

**SULTAN CITY COUNCIL
AGENDA ITEM COVER SHEET**

ITEM NO: Consent C 3

DATE: September 25, 2008

SUBJECT: Council Minutes

CONTACT PERSON: Laura Koenig, Clerk/Deputy Finance Director

SUMMARY:

Attached are the minutes of the September 11, 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, and Blair. Absent: Doornek.

CHANGES/ADDITIONS TO THE AGENDA:

Discussion: Add Prioritize Code Changes

PRESENTATIONS: Chief Hawkins introduced Terry Becker, School Resource Officer. Officer Becker worked with the Drug Task Force and is now a full time School Resource Officer. He is looking forward to the challenge and has found there is a good group of kids and Administrators at the schools. The Police were spending about 32% of their time at the schools and the School Resource Officer will help reduce the calls.

COMMENTS FROM THE PUBLIC

Gretchen Wilson: Michelle DeVries has been invited to train for the 2010 World ParaEquestrian Games. She has MS and has lost her job and her home. She wants to compete but will need money, clothes, a horse and supplies. Requested those wanting to donate contact Michelle DeVries.

Preston Hall: Did not read the fine print when he bought his home and accepts the responsibility for not knowing about the holding ponds. Non-association members are allowed to use the ponds but the city does not take any responsibility for maintaining them. He could not sell his home if he is honest about the cost for the retention ponds. The association members can not maintain the ponds.

Kay George: Is a member of the Stormwater Stakeholders group and they agree that plan B is the plan to go with. HOA's should be responsible for maintaining their own ponds. Snohomish and King Counties do maintenance but they are charged to the HOA's. As a citizen she doesn't feel obligated to pay for the neighbors ponds. The HOA's own the ponds and they should bring them up to par and determine if the mud is contaminated. HOA's are looking to the city to clean up the ponds and pay for maintenance. Supports the contract with Sultan Insurance and Craig Bruner.

Robert Keck: The ponds were installed to provide drainage for the properties they serve. The City created problems for the homeowner and they should not have to pay as they were not aware of the problems when they purchased their home. Who is being taxed? If everyone, he is opposed to the fee because he does not have a stormwater facility in the Dyer Addition. Protests being taxed for the system he does not have use of.

Mary Carson-Ford: No parking sign on Sultan Basin road is needed because the residents are still parking there. For the 2009 capital budget, suggested a sidewalk along the Sultan Basin Road north of the existing project. There is a safety issue with people walking along the road as there is no shoulder in the area. In regards to the retention ponds, when they purchased their house the realtor insisted they read the CCR before signing. The retention ponds were supposed to be turned over to the city within 4 years and that has not happened.

Bill Washburn: Manages several hundred retention ponds for the City of Bellevue and it is hard to believe the City allows public drainage to go into private systems and the city is requiring them to pay for maintenance.

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Wendall Smith: The final decision and order from the Growth Hearing Board says the City must provide for the Stormwater Utility and it does not set a dollar amount. \$100,000 is an adequate amount.

Steve Harris: The HOA's may need to look at options for collecting dues. Developers are required to post a bond to make sure the maintenance is complete. There are methods to collect fees to fund the pond maintenance. The streets are dedicated to the City and the drainage goes into the ponds.

Fred Seiner: The Stormwater Stakeholders discussed changing from Alternative 1 to 2. He understands the HOA's issues but they have had 10 years to collect fees and maintain the ponds and now they want to shift the responsibility to the City. The budget is too high and the City needs to stay with Alternative 1 and move up when the staff proves they can do the job.

Jeffrey Beeler: There was a good meeting with Stakeholders group and they discussed the concerns of business and HOA's. Other cities charge the same fee to everyone and take care of all the stormwater issues. Sultan's fee is half of what others charge. The City must determine if they want to take over the ponds. The HOA does not have the resources or knowledge to maintain the ponds. The Stakeholders have agreed with option B and the City will take over the ponds when they are brought up to code.

Ray George: The pond cleanup should be billed to the HOA's and they should be responsible. If the City is causing problems for the ponds, it is a legal issue between the City and HOA. They should have read their purchase contract. They are building now and were required to put in a system to provide drainage at a considerable cost.

COUNCILMEMBERS COMMENTS:

Blair: Welcomes the comments and opinions of the citizens. The Council has balanced the budget for the past 3 years and paid back loans of prior Councils and have proven they are good stewards of the money. They have no audit findings and a balanced budget.

Slawson: The Stakeholders committee had a good meeting and agreed on Alternative B and that is what he will recommend. Appreciates the work of the Stakeholders.

Champeaux: Ask Mr. George who required him to put in a \$100,000 on filtration system? The City has not discussed taking over retention ponds until last few months. The retention ponds are done as a part of the development. Asked about the public use of the ponds? (City streets within the development drain into the ponds).

Mayor Eslick: The Mayor introduced Craig Bruner and recognized him for the FEMA award to the City for the CRS program done by him which saved insurance money for the citizens. Craig Bruner will be working with the City to maintain the rating.

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 presented. Champeaux – aye; Wiediger – aye; Slawson – aye; Davenport-Smith - aye; Flower – aye; Blair – aye.

- 1) Approval of the August 28, 2008 Public Hearing minutes on Amendments to Title 21
- 2) Approval of the August 28, 2008 Public Hearing minutes on amendments to the 2008 Budget.

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- 3) Approval of Vouchers in the amount of \$121,133.26 and payroll through August 22, 2008 in amount of \$53,310.31 to be drawn and paid on the proper accounts.
- 4) Adoption of Ordinance 989-08 Sultan Basin Road Vacation
- 5) Adoption of Ordinance 979-08 – Title 2.26 Amendments
- 6) Adoption of Ordinance 990-08 – Budget Amendments
- 7) Set Public Hearing on the Comprehensive Plan Update for September 25, 2008.
- 8) Authorization for the Mayor to sign a Professional Service Contract with Nelson Geo-Tech for monitoring the Sultan Basin Road Widening project.
- 9) Authorization for the Mayor to sign a Professional Service Contract with Craig Bruner for the CRS Program
- 10) Authorization for the Mayor to sign a Professional Service Contract with Web Engineering for engineering construction support for the Sultan Basin Road Widening project.
- 11) Authorization for the Mayor to sign Professional Service Contract with Sultan Insurance for Broker Service.

ACTION ITEMS:

Ordinance 986-08 – Stormwater Rates: The issue before the City Council is to have first reading of Ordinance No. 986-08 to establish a stormwater utility rate structure levied upon all developed real property within the boundaries of the utility. The City Council discussed four rate structure alternatives for the Stormwater Utility at its July 10, 2008 meeting. The City Council selected Alternative 1 and directed staff to prepare an adopting ordinance for Council action. The Council has delayed discussion of this item until the September 11, 2008 meeting to ensure all the members of the Council could be present to discuss the proposed utility rate. The Council must have First Reading of Ordinance No. 986-08 at the September 11, 2008 meeting and Second Reading of the Ordinance on September 25, 2008 to ensure the appropriate fee is in place to support improvements to the stormwater system identified in the proposed 2008 revisions to the 2004 City of Sultan Comprehensive Plan. The revised Comprehensive Plan includes \$50,000 of capital investment to support stormwater facility needs. The utility fee the Council adopts must be adequate to fund this level of investment. All of the proposed alternatives generate sufficient revenues, however under Alternatives No. 1 and No. 2 the City would need to shift revenues designated for maintenance and operations to fund \$30,000 in additional capital. The staff would not recommend maintaining the HOA ponds until year 5 of the utility as there will not be adequate funds until that date.

Discussion:

Wiediger: Would prefer Alternative C. The City has done nothing but play catch up on all projects and in the long run it always cost more.

Blair: Would like to see clear guidelines on the retention ponds and under what basis the City will take over the ponds and what needs to be completed to bring the pond up to par. The fee is comparable to other cities and people don't understand they are paying for the impact on the environment by driving on the roads. Business pays for those parking in their lots. The citizens are more agreeable to Alternative 2.

Davenport-Smith: Agrees the City has not fully funded the utilities and may need to increase fees to cover costs. She works for DOE and other cities are looking at having to raise the fees to cover the requirements of the NPDES permit. The City needs to have funds set aside to comply when the permit is required and not charge the citizens \$20 per month for stormwater. Other cities are discussing whether they should take over the HOA ponds because they can be liable if there is pollution created. Alternative 2 is not enough but it is a good start.

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Staff advised the Stormwater Utility ordinance may need to be revised to address take over of the retention ponds.

On a motion by Councilmember Slawson, seconded by Councilmember Blair, Ordinance 986-08 to establish a stormwater utility rate structure levied upon all developed real property within the boundaries of the utility was introduced and passed on to a second reading.

Councilmember Slawson amended the motion to direct staff to bring back a revised ordinance to reflect the fees in Alternative 2. Ayes: Slawson, Blair and Davenport-Smith; Nays: Flower, Champeaux and Wiediger. Mayor Eslick voted yes

Ordinance 983-08 Amendments to Title 21:

The issue before the City Council is to conduct first reading of Ordinance 983-08. This Ordinance enacts the following:

1. Remove the \$850.00 fee set in the code and provide for the fee to be set by resolution through the annual fee schedule adopted by the City Council.
2. Change references in SMC 21.04 from “Planning Commission” to “Hearing Examiner” to be consistent with SMC 2.26 and SMC 16.120.
3. Remove the Planning Commission (Planning Board) from the following processes, and invest these authorities in the City Council to be consistent with SMC 2.26 and SMC 16.120:
 - i. 21.04.070; Revocation or modification of conditional uses
 - ii. 21.04.080; Acting on performance bonds and securities
 - iii. 21.04.090; Accepting resubmittals of applications for conditional uses

On a motion by Councilmember Flower, seconded by Councilmember Blair, Ordinance 983-08 was introduced and passed on to a second reading. All ayes.

DISCUSSION ITEMS:

LID 97-1 Mitigation: The issue before the Council is to receive an update on the effort to develop a mitigation plan acceptable to the Army Corps of Engineers and the State Department of Ecology for impacts associated with the City’s sewer line project (LID-97).

During construction of LID-97, permitted wetland impacts were exceeded from .54 acre to 1.82 acres. The unanticipated impacts resulted from discharge of slurry through level spreaders during dewatering construction phase of Wagley’s Creek.

The City was contacted by Ms. Kristina Tong of the Army Corps of Engineers on December 7, 2006 requesting the City submit as built drawings of the mitigation plan. The City responded by hiring Graham-Bunting Associates (GBA) to prepare a mitigation plan that was achievable. GBA contacted Ms. Tong and agreed the current existing conditions needed to be documented as a starting point for the preparation of a mitigation plan.

At the recommendation of Graham-Bunting Associates, the City is proposing a bank use plan to satisfy the 1.29 acres of wetland creation requirement though the purchase of wetland “credits” from the Snohomish County Basin Mitigation Bank (Bank) located south of Monroe. The City of Sultan is located in the service area of the Bank.

Purchasing credits through the Bank is necessary due to the difficulties in finding an appropriate site for wetland creation and a willing landowner. The cost of the credits is still under negotiation. Staff will return to Council to discuss the fiscal impact once the Army Corps of Engineers and Department of Ecology approve the Plan. Approval of the proposed Plan is still uncertain and will likely not be completed until the first quarter of 2009.

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The 1.26 acres of enhanced wetland and riparian areas will be accomplished on-site. The proposed on-site area will enhance wetland buffers and riparian buffers on the Hammer PUD adjacent to Wagley Creek. The City will need to negotiate access easements to improve the site area. The Department of Ecology and Corp of Engineers are reviewing the report and the City will need to move forward quickly after the review is complete. If the City does not complete the mitigation they may be subject to penalties. The Snohomish Conservation District may be able to help with the mitigation and maintenance.

Discussion was held regarding use the balance of the fund for the park across the river; removal of the native blackberries to replace them with designated native plants; planting and future maintenance; use of the Conservation District of Correctional labor to do the work; cost.

The Council requested staff set up a meeting with the Corp of Engineers to discuss the project.

Development Code Amendments: Councilmember Blair would like to develop a plan to prioritize the code amendments needed prior to the end of 2009. The Council provided the following list of suggested code amendments:

1. Remove Council from quasi-judicial land use issues and making the Hearing Examiner's decision final and with the appeal to Superior Court.
2. Animal Control code
3. Park Regulations
4. Development Code – include the Hearing Examiner's comments and recommendations.
5. Noise ordinances and Special events
6. Nuisance codes – need to be enforceable.
7. Property Maintenance
8. Building Code

Staff will bring back a work program in October. Mayor Eslick advised that Kathy Hardy, City Attorney will be leaving Kenyon Disend and a new Attorney will be assigned to work on the code amendments.

PUBLIC COMMENTS

Jeffrey Beeler: Encroachment of right of way by trees and bushes are not being addressed by the City. The City was cutting back trees along the road and the people should be responsible for their property. Thanked the Council for choosing alternative B for the Stormwater. Alternative C is better but the City needs to start somewhere. Thanked the Council and staff for the work they do for the City.

Steve Harris: Wagley Creek does not show up as a critical area on the DOE website; it shows as a drainage ditch. There are rules for wetlands and how they are created. The DOE manages wetlands and the cities manage buffers. Snohomish County would clean up noxious weeds. (Staff advised they do not clean up in the city limits). Edmonds Community College has a program for cleanup projects. The Council has a tough job.

COUNCIL COMMENTS

Slawson: Thanked the Stormwater Stakeholder Committee for their work.

Flower: Discussed the creation of Wagley Creek and the impact to the business with the required set backs.

Blair: Set backs are up to the Council. The creek is control by the State and the designation is not a Council issue.

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

Carolyn Eslick, Mayor

Laura J. Koenig, City Clerk