

SULTAN CITY COUNCIL
AGENDA ITEM COVER SHEET

ITEM NO: Consent C 1

DATE: February 28, 2008

SUBJECT: Council Minutes

CONTACT PERSON: Laura Koenig, Clerk/Deputy Finance Director

SUMMARY:

Attached are the minutes of the February 14, 2008 regular Council meeting as on file in the office of the City Clerk.

RECOMMENDED ACTION:

Approve as submitted

MOTION:

Move to accept the consent agenda as presented.

COUNCIL ACTION:

DATE:

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The regular meeting of the Sultan City Council was called to order in the Sultan Community Center by Mayor Eslick. Councilmembers present: Champeaux, Slawson, Flower, Davenport-Smith, Doornek and Blair. Absent: Wiediger.

CHANGES/ADDITIONS TO THE AGENDA:

Consent: Add excused absence of Councilmember Wiediger

COMMENTS FROM THE PUBLIC

Jeffrey Beeler: Would like to see the City fix the pot holes in the roads and clean up trees that fall across the road. The tree was cleaned up by a citizen and it is a service that he expects the City to perform. The City will spend a half million dollars on the Comp Plan and it is not done yet. It should have cost 1/5th of that amount and been done in six months, not four years. Doesn't like to see tax dollars wasted. In regards to the stormwater utility, the homeowners associations have not received information on the costs to them and they need to know ahead of time to determine how the cost will be paid.

Keith Arndt: The stormwater issue has raised questions on costs to current users and he would like to know how it will impact new developments that are designing their own system. It would be nice to have the information available at the time of application.

COUNCILMEMBERS COMMENTS:

Flower: Thanked Mr. Rowe for cleaning up the tree and the person who painted over the graffiti at the pump house.

Slawson: The Council had a good retreat and it was determined the City needs to take a look at the budget and make some cuts to handle the City's needs. The Comprehensive Plan will be on the fast track and other things may have to be put on the back burner. He requested that staff provide a list of issues that action can be deferred on to later this year. CTED okayed the City's plan and now it is being picked apart piece by piece.

Champeaux: Thanked Mr. Rowe for cleaning up the tree. The City crew is working on fixing the pot holes. The City has a Comprehensive plan and we know there are flaws that need to be fixed and changed but the City is on Fallgatter 9 and fixing the comprehensive plan will not stop the appeals. The City needs to spend the money to fix the plan and stop the petitions.

Blair: During the Legislative sessions she talked to other Council members and noted that every small city that did not have an activist did not have any problems and those that did have activists were having the same problems that Sultan has experienced. They are not incompetent; they have just been challenged at every level and need to come into compliance with the hearings board.

Mayor Eslick: Introduced Rick Hawkins, the Interim Police Chief on loan from the Snohomish County Sheriff. He will be here for three months and they are also providing other officers to assist the department. Cleanup day will be in April and the City will be sending out letters to ask people to cleanup their properties. The next Block Watch meeting will deal with flood issues and notification. She will be working with staff to stay on top of the Comprehensive Plan issues and make sure that it gets done right.

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CONSENT AGENDA:

The following items are incorporated into the consent and approved by a single motion of the Council. On a motion by Councilmember Slawson, seconded by Councilmember Flower, the consent agenda was approved as corrected. Champeaux – aye, abstained on the February 1, 2008 Council meeting minutes; Slawson – aye; Davenport-Smith - aye; Flower – aye; Blair – aye; Doornek – aye, abstained on the February 1, 2008 Council meeting minutes.

- 1) Approval of the following Minutes as on file in the Office of the City Clerk:
 - A. January 24, 2008 Regular Council meeting.
 - B. February 1, 2008 Continued Council meeting.
 - C. Caleb Court Hearing
 - D. Twin River Ranch Hearing
- 2) Approval of vouchers in the amount of \$186,303.09 and payroll through January 25, 2008 in the amount of \$86,265.31 to be drawn and paid on the proper accounts.
- 3) Excused absence of Councilmember Doornek from the February 28, 2008 Council meeting.
- 4) Adoption of Ordinance 979-08 amending SMC 2.26.
- 5) Authorization to call for new bids on surplus equipment.
- 6) Authorization for the Mayor to negotiate a contract with Sky Valley Chamber of Commerce for downtown cleanup services.
- 7) Excused absence of Councilmember Wiediger from the February 14, 2008 Council meeting.

ACTION ITEMS:

Planning Board Appointment: The Council Sub Committee interviewed three applicants and made a recommendation to the Mayor based on experience, background and responses to the interview questions. Mayor Eslick has recommended that Scott Zaffram be appointed to the Planning Board. On a motion by Councilmember Slawson, seconded by Councilmember Davenport-Smith, the appointment of Scott Zaffram to the Planning Board was approved. All ayes.

Caleb Court – Resolution 08-05:

The City Council conducted a Closed Record Hearing and Public Appeal Hearing to consider the Hearing Examiner's Recommendation dated November 13, 2007 for the Caleb Court Preliminary Planned Unit Development Subdivision and the Appeal from Freed LLC in accordance with SMC 2.26.150(C), (D), (E), and (F).

The Hearing Examiner recommended denial of the Planned Unit Development and returning for modification of the Preliminary Subdivision, based on three (3) issues of noncompliance. The Hearing Examiner recommendation included revised conditions of approval in case the Council did not concur with the reasons for denial of the Planned Unit Development.

The Hearing Examiner raised the following issues of noncompliance:

1. The proposed reduction in public right-of-way width for the new Road A, an extension of Salmon Run North, is not justified primarily because the design does not provide for a landscaped separation of vehicles and pedestrians; and does not provide for adequate off-street parking.
2. The Examiner found that the proposed cul de sac length of approximately 750 feet as measured along Salmon Run North was too far in excess of the current City standard of 300 feet.

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3. The Caleb Court Preliminary PUD and Subdivision does not meet the requirements for police concurrency under the City's concurrency management system in SMC 16.108.

After considering the record, the City Council accepted the Recommendation of the Hearing Examiner dated November 13, 2007, including the Findings of Fact and Conclusions of Law, the City Council determined to deny the Caleb Court Planned Unit Development without prejudice and return the application to the applicant for modification to meet approval criteria.

The City Council directed staff to prepare a new resolution (Resolution No. 05-08) to set forth its findings as follows:

1. Public Right of Way Width - A more appropriate design meeting City design standards, A minimum fifty foot (50') right of way,
 - Thirty-two feet (32') of pavement between curbs
 - A sidewalk extension similar in design to that existing along Salmon Run North Road.
 - Additional on-street guest parking spaces

2. Cul-de- Sac Length - A more appropriate road design would consider a future extension of Salmon Run North (proposed Road A) south to High Street. This would necessitate a dead-end street terminating at the southerly plat boundary. The dead-end street would not constitute a permanent cul de sac as defined by SMC 16.150.030 (47).

The City agrees with the applicant's engineer that until the extension of the dead end street to High Street occurs, a cul de sac turnaround design allowing unimpeded turning movements is superior to a "hammerhead" or other configuration. The City is supportive of a "cul-de-sac" design solution with the right of way boundary coterminous with the southerly property boundary. This should be considered a short term street improvement, not a permanent cul-de-sac; therefore the length requirement for a cul de sac will not apply.

The Council takes official notice of the City's Design Standards which require that a sign be placed at the end of a dead-end street disclosing to the public and future property purchasers that eventual extension of Salmon Run North to High Street will occur.

3. Concurrency Standard for Police Service - The Council concurs with the Examiner's finding that the Staff erred in concluding that the application meets the concurrency standard for police services. The Examiner found that a Police Services Agreement to pay fees to meet police concurrency standards does not meet the requirements of Chapter 16.108 SMC.

The Examiner did find that conditions could be added to require that concurrency requirements be met prior to final plat approval or building permit issuance. The Council will require that the applicant enter into an agreement to meet the City's Police Concurrency requirement in effect at the time of first occupancy of units in Caleb Court.

On a motion by Councilmember Slawson, seconded by Councilmember Blair, the Mayor was authorized to sign the amended Resolution No. 05-08 accepting the Hearing Examiner's recommendation and denying the Joshua Freed LLC Planned Unit Development; Remanding the proposed subdivision application for a 16 Lot Planned Unit Development (Caleb Court) and returning the application to the applicant for modification. All ayes.

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Comcast Cable Franchise: Staff recommends having the first reading of Ordinance No. 980-08 to extend the cable television franchise agreement with Tele-Vue Systems, Inc. (now Comcast) to May 31, 2008.

The original franchise agreement expired on August 8, 2004. The Cable TV ordinance is codified in Section 5.28 of Sultan Municipal Code. In December 2006, the City Council approved Ordinance No. 946-06 extending the franchise agreement to March 31, 2007 and again under Ordinance 950-07 until September 30, 2007. The Consortium has finalized its negotiations with Comcast. The draft franchise is with Comcast for approval by Comcast corporate counsel. The franchise should be ready for its required public hearing prior to June 1, 2008.

On a motion by Councilmember Slawson, seconded by Councilmember Flower, Ordinance 980-08 was introduced and passed on to a second reading. All ayes.

Sewer Technical Memorandum: Connie Dunn advised that the contract recommendation needs to be changed from Brown & Caldwell to BHC. The City Council to approve a scope of work with Brown and Caldwell, to write a Technical Memorandum verifying that the City Sewer Collection system can be extended throughout the urban growth area to serve the population of 11,119 projected for 2025. BHC prepared the prior documents for the sewer plan.

On a motion by Councilmember Slawson, seconded by Councilmember Champeaux, the Mayor was authorized to negotiate a contract with BHC to write the Technical Memorandum as part of the "building block" plan with Shockey Brent, Inc. providing GMA compliance for Capital Facilities Plan and the Comprehensive Plan. All ayes

Water Technical Memorandum: The City of Sultan under the guidance of Shockey Brent, Inc is using the "building block" approach to adopt a Capital Facilities Plan compliant with the Growth Management Board final decision and order in Fallgatter IX. Shockey Brent is recommending the City incorporate the knowledge of consultants used to write the existing approved Water System and General Sewer Plans and the Engineering Report for the WWTP Upgrade into the Technical Memorandum summarizing the current facilities inventory to minimize costs.

BHC estimates the Technical Memorandum for Water System Plan Compliance will require about 60 work hours for a total cost of \$10,000.

Additional work may be required later to better define the facilities needed, the estimates costs, and develop a financing program. BHC will only be involved in the Water System improvements both Treatment and Distribution. Some additional assistance may also be needed in responding to the Growth Management Hearings Board

On a motion by Councilmember Slawson, seconded by Councilmember Davenport-Smith, the Mayor was authorized to sign a contract with BHC Consultants, LLC for 60 work hours @ \$10,000, according to the scope of work, to write the Technical Memorandum for the Water System Plan Compliance with GMA. All ayes except Councilmember Flower who voted nay.

DISCUSSION ITEMS:

Stormwater Utility: The City Council held a public hearing on the storm water utility on January 24, 2008. The Sultan community was very interested in the discussion and expressed concerns regarding the timing and amount of the proposed storm water fee. The City Council decided to extend the public hearing to allow additional opportunity for public comment.

After discussing the issue, City staff realizes we have not done a good job at describing the need for a storm water utility and the facilities needed to convey storm water as well as meet the requirements of the NPDES II permit.

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A description of the City's current storm water facilities, the need to extend the facilities to serve future development are a part of the requirement to update the City's Capital Facilities Plan under the Final Decision and Order in Fallgatter IX.

Before the City Council makes a final decision regarding the storm water fees, it makes sense to combine the need to establish a storm water utility with the need to adopt levels of service and a financial plan for storm water to meet future growth.

Mayor Eslick advised that a Stakeholders committee will be formed to discuss the utility. The continued hearing will be opened and additional testimony will be taken for the committee to consider. Brief discussion was held on the need to provide further details on how the funds will be spent, fees for residents and businesses, variances and the legal requirements to form the utility.

Comprehensive Plan Update: Deborah Knight provided an update on the Growth Management Hearings Board recommendation and requirements. The hearings board has given the City until September to have a compliant plan which will require that the schedule be moved up by three months. Work that must be completed are the levels of service, transportation plan, capital facility plan, and an inventory of all facilities. Police levels of service are not a requirement of GMA. The GMA Hearings Board has requested the City consider a moratorium on development as they are concerned that we are allowing development without the capital facility plan in place. If a moratorium is considered, they must determine what land use application will be included. The board will consider financial sanctions if the City does not comply with the requirements.

Brad Collins, Perteet, advised the Council to try to avoid moratorium if possible, but it could be crafted to please the board and not shut down development in the City. The City needs to move forward in a rational fashion to complete the work on the comprehensive plan. The development regulations that were challenged need to be addressed first and then the City needs to determine what else needs to be changed.

Andy Lane, Land Use Attorney, discussed the moratorium options. Staff met with Growth Board and the Board has asked for a shorter time frame and requested the City consider a moratorium. The Board has determined that some of the portions of the plan are non compliant and other portions are invalid. The capital facility plan and transportation plan are invalid. The plan was adopted in 2004 but the development regulations were not updated at the same time. The City is non compliant on some of the development regulations. Recommended that the City draft a moratorium to stop applications for subdivisions, PUD's, annexations and rezones.

Discussion was held regarding applications in process, vested applications, the type of land uses to include in a moratorium, the citizens right to protest and appeal regulations and the impact a moratorium would have on development and the City finances. The Growth Hearings Board would like a response from the City by the end of the month.

Councilmembers expressed concern and frustration that the Growth Hearings Board is under the impression that the City is doing nothing as they have put forth a good faith effort. The petitioners have the right to bankrupt the City for a personal agenda and continuous challenges to a document that they help to write. The petitioners are pushing for sanctions and they are part of the problem. The work needs to be completed and the Council has committed to make it happen and the GMA board needs to get that message. The Council would like to make sure that the consultants hired perform the work they are paid to do.

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PUBLIC COMMENTS

Keith Arndt: There is a de facto moratorium in effect now due to the language in the comprehensive plan as no one can submit an application for a PUD as there are no sewer connections available. The word moratorium puts fear into developers and the City should find a way to proceed without a moratorium. The City may be able to work with the existing regulations.

Jeffrey Beeler: There is a moratorium now because we don't have sewer connections. The City should consider six month moratorium. They have current developments that will be building houses. A moratorium may give Fallgatter the sense that the City takes the issues seriously.

Scott Zaffram: The City has needed a better plan for several years and over all, there is not a lot of standardization in the town. They need to stop and address the problems and in the long run, the City will be back on track. The goal is to show the hearings board that we are working in good faith and to realize that you won't make everyone happy with the plan.

COUNCIL COMMENTS

Blair: Discussed the need to fix the comprehensive plan three years ago and recommended a moratorium at that time. The City has paid a lot of money to consultants without good results and the Council needs to be more active in the process.

Mayor Eslick: Advised that she is reviewing the contract with Reid Shockey and will be discussing the work done last year and what needs to be completed this year. Advised that community members are painting over graffiti as soon as it appears.

Slawson: Advised that Aaron Reardon, County Executive, has a graffiti program going and they have requested that people take photos to create a file and they will prosecute for all the crimes.

Deborah Knight, City Administrator: Advised that the residents would be charged for the stormwater utility and a credit would be given to the homeowners associations. Staff will provide a letter to home owner associations. In regard to the de factor moratorium due to the lack of sewer connections, Mr. Arndt requested sewer commitments and was denied. He appealed the denial and lost the appeal. The City adopted a sewer connection policy and it was later repealed after a challenge by Fallgatter.

Adjournment: On a motion by Councilmember Slawson, seconded by Councilmember Flower, the meeting adjourned at 9:15 PM.

Carolyn Eslick, Mayor

Laura J. Koenig, City Clerk