

**SULTAN CITY COUNCIL
AGENDA ITEM COVER SHEET**

ITEM NO: Consent C 1

DATE: September 25, 2008

SUBJECT: Council Minutes

CONTACT PERSON: Laura Koenig, Clerk/Deputy Finance Director

SUMMARY:

Attached are the minutes of the August 28, 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.

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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. Absent: Wiediger

CHANGES/ADDITIONS TO THE AGENDA:

Executive Session: Real Estate Acquisition
Consent: Add Public Hearing on Moratorium
Presentation of award to Officer Gillespie

PRESENTATIONS:

Police Department: Chief Hawkins announced that Officer Gillespie participated in the 2008 Western State Police and Fire Motor Cross Games competition representing the Sultan Police Department and won the silver medal. Officer Gillespie competed in the age 20 plus expert class.

State Auditor Christopher Kapek: Advised they are doing the audit for Sultan and will perform an accountability, financial and federal compliance audit. Performance audits are being done in the larger cities but eventually will occur in the smaller cities.

Accountability deals with compliance with state law, federal funds single audit, and internal controls. The City is a low risk agency due to good prior audits and compliance. Financial statements are checked for reasonable assurance that the statements are free of material misstatements. The Auditors target high risk areas and identify them so they can be fixed. There are two new standards, SAS 112 and SAS 114. SAS 112 is based on auditing standards under General Accounting Standards and makes the entity responsible for review of the documents. It lowers the bar for findings and reporting and there has been an increase state wide in audit findings due to the new requirements. They must identify any internal weakness and errors in the statements. SAS 114 deals with communication with those charged with governance. It requires better communication between the Auditor and the City Council. The Auditors have had a good relationship in the past with Sultan and they will report positive as well as negative issues.

COMMENTS FROM THE PUBLIC:

Amanda Studer: Announced she is a finalist for the National American Miss Pageant. The program is designed to help young women gain poise and confidence in public speaking. She needs to raise \$450 for fee and requested donations from the public.

Teresa Knuckey: Advised she would like to start an "Adopt a Street" litter program in the City and she is willing to pay for the signs and would like the city to install them. She is willing to make a one year commitment to the program.

Bob Knuckey: Teresa Knuckey has been doing the street cleaning program for 3-4 years in the parks and around the City. They are willing to pay for signs, if the City will do the installation. They would like to start the clean up program in the City and encourage others to adopt their street. The Marysville program was not successful at first because they asked too much of the volunteers. They are seeing improvements in the City and appreciated the work the Mayor, Council and staff are doing. They are advocates of cleaning up the City and feel it can be done.

Dave Cotterell: The homeless people are allowing their dogs to mess on the street and sidewalks and he is tired of cleaning it up behind the Feed Store. People are also allowing the dogs to run loose in the parks and it creates a mess for people who use the park.

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Jeffrey Beeler: The residents don't know about the Sultan Basin Road closure and there are no signs. Asked if there would be any controls at the intersection of Rice Road and gravel on the corner? Asked if the business signs can be removed along the highway? The Budget Committee discussed the Sultan identity and appeal and the need for cleanup, animal control and code enforcement. The Council should consider option B or C for the Stormwater Utility rate as the homeowners preference.

Loretta Storm: Loves the idea of the adopt a street program. Agency comments received on the Comprehensive Plan should be posted on the City web page. Resolution 08-23 providing a legal description should have a map. Public records requests – supports providing information but with shortage of staff there may be a different way to handle the review process.

COUNCILMEMBERS COMMENTS:

Champeaux: Appreciates the signs being removed from around the welcome sign. Adopt a street is a good ideal. Dogs may be an issue that needs to be addressed. Requested an update on the School Resource Officer. (Chief Hawkins advised the SRO has started work at the schools and will be working with the City on the issues involving problem children.)

Slawson: The City has animal control and citizens should call 911 when there is an issue. There is a leash law in the city and they can look into the litter issue.

Davenport-Smith: Congratulated Officer Gillespie on his award. The Downtown Development presentation prior to the meeting was great and she is looking forward to Bob Martin's input with the downtown revitalization.

Flower: Good presentation by Bob Martin. He is impressed with the work Bob did in Walla Walla and is looking forward to the turn around in Sultan. Thanked the Knuckkeys for their clean up work on the streets and parks.

Blair: The City does have a volunteer program and coordinator who is doing a great job. We need to advertise as more cities are using volunteers to help out. Monroe Monitor will start a new feature on events and information in the valley. She supports the efforts by Snohomish County to cleanup the property across the river to develop a park. She would like to encourage people to pick up their after their animals.

Doornek: Congratulated Officer Gillespie. Appreciates the cleanup around the welcome sign. Pooper scoopers were discussed and the issue needs to be addressed.

Mayor: Thanked Mr. Cotterell for coming and she hopes the officers can address the people with the dogs. The Blockwatch program can help with these issues also. The volunteer program was started because we are short on resources but this is building up the community.

CONSENT AGENDA:

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

- 1) Approval of the August 14, 2008 Council Meeting Minutes as on file in the Office of the City Clerk. Amended to include the written comments submitted by Councilmember Davenport-Smith on the Stormwater ordinance.
- 2) Approval of the August 14, 2008 Public Hearing Minutes on the Sultan Basin Road Vacation as on file in the Office of the City Clerk.
- 3) Approval of the August 14, 2008 Closed Record Hearing minutes on Anderson Farms as file in the Office of the City Clerk.

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- 4) Approval of Vouchers in the amount of \$120,981.08 and payroll through August 8, 2008 in the amount of \$65,860.98 to be drawn and paid on the proper accounts.
- 5) Set Budget workshop for September 4, 2008 at 7:00 PM.
- 6) Accept and authorize the Mayor to sign the Grafitti Abatement Grant in the amount of \$12,000.
- 7) Authorization for the Mayor to sign the amendment to the professional service contract with Cairncross and Hemelmann to assist the City with adopting a compliant Comprehensive Plan.
- 8) Rejection of the bid from Mike's Roofing for the Food Bank Roof Repair.
- 9) Authorization for the Mayor to sign Addendum 2 with Perteet , Inc. for on call planning services.
- 10) Authorization for the Mayor to sign a professional service contract with WH Pacific for preconstruction services on Sultan Basin Road Phase III for an estimated cost of \$361,843.
- 11) Set a public hearing for September 11, 2008 on the Land Use Moratorium extention.

ACTION ITEMS:

Ordinance 989-08 Sultan Basin Road Vacation: Terra Ex Land Group is requesting vacation of approximately 860 lineal feet of un-used right-of-way of Sultan Basin Road North of its previous intersection with Highway 2. Sultan Basin Road has been reconstructed such that its intersection with Hwy. 2 is approximately 600 feet East of its previous intersection. The right-of-way proposed for vacation is no longer used as a public traveled way. The petitioner is pursuing a commercial development that will include the land proposed for vacation.

Ordinance No. 989.08 vacates approximately 860 lineal feet of the closed section of SBR North of and adjacent to the new intersection with US 2. The ordinance sets the consideration for vacation at one-half the appraised value (\$65,000.00) determined by the petitioner's appraiser. State Statute RCW 39.79.030 requires that at least one-half (1/2) of the amount received (32,500.00) be expanded on "acquisition, improvement, development and related maintenance of public open space or transportation capital projects within the City.

City Staff recommend the City Council use \$32,000.00, to support the 2009 Parks Operating Budget for maintenance of public open space. The remaining \$32,500.00 should be put into the contingency fund to be used if necessary to balance the 2008 budget or cover any unanticipated expenses.

Discussion was held regarding the amount of payment and the reason for accepting half instead of the full value; steep slopes and unusable portions of the property; existing utility easements; set back restrictions; encouraging economic and business developments; the appraised value of the property; and the need to consider each vacation request separately and not treat each the same; the aggressive letter sent by Terra Ex Land Group.

On a motion by Councilmember Flower, seconded by Councilmember Blair, Ordinance 989-08 vacating a portion of the Sultan Basin Road was introduced and passed on to a second reading. All ayes.

Ordinance 979-08 Amendments to SMC 2.26: The issue before the City Council is to have First Reading of Ordinance No. 979-08 amending Sultan Municipal Code (SMC) 2.26 – Hearing Examiner to delete sections of the code that reference the process for appealing an Examiner's decision. The proposed changes to SMC 2.26 include some "housekeeping" items to make SMC 2.26 consistent with SMC 21.04 (Conditional Use Permits) and Title 16.

On a motion by Councilmember Slawson, seconded by Councilmember Champeaux, Ordinance 979-08 amending SMC 2.26 was introduced and passed on to a second reading. All ayes.

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Ordinance 990-08 2008 Budget Amendments: A public hearing on proposed amendments to the 2008 budget to provide for purchases of vehicles for the Police Department and Public Works Department was held on July 24, 2008 and August 28, 2008.

On a motion by Councilmember Slawson, seconded by Councilmember Doornek, Ordinance 990-08 amending the 2008 Budget was introduced and passed on to a second reading. All ayes.

Resolution 08-23 Legal Descriptions for City Limits and Urban Growth Area: During evaluation of the City's 2004 Comprehensive Plan, City staff discovered the City has not updated its legal descriptions for Sultan City Limits and UGA. Accurate legal descriptions are necessary to support day-to-day operations of City Hall and are used by various government and business community members. Property parcels comprising the City of Sultan have been assembled by different annexations at various dates over a period of many years. The legal descriptions represent a good-faith effort to describe the boundaries from the records available.

City staff recommends formally adopting the legal descriptions by resolution to ensure an official record. Following adoption of Resolution 08-23, City staff will request the Snohomish County Auditors Office record the legal descriptions and incorporate the descriptions in the County's electronic database and GIS program.

On a motion by Councilmember Blair, seconded by Councilmember Davenport-Smith, Resolution 08-23 adopting legal descriptions for the Sultan City limits and Urban Growth Area was adopted. All ayes.

6th Street TIB Sidewalk Grant: In 2005 and 2006 the City of Sultan applied to Community Development Block Grant (CDBG) for funding to reconstruct 6th Street from Main Street to the Mountain View Fellowship Church at 210 6th Street. In concert with those applications, the City of Sultan also applied to TIB to reconstruct the sidewalks in the same area. The CDBG Grant proposals were denied due to fund projects that were incomplete. In 2007 TIB approved the grant proposal to reconstruct the sidewalks. This alternative is not a feasible option because it makes the future of this street more difficult to construct at a proper elevation, providing for drainage and drainage treatment. After a sidewalk is constructed at or near existing grades the drainage is set and may be incorrect for the future when the street is actually reconstructed. Brief discussion was held on the other CDBG projects that have not been completed. The Lighted Crosswalks at the schools and 2nd Street sidewalk projects are still incomplete. The park projects and Date Avenue funded by CDBG have been completed.

On a motion by Councilmember Slawson, seconded by Councilmember Doornek, the Mayor was authorized to sign the necessary documents to return a Transportation Improvement Board (TIB) Grant in the amount of \$12,271 for reconstruction of sidewalks along 6th Street from Main Street to the Mountain View Fellowship Church at 210 6th Street. All ayes.

Brown and Caldwell Contract – Wastewater Treatment Plant Project: The issue before the City Council is to authorize the Mayor to sign contract amendment number 5, with Brown and Caldwell that reallocates remaining design funds, \$629,197, to cover the centrifuge design, Public Works Trust Fund (PWTF) loan modifications, and binding the 50% complete design. The PWTF loan board requires the original PWTF loan application be revised to reflect the change in design direction. The Board has indicated they view the change in design direction to be consistent with the intent of the original loan request and will approve allocating loan money to the City for the design of the centrifuge project. The City desires to have a hard copy bound set and electronic copies of the overall design in its current state for reference until the design is reactivated. This task will include electronically changing any outstanding design markups that were not addressed prior to the City directing the Consultant to stop the design work.

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As part of the 50 percent complete project, some of the design tasks in the original scope of work have been completed, some are only partially complete, and some have not yet been started. Because the design direction has changed from the original scope of work (which included services for the entire design through bid period services), Amendment #5 deletes all of the scope of work for those tasks and portions of tasks that have not been started to develop the design beyond its current state (the 50 percent completion level).

On a motion by Councilmember Slawson, seconded by Councilmember Doornek, the Mayor was authorized to sign amendment #5 with Brown and Caldwell to reallocate \$84,888 of the original design fee to cover the tasks described in the scope of work in Amendment #5 and the remaining balance of \$544,309 will be allocated to a contingency fund which will require council approval to spend. All ayes.

DISCUSSION ITEMS:**Park Regulations:**

The City Council discussed establishing regulations for park hours of operation at its June 25, 2008 meeting. The Council Subcommittee briefly reviewed the regulations at its July 17, 2008 meeting. The Council Subcommittee directed staff to return with draft regulations for Council consideration. The issue for the council to consider is the infractions being misdemeanors instead of civil infractions. The sample regulations reviewed limit activities such as posting signs, use of firearms, operating motor vehicles, camping, building fires, alcohol and drug use, and park hours. Penalties for violation are included in some but not all regulations. However, park regulations can be as simple as a declaration of park hours with clear penalties for violations. Staff is seeking direction from Council on the types of park regulations the Council wishes to review for consideration. Brief discussion was held regarding the Park Committee created in SMC; pets and poop control; fireworks; alcoholic beverages in the parks; civil vs. misdemeanor offenses. Staff was directed to bring back a draft ordinance to address the issues raised by the Council.

Council Meeting Schedule: The issue for discussion was the schedule for November and December Council meetings. The regularly scheduled meetings are on November 13 and 26 and December 11 and 23. During the months of November and December, the Council will have hearings on the 2009 Budget and any final 2008 Budget Amendments. There are several other resolutions and ordinances for tax levies, salaries, and fee schedules that are adopted as part of the budget process. The budget must be adopted before the end of the year.

Staff recommends the meeting schedule be changed as follows:

November 13, 2008 – as scheduled

November 20, 2008 – 2nd meeting

December 11, 2008 – as scheduled

December 18, 2008 – 2nd meeting (cancel is not needed)

Brief discussion was held regarding the budget and the Comprehensive Plan schedules and the need to approve payables in December. Staff was directed to bring back the revised schedule for action.

Public Records Requests: The City has received a request to inspect public records outside normal city business hours. The City Attorney and staff have recommended denying the request. The concern is that a decision to accommodate one request to provide records after regular business hours will set a precedent for future accommodations.

The policy decision for the City Council is whether to adopt a more generous policy and make records available after regular business hours. If the Council would like to consider a more

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generous policy, under what circumstances, criteria and conditions would the Council consider accommodating requests to inspect and/or copy public records after regular business hours? In accordance with RCW 42.56.090 Public Records (Records) must be available for inspection during a local agency's regular business hours.

Discussion was held regarding staff overtime; the ability to copy the records for the requesting party; the City Attorney's opinion that the City should not change the policy and go outside of the requirements set by state law. The consensus of the Council was to comply with the state law regarding public records.

WSDOT Highway Access Policy: The issue before the City Council is to discuss the types of ordinances the City can adopt to establish access permitting standards for state management access highways within the city in accordance with RCW 47.50.030(3). State law requires cities and towns to adopt access permitting standards for state managed access highways that meet or exceed WSDOT standards. The initial deadline for adoption was July 1, 1993. If cities fail to adopt the required standards, WSDOT standards may be used as a default. The City of Sultan has not adopted the required standards.

By December 1, 2008, the WSDOT shall require confirmation from jurisdictions that plan under the growth management act, Chapter 36.70A RCW and that receive state transportation funding under this act, that the jurisdictions have adopted standards for access permitting on state highways that meet or exceed department standards in accordance with RCW 47.50.030.

The objective of this subsection is to encourage local governments, through the receipt of state transportation funding, to adhere to best practices in access control applicable to development activity significantly impacting state transportation facilities.

Cities have addressed the statutory requirement in a number of different ways. The most common approach seems to be adopting by reference the access permitting standards detailed in the Washington State Administrative Code WAC 468-51 and 468-52. Staff was directed to draft an ordinance to adopt by reference the permitting standards and to notify the businesses along Highway 2 prior to final action by the City.

PUBLIC COMMENTS

Jeffrey Beeler: The City has the option of removing or disbanding the Stormwater Stakeholders group as they are representing everyone in their actions. The vacation of the Sultan Basin Road adds value to the property and the adjoining property and the City should consider what they are giving away when they consider the price. Councilmember Blair has discussed Departments spending without Council control, asked if the City could develop a policy to control spending?

Steve Harris: Apologized if the letter from Terra Ex Land Group regarding the Sultan Basin Road vacation was rude. The Attorney who wrote the letter is no longer involved in the project. The road itself has no value, the land around it does. There are tough decisions for the Council on money issues and animal control. There may be grant money available for first time home buyers. Volunteers should be recognized or rewarded for their efforts and that should include businesses that help out.

Frank Linth: The down payment assistance program is used by Tacoma and it has been successful. The Sultan Basin Road has a mitigate value and the property value is less because of the easements.

Loretta Storm: Thanked the City for talking to the people about the signs around the welcome sign.

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Blair: Was not aware the down payment assistance program could be handled by municipalities. There is an approved policy for spending, however, contracts are different and do not fall under the policy. The policy addresses the approved budget and Department Heads are suppose to come before the Council prior to exceeding the budget. The East County senior center is working with VOA on providing programs in Sultan. The City needs to work on the lease agreements and request agencies to apply to the City for funding.

Champeaux: Thanked Mr. Harris for apologizing as the letter did seem aggressive.

Mayor: There are issues with the leases on the Food Bank and the Boys/Girls Club and the City needs to make sure they pay for the building maintenance.

Executive Session: On a motion by Councilmember Champeaux, seconded by Councilmember Slawson, the Council adjourned to executive session for fifteen (15) minutes to discuss FEMA program real estate acquisition. All ayes.

Adjournment: On a motion by Councilmember Davenport-Smith, seconded by Councilmember Blair, the meeting adjourned at 10:10 PM.

Carolyn Eslick, Mayor

Laura J. Koenig, City Clerk