

**SULTAN CITY COUNCIL
AGENDA ITEM COVER SHEET**

ITEM NO: Consent C 1

DATE: July 24, 2008

SUBJECT: Council Minutes

CONTACT PERSON: Laura Koenig, Clerk/Deputy Finance Director

SUMMARY:

Attached are the minutes of the July 10, 2008 Council meeting minutes as on file in the office of the City Clerk.

RECOMMENDED ACTION:

Approve as submitted

MOTION:

Move to accept the consent agenda as presented.

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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, Wiediger, Slawson, Flower, Davenport-Smith, Blair and Doornek.

CHANGES/ADDITIONS TO THE AGENDA:

Consent: Move to action - Amendment to Interlocal Agreement with Snohomish County for Police Services.

COMMENTS FROM THE PUBLIC:

Teresa Knuckey: The fireworks were terrible and the City should consider a designated area for fireworks or ban them altogether. Thanked the City for putting the signs at Osprey Park to close the park at dusk.

Jeffrey Beeler: Thanked the Mayor and Council for allowing public comment. It makes the meeting feel more personal and makes him proud to be part of a small city. Thanked the City for allowing their neighborhood to close the streets for a barbeque and fireworks on the 4th. Thanked Public Works for putting the reflectors on Sultan Basin Road. The Council should consider option 3 for the stormwater utility fee which is the middle ground.

Keith Arndt: Encouraged the Council to read the court decision regarding King County and property owners as it may provide information on the comprehensive plan and the way the City is doing business.

Loretta Storm: The City staff have done good job on public information but she has not seen the agenda on the front door or bulletin board. The Planning Board had two openings that were advertised and applications were received and then two more openings occurred and the City did not give additional notice. The City should give other people an opportunity to apply.

CH Rowe: The fireworks were enjoyable but people do need to clean up the mess the next day. Hopes the Council uses common sense in regards to the stormwater utility fee. The proposal in the Comprehensive Plan to raise the traffic mitigation fee from \$1800 to \$5200 will hurt home buyers and stop development in town. The cost will be too high for the Sportsman Club to continue their project. Would like to see the waterfall in the Highway park repaired.

Robert Criswell: The stormwater utility is needed because it is in the Comprehensive Plan and since the City approved the plan, why can't they take it out? The waterfall does need to be repaired. The power to the lights on the Veterans wall was turned off by mistake and needs to be turned back on.

Nathan Porter: Councilmember Blair said Growth Management Board required the stormwater utility but there are no boards that can't be challenged. Encouraged the Council to go against the grain – this is what important people in history have done.

COUNCILMEMBERS COMMENTS:

Slawson: The City did follow the process for the applications for the Planning Board and the committee interviewed four qualified people. The City would not want to go up against the hearing board as the impact is sanctions on tax revenues.

Davenport-Smith: The fireworks in the street were dangerous and it would be safer to have a designated area.

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Flower: Happy Birthday to the Country for 230 years of freedom. Invited everyone to come to the Shindig and have a good time.

Blair: The fireworks were noisy and it would be nice to have a designated area for the city. Would like to see the waterfall working and the light back on the Veterans Wall. The stormwater utility was required by the Growth Management Board and there is no appeal process. She had the opportunity at the AWC conference to address the Governor on the issues for small cities and control of the Growth Management board.

Doornek: Hopes the Council will make the best decision on the stormwater.

Mayor Eslick: There is a group of volunteers that are interested in repairing the pump in the waterfall. The City had to promise the Growth Management Board that they would move forward with correcting the Comprehensive Plan to stop the monetary sanctions from the State and part of the plan includes the stormwater utility.

HEARINGS – Proposed Amendments to SMC 21.04.030

The Public Hearing on the Proposed Amendments to SMC 21.04.030 was opened by Mayor Eslick. There were no objections to the Council participation.

Staff: The issue before the City Council is to hold a public hearing to:

1. Amend the Sultan Municipal Code 21.04.030 by removing the \$850.00 required filing fee for Conditional Use Permits and adding language to require the fee based on the adopted fee schedule.
2. Update the Sultan Municipal Code, consistent with SMC 2.26 and 16.120, giving authority to the Hearing Examiner to review Conditional Use Permits instead of the Planning Commission.

The filing fee was set ten years ago with the adopting ordinance (690-98) and does not cover the costs incurred by the City for staff time to process the permit application. City staff recommended deleting the reference to the filing fee in SMC 21.04 and instead set the filing fee by resolution through the annual fee schedule adopted by the City Council.

In addition, Chapter 21.04 makes references to the planning commission reviewing applications for conditional use permits. This task is now assigned to the hearing examiner as outlined in SMC 2.26 and SMC 16.120. This is a housekeeping item to provide for a consistent code.

Councilmember Blair advised that the appeal process is not clear.

Public:

Loretta Storm: Was glad to see the amendment as she feels that anything that makes the code more consistent and efficient is good.

On a motion by Councilmember Slawson, seconded by Councilmember Champeaux, the public hearing was closed.

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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 Flower, seconded by Councilmember Slawson, the consent agenda was approved as amended. Champeaux – nay; Wiediger – aye; Slawson – nay; Davenport-Smith - aye; Flower – aye; Blair – aye; Doornek - aye.

- 1) Approval of the Minutes of the June 26, 2008 regular Council Meeting as on file in the Office of the City Clerk.
- 2) Approval of the Minutes of the June 26, 2008 Public Hearing on the Sultan Basin Road Vacation.
- 3) Approval of the Minutes of the June 26, 2008 Public Hearing on the Comcast Cable Franchise.
- 4) Approval of vouchers in the amount of \$91,103.74 and payroll through June 27, 2008 in amount of \$56,984.29 to be drawn and paid on the proper accounts.
- 5) Confirmation of the appointments of Emily Abt and Paige Cople to the Sultan Library Board.
- 6) Authorization for the Mayor to sign a contract with Iron Goat Networks for Information Technology (IT) services.
- 7) Authorization for staff to purchase equipment for the Skateboard Park from Northwest Recreation of Washington.
- 8) Authorization for the Mayor to sign an Interlocal Agreement with the Town of LaConnor for handling, processing and disposal of dewatered sludge from the Wastewater Treatment Plant.

ACTION ITEMS:

Ordinance 983-08 – SMC 21.04 Amendments: A hearing was held earlier in the meeting on the proposed amendments. On a motion by Councilmember Blair, seconded by Councilmember Wiediger, Ordinance 983-08 was introduced and passed on to a second reading. All ayes.

Ordinance 985-08 Stormwater Utility: The issue before the City Council was the first reading of Ordinance No. 985-08 to establish a stormwater utility.

A surface water utility is essentially a special assessment district set up to generate funding specifically for surface water management. Users within the district pay a surface water fee, and the revenue generated directly supports maintenance and upgrade of existing storm drain systems; development of drainage plans, flood control measures, and water-quality programs; administrative costs; and sometimes construction of major capital improvements. Unlike a surface water program that draws on the general tax fund or uses property taxes for revenue, the people who benefit are the only ones who pay.

Surface water management within the City is governed by federal, state, regional, county and city laws including the Clean Water Act, Endangered Species Act, the Growth Management Act, Shoreline Management Act, State Environmental Policy Act, Stormwater Management Performance Standards, and Puget Sound Water Quality Action Plan.

There are a number of state statutes that pertain either directly or indirectly to the City's authority to form a surface water utility. One of the more broad based statutes pertains to municipal utilities in general and states that a code city may provide utility service within and outside its city limits and this includes the exercise of all powers to the extent authorized by law (RCW 35A.80.010).

Staff reviewed the various sections of the ordinance. Discussion was held on the compliance requirements set by the Growth Management Hearing Board, potential financial sanctions, grant and funding eligibility and the \$500,000 allocation for the Sewer Plant.

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On a motion by Councilmember Slawson, seconded by Councilmember Wiediger, Ordinance 985-08 was introduced and passed on to a second reading. Roll call vote: Champeaux – nay; Slawson – aye; Wiediger – aye; Davenport-Smith – aye; Flower – nay; Blair – aye; Doornek – aye.

Stormwater Utility Fee: The issue before the City Council is to direct staff to prepare an ordinance to adopt a Stormwater Utility Fee. The base rate is made up of three components:

1. Calculation of Equivalent Residential Units (ERU). There are approximately 2,639 ERUs in the Utility.
2. Adopted level-of-service
3. Annual budget needed to accomplish stormwater functions (i.e. levels-of-service) within the City including maintenance, operations, capital improvements, public outreach, etc.

There were four alternatives presented for Council consideration that ranged from \$5.75 to \$12.35 per month.

Slawson: The utility should be funded so it pays for itself and not be short changed and the City should not look for the cheapest way out. Most of the smaller cities have already passed a stormwater utility to be pro-active. Will need to monitor the fund to make sure it is working and has adequate funding.

Flower: The utility will not pay for itself, the citizens will pay. They are taxed to death and this utility is not needed but the adoption will satisfy the requirement of the GMA board.

Mayor Eslick: Other cities have a different tax base and we have limited funds. The residents will pay more than businesses but we need to start small and review it at a later date.

Wiediger: If we start small then we will need to “rob peter to pay paul” later. The City needs to do it right now.

Champeaux: Agrees with Mr. Slawson and Wiediger to move forward. The Council is always told they are reactive to issues and this is not being pro-active if we are one of the last in the state to adopt. If the City is going forward with the utility it needs to work but with the current economy, we don't want to discourage business.

Davenport-Smith: Agrees the City needs to start small and establishing the utility is a huge step. The new requirements from the state required other cities to increase fees. Review will be needed to make sure the fees cover the maintenance costs. They don't want to burden the businesses or the residents with new taxes but it is important to maintain the infrastructure so people will want to move here.

Blair: The Council has had to make tough decisions regarding taxes and budgets and the utility taxes have helped. With the proposed fee, only five other cities will have a lower fee. Rising cost impact all of us but other cities have had to make a similar decision to make things work. As residents, the Councilmembers will also have to pay any fee adopted. The utility needs to have adequate funding and the Council should not pick the lowest option if it will not provide the necessary funding for the utility.

Councilmember Flower moved to approve Alternative 1, seconded by Councilmember Doornek. All ayes except Councilmember Wiediger and Blair who voted nay.

Ordinance 988-08 Cable Franchise Agreement with Comcast: The issue before the City Council was to have the first reading of Ordinance No. 988-08 granting a non-exclusive franchise to Comcast to use City streets and public rights-of-way for operating and maintaining a cable communications system. The original cable television franchise agreement with Broadview Television (d/b/a Viacom now Comcast) expired on August 8, 2004. The Cable TV

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ordinance is codified in Section 5.28 of Sultan Municipal Code. As required by federal law, the City of Sultan and its East County Cable Consortium partners (Snohomish, Monroe, and Lake Stevens) formally began the cable franchise renewal process in April 2004.

The City has reviewed Comcast's performance under the prior franchise and the quality of service during the prior franchise term and has determined that Comcast's plan for operating and maintaining its Cable System meets the statute requirements. The proposed franchise will keep specific issues negotiated between the City and Comcast, such as competitive equity in the Franchise Agreement.

On a motion by Councilmember Slawson, seconded by Councilmember Champeaux, Ordinance 988-08 was introduced and passed on to a second reading. All ayes.

Ordinance 987-08 Repealing SMC 5.28: The issue before the City Council was to have the first reading of Ordinance No. 987-08 to enact cable system regulations that govern granting cable system franchises and the construction, operation, and maintenance of cable systems and repealing Chapter 5.28 of the Sultan Municipal Code (SMC). This proposed action is a result of reviewing and renegotiating the City's franchise agreement with Comcast.

SMC Chapter 5.28 includes regulations specific to the City's initial franchise agreement with Broadview Television Co. (d/b/a Viacom Cablevision now Comcast) and general regulations applicable to any cable system operator. The proposal is to separate the specific negotiated terms with Comcast from the general regulations applicable to any cable system operator now contained in Ordinance No. 987-08.

On a motion by Councilmember Slawson, seconded by Councilmember Flower, Ordinance 987-08 was introduced and passed on to a second reading. All ayes.

Shoreline Master Program: The issue before the City Council was to review and approve changes proposed by the Department of Ecology to remove all references to mining in the City's Shoreline Master Program as adopted by Ordinance No. 915-06. The City of Sultan is finalizing the process to receive approval of its Shoreline Master Program from the Department of Ecology.

The Department of Ecology will approve Sultan's Shoreline Master Program (referenced in the May 30, 2007 DOE letter as "the proposed amendment") subject to the City's agreement to remove all references to mining and applicable sections of text shown in strike out text in the June 28, 2007 Shoreline Master Program Update. Brief discussion was held on the permit requirement for a conditional use permit for gold mining.

On a motion by Councilmember Blair, seconded by Councilmember Doornek, staff was directed to 1) Remove all references to mining in the SMP including the applicable sections shown in strike out text in the June 28, 2007 SMP; 2) Adopt the changes proposed by the DOE and 3) provide written notice to the Department of Ecology (DOE) of the Council's approval of the proposed changes. All ayes.

Planning Board Appointments: The City received four applications for the Planning Board and interviews were held on July 8, 2008. Staff recommended the appointment of two members now and to allow time for additional applicants to submit letters of interest. The Mayor and Subcommittee have recommended the appointments of Steve Harris and Keith Arndt to the Planning Board. Brief discussion was held on the process followed and notice to the public, criteria for appointments and the problems with the prior Planning Commission. Applicants were encouraged to listen to everyone's opinion and to consider all the information presented before a decision and recommendation is made.

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On a motion by Councilmember Slawson, seconded by Councilmember Flower, the Mayor's nomination of Keith Arndt was confirmed. All ayes.

On a motion by Councilmember Flower, seconded by Councilmember Slawson, the Mayor's nomination of Steve Harris was confirmed. All ayes.

Interlocal Agreement with Snohomish County: The issue is to authorize the Mayor to negotiate an amendment to the contract to provide temporary and intermittent services for evidence control and clerical-access support. Currently there is a need to assist with the entry and purging of evidence by qualified personnel. The Records Specialist has resigned and the department needs to continue with records requests and general office data entry. Brief discussion was held regarding costs, long term plan, need to address the evidence room issues and future training.

On a motion by Councilmember Slawson, seconded by Councilmember Champeaux, the Mayor was authorized to negotiate an amendment to the Interlocal Agreement with Snohomish County for Police Support and Evidence services. All ayes.

PUBLIC COMMENTS

Al Wirta: The best government is the government that governs least. The only people who will benefit from the stormwater will be those in the downtown area; the people in the east side will not benefit at all and may not for 20 years.

Steve Wright: Everyone uses a lot of acronyms for agencies and it would be helpful if they could use the complete name. Hopes the interlocal for police services is a short time fix and that we keep the local police department. The Officers are Access certified and the evidence tech is needed but should be a Sultan employee.

Loretta Storm: Thanked the Mayor for allowing additional notice for the Planning Board positions. Appreciates the comments about the need to listen to everyone's opinion. The impact fees were not raised to encourage business which was a short term solution. The City has lost millions of dollars in revenues by keeping the impact and connection fees low.

Nathan Porter: Asked if the stakeholders would be able to review the budget?

Frank Manaske: Thanked the Council for the stormwater budget. The prior issues with the police department are resolved and the police force is better.

Steve Harris: Thanked the Council for appointing him to the Planning Board. The decisions that impact people are tough and he understands the responsibility. The community's best interest must be considered not just the developers interest. The mitigation fees increase is a large jump and they need to consider impacts in the future.

Jeffrey Beeler: The stormwater fee Option 1 is only a \$10 difference between resident and business per year and that is not fair or equitable. The Council did not all agree that option 1 was the best but they voted for it – they should have voted no instead of using the bottom fee. All four options should have been discussed before the motion was made. The \$11 fee will not break a business.

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Fred Siener: As a resident he did complain about the stormwater fee. The City doesn't have businesses and others will leave if they can't make money. Can't have a \$5,000 traffic impact fee for a small business. The City looks bad and there are things that have needed fixing for years. Need to reconsider metal ramps in the skateboard park as the City of Westport was sued for the use of metal ramps.

Keith Arndt: Applauded the staff for the scope of the options on the stormwater fees prepared for the Council. In regards to the Planning Board, he would not have applied if he didn't feel he could do the job fairly.

COUNCIL COMMENTS

Doornek: Thanked everyone for their comments. The decision on the on stormwater was tough.

Blair: Welcomed the new Planning Board members. Taxes and costs go up because people expect services. The City's income is going down but citizens still expect the same service and it will cost more for everyone. The AWC conference was a great networking experience and an opportunity to learn how other cities handle similar problems.

Davenport-Smith: Thanked the new members of the Planning Board for taking on the job. It is a good idea to have the stakeholders review the stormwater budget at the end of the year.

Slawson: Glad the City has established the stormwater utility and a fee. Recommends the rest of the Councilmembers attend the AWC conference and network with other cities to learn what they do about common problems.

Champeaux: Appreciates the Council discussion on the stormwater issue and for listening to each other. Prior Councils would have fought over the issue and this group agreed to get something done.

Adjournment: On a motion by Councilmember Slawson, seconded by Councilmember Blair, the meeting adjourned at 9:40 PM.

Carolyn Eslick, Mayor

Laura J. Koenig, City Clerk