

**SULTAN CITY COUNCIL  
AGENDA ITEM COVER SHEET**

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ITEM NO: Consent C 1 A  
DATE: November 12, 2009  
SUBJECT: Council Meeting Minutes

CONTACT PERSON: Laura Koenig, Clerk/Deputy Finance Director

**SUMMARY:**

Attached are the minutes of the October 22, 2009 Council meeting as on file in the office of the City Clerk.

**RECOMMENDED ACTION:**

Approve as submitted

**CITY OF SULTAN COUNCIL MEETING – October 22, 2009**

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

**CHANGES/ADDITIONS TO THE AGENDA**

Presentation: Add WWTP Bond Counsel David Thompson

Consent: Remove excused absence of Councilmembers Slawson and Blair.

Consent: Move C4 Interfund Loan to Action

**Presentation:**

**WWTP GO Bond:** David Thompson, Bond Counsel with K & L Gates, provided an overview the WWTP bond issue for the upgrade project. Cashmere Valley Bank has offered to provide funding for a single fully registered bank qualified limited tax general obligation bond with a 10 year term with a fixed rate of 5.15%. The city will be required to make semi-annually payments and could prepay the bond at any time. The loan fee is \$4,000.

The debt payment schedule has been structured to make two payments of \$20,000 plus interest in May and November. The payment on other bonds and debt service are due in June and December. The custom debt schedule will cost less over the long run then the level debt service schedule.

**COMMENTS FROM THE PUBLIC:**

**Al Hunstad:** The neighbor placed a manufactured home next to his home and did not follow the proper procedures. The owner has never lived on the property and it is not his primary residence and the city staff knew that. The property was rented out and it is now empty. He is willing to testify that the owner has never occupied the property. The code requires that the person be a resident in order to qualify for an ADU. The city should file perjury charges.

**Robert Keck:** Ask what guidelines are the staff required to follow and are they allowed to sway from rules. The permit was denied and then it was approved. Mr. Hunstad went on vacation and returned to find a mobile had been moved in. The owner has never lived on property and he would like to see corrective action.

**Glen Borsema:** When Mr. Bruner approved his permit, he was required to be 150 feet from the river bank per FEMA and there was no cement allowed for sidewalks in the floodplain. How can this person move a modular in on existing slab and create multiple dwellings 107 feet from the bank. He is in flood plain, so why was this different?

**Kirsten Glebe:** She would like the city to make the citizens aware of rules they are required to follow in the Dyer Addition. They were told that due to FEMA rules they could not install an additional bathroom. Why is one person allowed to put in modular and not follow same rules? The rules should be the same for everyone.

**Steve Hunstad:** What are the rules for people living on Dyer Road. This person does not live on Dyer and they did not know him until he moved the modular in.

**COUNCILMEMBER COMMENTS**

**Davenport-Smith:** Attended the ICC conference last week and learned a lot and made contacts with funding agencies. New funding sources may be available for city projects.

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Flower: The Swine flu clinics will be opening for pregnant and 4 month to 6 year olds this weekend. First shipments of the vaccine are available and the high school will have a flu clinic next month. High risk medical patients will be able to receive the vaccine.

Blair: Is glad to see a good turnout of citizens at the meeting. Thanks Councilmember Slawson for participating on the Community Transit board; he has been spending a lot of personal time and vacation time attending meetings.

Beeler: He has heard about the Dyer Road issue and it will be discussed later. He understands the frustration of the citizens as he would be upset if that happen in his neighborhood. Heated issues bring people to the meetings – it is why he started to attend and now he has been appointed to the council. There are a lot of issues coming up such as the Comp plan and the city will need citizen input. The snow plow was on display tonight; don't know what type of winter we will have so we need to be ready.

Mayor Eslick: There are a lot of citizens here for the Dyer Road ADU issue and the matter is being reviewed by the attorney. The code is ambiguous and the city must follow the law. The property is in the flood plain and staff is following directions from her and the attorney. (Staff noted that other properties were in the floodplain and floodway and it was difficult to find a way to allow any type of permit. The property under discussion is not in the floodway and the distance from river is not the issue; it is the elevation.) There was an excellent presentation from the Dispute Resolution Center presentation at Block Watch last night. The Comp plan update will begin soon and issues such as Dyer problem will be addressed as well as the future of the city and how we will grow.

**HEARINGS:** The following hearings were held during the meeting. Minutes are included as a separate report.

- 1) 2010 Preliminary Budget
- 2) 2010 Property Tax Levy
- 3) Greens Estate Developer Agreement

**CONSENT AGENDA:** The following items are incorporated into the consent and approved by a single motion of the Council. On a motion by Councilmember Champeaux, seconded by Councilmember Slawson, the consent agenda was approved as amended. Champeaux – aye; Wiediger – aye; Davenport-Smith – aye; Flower – aye; Blair – aye; Beeler – aye, The following items are incorporated into the consent agenda and approved by a single motion of the Council.

- 1) Approval of the October 8, 2009 Council Meeting Minutes as on file in the Office of the City Clerk.
- 2) Approval of Vouchers in the amount of \$118,167.35 and payroll through October 2, 2009 in the amount of \$79597.22 to be drawn and paid on the proper accounts.
- 3) Award of bid to Whitney Equipment Company in the amount of \$17,450 for the necessary materials and equipment to convert the Water Treatment Plant from gas chlorination to hypochlorination.
- 4) Authorization for an exemption from the noise ordinance for WSDOT for improvements on US 2 from April 1, 2010 to December 31, 2010.
- 5) Approval of the October 13, 2009 Special Council Meeting Minutes as on file in the Office of the City Clerk

**CITY OF SULTAN COUNCIL MEETING – October 22, 2009**

**ACTION ITEMS:**

**Ordinance 1059-09 Wastewater Treatment Plant Bond:**

The issue is the adoption of Ordinance 1059-09 to approve a single fully registered bank-qualified limited tax general obligation bond in the amount of \$400,000 with Cashmere Valley Bank to complete the funding for the Centrifuge project.

Cashmere Valley Bank has offered to provide funding for a single fully registered bank qualified limited tax general obligation bond with a 10 year term with a fixed rate of 5.15%. The city will be required to make semiannually payments and could prepay the bond at any time. The loan fee is \$4,000. The debt payment schedule has been structured to make two payments of \$20,000 plus interest in May and November. The payment on other bonds and debt service are due in June and December.

The Cashmere Valley Bank option provides flexibility for the city. As the city seeks additional funding for the WWTP project it is essential the city be able to pay off existing debt when funds are available. For planning and budgeting purposes, structured debt payments are preferable.

On a motion by Councilmember Blair, seconded by Councilmember Slawson, the Mayor was authorized to sign the Offer Letter from Cashmere Valley Bank and Ordinance 1059-09 was adopted on a first reading. All ayes.

**Ordinance 1062-09 2010 Tax Levy for GO Police Bond:**

The issue before the Council is the introduction of Ordinance 1062-09 which sets the tax levy for the 2004 General Obligation Police Bond. The amount of the levy for 2010 is \$30,085. This is a 20 year bond issue with average payments of \$31,000 per year. Additional property taxes are levied annually to cover the cost of the bonds. The average cost per household is \$19.25 per year

On a motion by Councilmember Slawson, seconded by Councilmember Wiediger, Ordinance 1062-09, setting the 2010 Tax Levy for the General Obligation Police bond was introduced for a first reading and passed on for a second reading. All ayes, except Councilmember Champeaux who voted nay.

**Ordinance 1063-09 Property Tax Levy**

In accordance with RCW 84.55.120, a taxing district with regular levies must hold a public hearing on the proposed increase and use of property tax funds. The hearing was held earlier in the meeting. Ordinance 1063-09 sets the regular property tax levy for 2010 and provides for a 1% increase (\$6,653) over the 2009 levy. Included in the total levy amount is \$5,139 for new construction and \$1,401 in refunded amounts. The total tax levy is \$678,480.

The funds will be used for General Fund and Street purposes. The budget provides for \$81,300 to be used for Street maintenance and operations which leaves a balance of \$597,171 to be distributed. The proposed budget for General Fund includes \$584,046 for property tax revenues to be used for administration costs, law enforcement, planning and library services. Staff recommends the balance of \$13,085 anticipated property taxes be placed in the General Fund Contingency Fund.

On a motion by Councilmember Slawson, seconded by Councilmember Champeaux, Ordinance 1063-09 setting the 2010 property tax levy was introduced and passed on to a second reading. All ayes except Councilmember Flower who voted nay.

**Ordinance 1064-09 IT Fund:**

At the Budget workshop, the Council discussed establishing an IT (Information Technology) fund to accurately track the cost of internet service, web page management, computer and software maintenance and to provide for electronic equipment replacement. The operating funds will transfer funds to cover the cost of IT services based on the budget and needs of each department.

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Ordinance 1064-09: On a motion by Councilmember Beeler, seconded by Councilmember Flower, Ordinance 1064-09 establishing an IT Fund was introduced and passed on to a second reading. All ayes.

**Student Representative:**

The issue before the City Council is to confirm Mayor Eslick's appointment of Stephanie Morrill as Student Representative on City Council, and Nic Gregg as the alternate Student Representative on Council effective October 22, 2009 – June 30, 2010. The City received six applications for the position.

Stephanie Morrill advised that she was honored to have the position and was looking forward to getting involved with the City.

Nic Gregg advised he was thankful to be appointed to the position. This is his first Council meeting and he is looking forward to attending more.

On a motion by Councilmember Slawson, seconded by Councilmember Flower, the Mayor's appointment of Stephanie Morrill as the Council Student Representative and Nic Gregg as the alternate representative was confirmed. All ayes.

**Jackson Hydroelectric Project Off License Agreement:**

The issue before the city council is to authorize the Mayor to sign the Off-License Agreement with Snohomish County Public Utility District for the Henry M. Jackson Hydroelectric Project.

The Snohomish County Public Utility District No. 1 (PUD) has been working with stakeholders including Sultan and Fire District 5 since 2005 to renew the federal license to operate the PUD hydroelectric dam on the Sultan River. The Off-License Agreement has been negotiated separately between the City of Sultan and PUD. The Off-License Agreement addresses issues such as public safety and property easements and acquisitions that are unique to the Sultan community. The Off-License Agreement is different than the Settlement Agreement which included all the stakeholders in the process.

There are five parts to the Off-License Agreement. The total package value is \$950,000 over the proposed 50- year life of the license to operate the hydroelectric project.

1. \$250,000 payment in cash within 90-days of PUD receiving regulatory approval from FERC. The Council has discussed using these funds to purchase and install a dam safety warning system.
2. \$250,000 payment on or prior to January 1, 2032 (approximately half-way through the 50-year license agreement). The purpose of the payment would be to upgrade the dam safety warning system for the remainder term of the license.
3. \$2,500 annual payment to maintain the dam safety warning system and providing emergency training. The annual payment will be increased annually by 3.0% (\$283,000 paid over 50 years).
4. \$127,000 to purchase easements in Reese Park and Osprey Park for habitat enhancement projects required by the Settlement Agreement. Note, PUD has amended the earlier proposal and is requesting 10-years to execute an option to purchase the easement.
5. \$40,000 to purchase a wetland parcel owned by the city adjacent to Osprey Park. The purchase would take place within 90-days of PUD receiving regulatory approval from FERC.

Discussion was held regarding the ten year option for the easement without payment as most options require some type of payment; no deadline for off-license agreement; kudos to staff on the work to get money for the siren system; and the purchase an option.

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**Jackson Hydroelectric Project Off License Agreement:** On a motion by Councilmember Slawson, seconded by Councilmember Flower, the Mayor was not authorized to sign the Off-License Agreement between the City and Snohomish County Public Utility District No. 1 for the Henry M. Jackson Hydroelectric Project and to staff was directed to bring the matter back for action. All ayes.

**Interlocal Agreement with Snohomish County for Jail Services:**

The Jail services contract with Snohomish County expires at the end of 2009 and the County proposed a new four year contract for services. We must have a signed jail services contracts in place to book and house all misdemeanor and gross misdemeanor suspects and inmates. The contract has been changed to remove the three tiers of contract which allowed some cities with more robust budgets to secure a higher level of service than other cities. The tier system would require smaller cities to remove their inmates from the County Jail before larger cities, if the jail were overcrowded. The old contract did not give as many “Community Corrections” alternatives to incarcerations.

Because of the climbing costs of booking and incarceration of city prisoners, Sultan and many other cities have looked to other city and county jails such as Chelan County for jail services contracts at a lower cost. Sheriff Lovick has stated that he wants to be the jail service provider for all Snohomish County cities and by meeting with other police chiefs and city officials within Snohomish County we have been able to collectively discuss the “draft” contract and identify changes that are beneficial to all the cities.

On a motion by Councilmember Blair, seconded by Councilmember Flower, the Mayor was authorized to sign the Interlocal Agreement with Snohomish County for Jail Services and to direct staff to pursue other options. All ayes.

**Sander Purchase:**

The issue before the City Council is to award the bid for a stainless steel sander to The Fab Shop in the amount of \$9,817.99 plus WA sales tax. The sander will be mounted onto the 1980 International Dump Truck.

On a motion by Councilmember Champeaux, seconded by Councilmember Beeler, the bid for the sander was awarded to the Fab Shop in the amount of \$9,817.99 plus tax. All ayes.

**Richard Little Professional Service Contract:**

The issue before the City Council is to authorize the Mayor to sign a professional services contract with Richard Little not to exceed \$12,000. The city council discussed Mr. Little’s contract at the budget retreat on October 7, 2009 and at the regular council meeting on October 8, 2009. The council expressed concerns over spending \$23,000 on government relations for two reasons: 1) the legislative session will be working on the supplemental budget and it may be difficult for the legislature to earmark money for capital improvements; 2) in 2010 the sewer operating fund will pay \$335,000 in debt service for the public works trust fund loan. This is putting pressure on revenues needed to replace aging pumps and mixers at the plant.

The city council directed staff to work with Mr. Little to reduce the contract limit to provide more revenues for equipment replacement. City staff recommends reducing the contract amount from \$23,000 to \$12,000. Mr. Little has agreed to reduce his monthly rate from \$3,000 to \$2,000. The contract will end in February 2010 rather than March 2010. The contract includes \$800 for two trips to Washington DC. One trip in December 2009 and a second trip in April 2010.

On a motion by Councilmember Flower, seconded by Councilmember Slawson, the Mayor was authorized to sign a professional service contact with Richard Little in an amount not to exceed \$12,000. All ayes.

**CITY OF SULTAN COUNCIL MEETING – October 22, 2009****Sewer Line Repair – Alder:**

The issue before the Council is to authorize the repair of the sewer line behind City Hall. An 8” concrete pipe approximately 90LF westerly of the manhole on 4<sup>th</sup> street is broken, which apparently caused the blockage in the line and the filling of the 4<sup>th</sup> Street manhole. This blocked 4<sup>th</sup> Street manhole also apparently caused the sewer service blockage to rental units adjacent to the Coastal Community Bank. The staff requested bids from seven contractors to pipe burst and repair the sewer line. The low bid received was from Buno Construction

On a motion by Councilmember Blair, seconded by Councilmember Flower, the contract with Buno Construction to complete the repair on the sewer line was approved the price outlined in their bid including the cost for the performance bond. All ayes.

**Resolution 09-10 Greens Developer Agreement:**

The Developer of Greens Estate PUD is requesting a Developer Agreement to accompany their submittal of the Final PUD Application. RCW 36.70B.170(1) requires Developer Agreements to be adopted by Resolution after a Public Hearing. Council has conducted a Public Hearing

On a motion by Councilmember Flower, seconded by Councilmember Slawson, Resolution 09-10, Greens Developer Agreement was adopted. All ayes.

**Resolution 09-23 to revise the terms of the General Fund interfund loan.**

The issue before Council is to revise the terms of the Interfund Loan from the CR Utility Fund to the General Fund. The current balance of the loan is \$109,000. The balance of principle at the end of the year will be \$102,000. Unpaid interest is an additional \$20,054 as calculated by the State Auditor. Staff recommends the monthly principle payment amount be increased from \$3,500 to \$4,250 and that the transfer be done on a quarterly basis (\$12,750 per quarter). This will provide for full payment of the loan by the end of 2011.

Discussion was held regarding continuing the same level of payments; auditor’s requirement to comply with the loan agreement; the interest rate and how it was calculated.

On a motion by Councilmember Flower, seconded by Councilmember Slawson, Resolution 09-23 was continued to the next meeting. All ayes.

**DISCUSSION****Comprehensive Plan Docket 2009:**

In conformance with State Statutes, the Sultan Municipal Code (SMC) Chapter 16.134.070D provides that the Docket for proposals to amend the Comprehensive Plan is open once each year. The deadline for submittal of Docket proposals is April 1<sup>st</sup> of each year. At its June 25, 2009 Meeting, the Council approved the 2009 Docket. The approved Docket includes five (5) items recommended by the Planning Board and one from a property owner.

The Docket contains the following City sponsored items:

1. Amend Comprehensive Plan Text to provide for Public/Institutional Zone as an Overlay Zone indicating the location of public property. (This Overlay Zone will show the location of public property and set the uses available, while retaining the underlying zoning in case the public agency sells the land to a private owner. It is easier to remove the Overlay Zone than it is to go through a full-scale Zone Change) The Comprehensive Plan Text Amendment will authorize the creation of the Overlay Zone in the Zoning Section of the Unified Development Code, Sultan Municipal Code (SMC) Title 16.
2. Amend the Comprehensive Plan Future Land Use Map (Figure LU-1) to designate the north portion of Reese Park and the Water Treatment Plant site as Low-Moderate

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- Density Residential and provide Comprehensive Plan direction for zoning the properties as P/I on the Official Zoning Map.
3. Assessment and possible Amendment of Comprehensive Plan Policies on Population and Economic Development, Section 2.2, Goals and Policies, General, #12, #13, and #14.
  4. Amend the Industrial Park Master Plan to remove the requirement for all development to be subject to the Binding Site Plan Process.
  5. Amend Comprehensive Plan at Figure T-1, and Table T-3 to change names of City Street Classifications to agree with State and Federal Classifications for Communities with population size of Sultan.

Davenport-Smith asked if item 5 had anything to do with making streets arterials? Staff advised that it was more housekeeping for grant agencies and would not make the streets arterials..

**Stop the Clock:** On a motion by Councilmember Slawson, seconded by Councilmember Wiediger, the clock was stopped at 10 PM. All ayes.

**Accessory Dwelling Units:**

ADU's in SMC 16.25 can be either attached to, or detached from the primary residential unit. They are limited to 650 sq.ft. One ADU is allowed on any lot that is occupied by a single-family residence that has sufficient room for the both structures to meet yard requirements and setbacks. The property owner is required to occupy one of the units as their "permanent and principal residence" and the ADU must be removed (or decommissioned if an attached unit) if the property owner no longer resides on the property.

In 1993, the Washington Legislature adopted RCW 43.63A.215. This Statute was a State-level override of local Zoning Codes, requiring that local jurisdictions: (Counties exceeding population of 125,000; and Cities exceeding 20,000) provide for "Accessory Apartments" in their Single-Family Residential Zones. The purpose was to provide a tool to increase densities in Urban Areas, and provide more Affordable Housing. In 1993, even though the City of Sultan was not specifically covered by the Statute (population under 20,000) the City Council adopted Ordinance 823-03 creating SMC Chapter 16.25, "Accessory Dwelling Units" (ADU's)

Discussion was held regarding the ADU addition in Dyer and whether it complied with the code.

There was a prior issue with the septic system but the owner has signed all the required documents and complied with the code. There is no definition of a principal residence in the code; the intent of the code is clear but there is no time limit set for how long one must live at the premise.

Other permits have been issued to provide housing for relatives for medical reasons; review can be done on a case by case basis based on the facts; the city needs to define permanent residence; financially a person cannot afford to fix something up and then not be able to use it if the family member is not there; enforcement could be an issue. The Council must consider if they want to revise the code or repeal it. Staff will bring back options for the council to consider.

**Juvenile Justice Advisory Committee Grant:**

The issue before the City Council is to discuss the possibility of a partnership grant application between the City of Sultan and the Volunteers of America, Gold Bar and Index to fund a Teen Court. The grant would be for \$37,000. The Volunteers of America are not an eligible agency to apply for this grant. Only municipal governments or Indian Tribes are eligible applicants. The City of Sultan would act as lead agency on the grant application and the Volunteers of America would operate the program, prepare and submit all quarterly and annual reports and provide the 50% in-kind match requirement. Staff was directed to prepare the application for further action.

**CITY OF SULTAN COUNCIL MEETING – October 22, 2009****PUBLIC COMMENT ON AGENDA ITEMS ONLY**

Al Hunstad: It is not fair to repeal the ADU code as someone may need it to help an ill relative. The issues in their neighborhood was not the moving in of the house' it was how they did it. Staff did not provide a good definition of the code and were rude in their treatment of him. The mobile home will depreciate other properties. This would be okay if it were for medical reasons but that was not what the owner said they were doing. The owner knew he was not going to leave there as the property was rented out.

Keith Arndt: In Monroe, the ADUs are tied to duplex provisions. The limitation is that it be attached not above the garage and their code addresses ingress/egress and square footage. He is bothered by comments the the use must be decommission if the owner moves out as it is a waste of money for the property owner..

Frank Linth: The City should eliminate the ADU code. There are provisions for medical reason additions to residences that the permit must be renewed annually.

**EXECUTIVE SESSION:** On a motion by Councilmember Blair, seconded by Councilmember Davenport-Smith, the Council adjourned to executive session for five minutes to discuss real estate acquisition. All ayes.

**Adjournment:** On a motion by Councilmember Davenport-Smith, seconded by Councilmember Flower, the meeting adjourned at 10:53 PM. All ayes.

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Carolyn Eslick, Mayor

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Laura J. Koenig, City Clerk