annexing the City in to the District will have absolutely no impact on the property tax bill of property owners. That's because once Ferndale is annexed in, the amount of additional property tax it is levying will go away, and the Fire District will be able to assess that additional amount.

This will have the effect of ensuring the District's budget is kept whole and property tax payers will see no net change in their property tax bill due to this annexation.

For the City, no longer paying the Fire District directly for services will mean being able to not have to worry about billing for services and not really knowing what that bill will be until after the City's budget is adopted.

For Ferndale voters, it will also be more direct control over fire services, as now the community does not have the opportunity to participate in Fire District elections. City residents would also have the chance to serve on WCFD No. 7's Board of Commissioners.

The Fire District will see a benefit of additional bonding capacity because more property will be included in its total valuation. This can be helpful as the District engages in long-term planning to ensure it has crucial facilities and equipment necessary to keep properties and residents of the District safe.

The District will also not have to worry about invoicing the City any longer for crucial funding and will simply receive property tax directly for providing service within Ferndale. The District will also see an increase in the diversity of voters with the addition of City voters who may also have the opportunity participate on the District Board of Commissioners.

<u>Annexation Process:</u> State law outlines the annexation of a city into a fire district in Chapter 52.04 RCW (See attached chart of State Law Procedure).

The City Council initiates the annexation by adopting an ordinance stating intent to join and finding that it is in the public interest.

The ordinance is sent to the Fire District Board of Commissioners. If the Commission concurs, notification is transmitted to the County Council.

The law states that the County Council "shall" call a special election to be held in the City and the First District's boundaries at the next date according to state election laws.

<u>Staff Conclusion:</u> The City Council should adopt the ordinance declaring an intent to annex into Whatcom County Fire District No. 7 and finding that it is in the public interest to do so.

MINUTES

Ferndale City Council Meeting Held Monday, July 21, 2014 City Hall Annex – Council Chambers 6 p.m. Regular Meeting

STAFF:

City Administrator Greg Young Public Works Supervisor Bo Westford Cmty. Dev. Dir. Jori Burnett

City Clerk Sam Taylor Finance Director Mark Peterson Police Chief Michael Knapp

Mayor Gary Jensen presiding.

PRESENT BY ROLL CALL:

Councilmember Cathy Watson
Councilmember Keith Olson
Councilmember Jon Mutchler
Councilmember Brent Goodrich

Councilmember Mel Hansen Councilmember Paul Ingram Councilmember Carol Bersch

5 p.m. STUDY SESSION - THORNTON ROAD OVERCROSSING PRE-DESIGN

City Administrator Greg Young introduced David Shearer of Shearer Engineering. The firm was chosen to do the pre-design engineering services for the Thornton Street Overcrossing project.

The hope is to inform the community of the type of information that will be provided from the work.

David Shearer introduced his team, saying it included his firm, which designs bridges, as well as Reichhardt & Ebe for civil roadway design and Widener & Associates to identify potential permit issues related to wetlands.

The consultant provided an overview of previous railroad overcrossing projects he assisted with, including projects in Kent and Everett.

R&E assisted with the City of Ferndale's 2nd Avenue Extension project in Griffintown, Shearer pointed out. That project was the first phase of the improvements in the area, with the Thornton Street overcrossing connecting down to the 2nd Avenue roundabout as a second phase.

Shearer then provided information on his approach to the project, which includes reviewing previous work done, calibrating costs for all potential bridge alignments and then doing a recommendations report in step 1. He said there are likely three or four options that will be provided. They will provide quantities and costs of each option and a pros and cons matrix for each one.

Since the bridge is the most expensive part of the project, they will work to design and layout the most economic railroad crossing possible.

They also hope to make the project compatible with crossing the bridge all the way over Interstate 5 in the future. They will at least do some basic planning for that potential in the future. He emphasized that the current project is only to cross the railroad tracks and then bring the street down to the 2nd Avenue roundabout.

One of the key features will be to provide access to Samson Rope, a facility located on the north side of Thornton Street.

Mayor Jensen opened the public hearing at 7:46:03 p.m.

Eric Weden, 2636 Nubgard Road, Ferndale – Advocated for adoption of the agreement on behalf of the developer and said it was very equitable to both parties.

7:51 p.m. - Public hearing closed.

Councilmember Mutchler moved, and Councilmember Watson seconded, to approve the agreement. Motion carried unanimously.

F. ORDINANCE: Intent to Annex into Whatcom County Fire District No. 7

2:52:00

City Administrator Young said this ordinance begins the process of seeking to annex Ferndale into Whatcom County Fire District No. 7.

The administrator explained that once the ordinance is approved it is sent to the Fire District Commission, which would then consider whether it agrees with the City wanting to annex. If it does, it notifies Whatcom County of the intent to annex and the Whatcom County Council places the item on the ballot for voters to consider.

City Administrator Young said the hope is an election for February 2015 and if voters in the City and the District approve the annexation it would mean the City is annexed in effective 2016.

Councilmember Bersch moved, and Councilmember Hansen seconded, to approve the ordinance.

Councilmember Mutchler said to the administrator that he saw two main advantages to the annexation. One is representation, because Ferndale residents can't participate in the Fire District's elections now because the City is not part of the district. He wondered if the three-member commission would remain that size.

Administrator Young said that would be a decision of the District commissioners in the future, but for now it remains three commissioners.

Councilmember Mutchler also said there isn't a net benefit to taxpayers with the annexation, it's just a wash, and there is no change to tax bills. But it does provide an advantage to the City in that it won't have to deal with fire protection bill fluctuations each year.

Administrator Young confirmed that was the case, adding that by having the City's assessed property valuation included with the District's it will blunt the impact of reductions in property values for Cherry Point industries.

Councilmember Mutchler wondered if it was a disadvantage to the City that the property tax levy lid will be reduced because some of the taxing authority will not go to the Fire District.

now

The administrator said he did not believe it was a bad decision. He explained that there is a thing called "proration," whereby each taxing jurisdiction like cemetery districts, fire districts, cities and counties has a maximum they can charge for property taxes. If you add up all of those maximum amounts up, it's greater than the state constitution would allow for the total maximum property tax levy.

If every taxing entity was taxing their maximum, someone would have to give up some taxing authority. That's why there are junior and senior taxing districts, and there is a food-chain effect. Tax levies would get knocked down proportionally up that chain until the levy is below the maximum in the constitution.

That doesn't happen very often, he shared. The maximum fire levy is \$1.50. They're levying \$1.13 now. They have a ways to go. Naturally, once the City is annexed in, the District would be charging \$1.13 over \$1 billion more in valuation. Our maximum is about \$3.60 and then it's diminished for various reasons.

If the City is annexed in, its property tax levy maximum is reduced because some of that taxing authority gets taken over by the Fire District.

When you look at a before and after – right now the City is levying something like 70 percent of its maximum. Afterwards, the City would be levying about 60 percent of its maximum. In his mind, Young said, the City will have sufficient room to grow for its levy.

Finally, Councilmember Mutchler inquired if this brought any change in revenue to the District.

Administrator Young said it wouldn't. Rather than the City paying the District for service, it will simply collect property taxes directly that the City used to collect from Ferndale property owners.

Councilmember Goodrich said as the representative from the council to the District, he noted they have been talking about it and they have been waiting for the City to act. The discussions they've had at the meetings have been in favor of going toward this.

City Clerk Sam Taylor noted this does require review by the Whatcom County Boundary Review Board and the City will work to help the Fire District complete that process.

Councilmember Olson sought to ensure that no resident would see an increase in property taxes.

Administrator Young confirmed that was the case.

Councilmember Olson also wondered how the City would pay for its portion of fire protection.

The city administrator explained it would no longer have to pay for those services, because the City would now be part of the district.

ON THE MOTION: Motion carried unanimously.

G. DISCUSSION: 6-Year Financial Plan Mid-Year Review

Finance Director Mark Peterson explained that the City's adopted financial management policies require him to do a mid-year review of the City's 6-Year Financial "look ahead."

He noted that the City posts a substantial amount of financial data on its website under the Finance Department.

By way of introduction, Director Peterson said there is now six months of data that gives a good idea of how the City is doing for the annual budget, including for projected revenues.

In summation, the director said property taxes are a little ahead so far but he didn't expect it to stay ahead for the year. Sales tax is slightly under, and that's not very surprising. The City is "pretty low" on residential and commercial permits and associated fees. That does inform his projection for this year and next in terms of those sources of revenue.

Three or four months ago he spoke to the council about the 2015 budget and how the City was looking at a deficit for that budget cycle. There are three main reasons: The Fire District bill went up 11 percent, which is a huge increase. The City is losing its jail credits next year, so the jail bill to house inmates arrested by the Ferndale Police Department will be much higher. Finally, the council voted to hire a detective this year and it's in the budget. Those are all challenges for 2015 and nothing has really changed since a few months ago.



LOCAL

Voters to decide if Ferndale, Everson, Nooksack should officially join fire districts

BY CALEB HUTTON - THE BELLINGHAM HERALD

JANUARY 28, 2015 03:30 PM

THE BELLINGHAM HERALD

SECTIONS

EIMPACT2020

It's almost a riddle. The city of Ferndale isn't in a fire district. Yet there's a fire district headquartered in Ferndale, and if you dial 911, firefighters from Ferndale fire stations will show up to your door.

"People think we're the Ferndale Fire District," said Chief Gary Russell. "We're not. We're Whatcom County Fire District 7."

Technically the fire district is outside of city limits. It covers a roughly 65-square-mile trapezoid from Aldrich Road to the coast, minus Ferndale. Since the 1950s, the city has contracted with the district to get fire services.

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Longtime Lynden restaurant sold, will see some changes with new local ownership

Likewise, the cities of Everson and Nooksack contract with Fire District 1.

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VIEW OFFER

Voters will decide on the Feb. 10 ballot if the districts should merge with the cities they surround (and already serve). Taxes wouldn't go up, and fire services wouldn't change.

Here's what would change.

First, there would no longer be a middleman between city taxpayers and the districts. Right now property owners in Ferndale, for example, effectively pay the same tax rate as residents in the district, i.e., \$1.23 per \$1,000 in value in 2014 — except if you live you in the city, your taxes go to the city, as a chunk of the city's general levy. The city then pays the district. If approved, the city would lower its tax rate so property taxes would, in the end, be the same.

Second, if the measures pass, city residents could vote on tax issues related to fire district issues, or run for fire commissioner, because they'd actually be in the district. Chief Mel Blankers of Fire District 1 expects a levy lid lift to go on the ballot in the coming years, in part to help pay for a new career position. (District 1 is almost all volunteers.) It would be fairer, Blankers said, if everyone served by the district got a chance to vote on the tax rates.

At a public hearing on annexation in September, Fire District 7 Commissioner Gerald Metzger said he was concerned the city "wished to run the fire department, which they had relinquished many years ago," according to meeting records. Ferndale Mayor Gary Jensen responded that it's the other way around: The city wanted to join the district, in large part "to normalize the cost of fire service provided by the district."

According to Chief Russell, adding another billion dollars or so in taxable property — as annexing Ferndale's tax base would do — would be like a buffer for taxpayers. If property values fall in one part of the district, tax rates go up for everyone; in a larger district, the ups and downs would be less extreme.

Lately that's of special concern to District 7, the home of the BP Cherry Point refinery, in



Memorial service for Lynden interim Police Chief Michael Knapp



Procession honors Lynden interim Police Chief Knapp before memorial

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NOVEMBER 20, 2019 2:46 PM

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NOVEMBER 20, 2019 8:06 AM

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NOVEMBER 19, 2019 12:52 PM

Longtime Lynden restaurant sold, will see some changes with new local ownership

NOVEMBER 20, 2019 5:00 AM

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light of a recent \$300 million-plus dispute over the refinery's value. An appeal is ongoing to decide if the county's No. 1 taxpayer is worth \$700 million, as BP claims, or more than \$1 billion, as the county assessor's office claims.

Voters will only see one measure related to annexation on their ballot, but there's really a total of six. That's because residents of cities and the existing districts both need to OK the merger separately. So Everson has to want to join the existing district, and the existing district has to want Everson to join.

Visit the City of Ferndale's website for more info on the election.

To see a map of the county's fire districts, visit co.whatcom.wa.us/pds/build/fire/districtinfo.jsp.

COMMENTS -

FAVORITE BEST FRIENDS

Here's what had police responding to WWU's campus near Old Main on Tuesday afternoon

NOVEMBER 19, 2019 2:21 PM



