

CITY OF BLAINE
344 H Street
Blaine, WA 98230
CITY COUNCIL MINUTES

Monday, October 8, 2007

7:00 PM

A. CALL TO ORDER – 7:00PM

- MOMENT OF SILENCE
- PLEDGE OF ALLEGIANCE
- ROLL CALL: Ken Ely, Charlie Hawkins, John Liebert, Mike Myers, Bonnie Onyon, Jason Overstreet
- Staff Present: Gary Tomsic, City Manager; Terry Galvin, Community Development Director; Meredith Riley, Finance Director; Steve Banham, Public Works Director; Mike Haslip, Public Safety Director; Sheri Sanchez, City Clerk

B. AUDIENCE PARTICIPATION

Sign-up/Comment Forms in Foyer of City Hall

1. Dick Little and Therese Holm with the City of Bellingham, regarding public facilities district and explaining the State requirements and the need to modify the interlocal agreement to include the other cities in Whatcom County. A representative can be appointed from a small city in 2008, when a vacancy becomes available. Note: The interlocal agreement is #7 on the Council Action Item list. There is no liability for the small cities.
2. Jack Swanson, 900 DuPont Street, Bellingham, attorney for Doug Connelly, regarding clarification of East Maple Ridge project.
3. Doug Campbell, 1401 Astor Street, Bellingham, Engineer for Doug Connelly project, regarding East Maple Ridge project.
4. Jen Mallahan, 5623 Matsqui Place, Birch Bay, regarding temporary restriction on ordinance against farm animals in order to avail goats to eat vegetation such as blackberries, for the purpose of clearing an area for school use.

C. CITY MANAGER AND STAFF REPORTS

1. Lighthouse Point Update – Steve Banham reported – staff submitted grant application for reuse water to State Department of Ecology and is working on the landscape plan - architectural element into park. Work on Centennial Clean Water grant application is coming up. The target is to be

on the street around 1st part of December for award in the spring. Harrison and Associations is the firm that has been selected for construction management. Council gave their nod to go forward.

2. State & Federal Projects – Steve Banham reported – SR543 project – the goal is to open D Street bridge around the middle of October. The anticipated plan is that the bulk of the lanes will be open by the end of the year. Staff met with GSA on 1st phase of Peace Arch project, and are now in process of obtaining permits for the project. Gary Tomsic added that the coordinating committee is of interest to GSA. Rick Thomas with GSA as well as representatives from WSDOT are interested.
3. Major Projects Update – None
4. Street Improvement Bonding – Meredith Riley reported – staff is talking to bonding companies regarding the street bonds and staff will bring back to council at a later date. Steve Banham added that these are the streets that were approved for work.
5. Lincoln Substation Update – Steve Banham reported – met with representatives of BPA to discuss draft facility plan and interlocal agreement for substation at south-end of town. Having two substations feed the new facility will help reduce costs.
6. Lincoln Park Tank Update – Steve Banham reported – the tank is being pressure-washed this week in order to prepare it for repainting it a dark green.
7. Fire Marshal Interlocal Agreement – Gary Tomsic reported – provided draft agreement for Fire Marshal services, to be reviewed by the City Council for action at the next council meeting.
8. Contract Liquor Store – Gary Tomsic reported – Steve Lawrenson is preparing to open the store in the following week.
9. Tom Hayes Event – Gary Tomsic reported – Tom Hayes will have an open house next week.
10. Domestic Violence Month - Mike Haslip reported – reminded council that October is Domestic Violence month.

D. PUBLIC HEARING (MEETING)

1. Hearing Examiner Code Amendment
Mayor Mike Myers reviewed the Appearance of Fairness doctrine with the council:

Regarding interest in property – council responded “nay”

Regarding direct or indirect financial benefit – council responded “nay”

Regarding engaged in communication outside hearing with opponents or proponents – council responded “yes”

Gary Tomsic interjected that this is a legislative process as opposed to quasi-judicial, and communication is not an issue.

Regarding each council member being fair and impartial – council responded “yes”

Public Hearing Opened:

Sheri Sanchez, City Clerk, read into the record the written communication regarding the Hearing Examiner code amendment (persons of record are listed under written communication)

Terry Galvin reviewed Hearing Examiner proposal:

Eliminate appeals process

Expand Hearing Examiner responsibilities to hear all Ttype II

Eliminate all type II decisions (“D” in packet).

Section 2 of proposed ordinance – monitor and evaluate Hearing Examiner performance.

At the end of 2 year trial period, City Council assess advisability of the Hearing Examiner process.

Jeff Arntzen, Planning Commission Chair, providing summary of Planning Commission recommendation and encourages the Council to take a look at State law regarding this issue.

Public Testimony:

- Dennis Olason, 860 Georgia Street, read his letter submitted under written communication.
- Richard Blackburn, 680 Georgia Street, Blaine, feels that the City staff is qualified to make recommendations and the 7 member Planning Commission is qualified to make decisions.
- Mary Helen Windell, 8637 Great Horned Owl Lane, read letter submitted to Planning Commission, urging defeat of proposal.
- David Gallion, 1455 Madison Avenue, Blaine Planning Commissioner, spoke opposing the action if the Council agrees to hire a Hearing Examiner. He would also not approve it as a council candidate and pointed out that some council members are leaving the council and their legacy would be set in future as going out on a bad note.
- Kathleen Capson, 1015 Harrison Avenue, listed points from her letter which was provided during the public hearing.
- Harry Robinson, 9119 Great Blue Heron Lane, Planning Commissioner, stated that he reviewed pros and cons as they applied to Level II decisions and encouraged City Council to do the same.
- Ralph Emery, 935 ?? Street, agreed with Harry Robinson’s thoughts.

Mike Myers closed hearing.

E. COMMISSION, COMMITTEE AND BOARD REPORTS

1. Planning Commission – Jeff Arntzen, Planning Commission Chair –
 - Novak set-back was approved.
 - On September 26th, a work session was held on the Wharf district master plan, and another work session is schedule for Oct 10th.
 - October 11th is a public hearing to review the site plan amendments
2. Airport Commission - None
3. BTAC - None
4. Park & Cemetery - None
5. Ad Hoc - None

F. WRITTEN COMMUNICATIONS

1. Received Prior to the Public Hearing on the Hearing Examiner Code Amendment:
 - Letter from Lynn Lamb, received August 20, 2007.
 - Letter from Jerry and Carole Peterson, undated
 - Letter from Mr. & Mrs. Charrier, dated August 9, 2007.
 - Email from Lois & Bob Franco, dated September 30, 2007.
 - Email from Steve & Julie Sanders, dated October 7, 2007.
 - Email from Laura Amundson, dated October 7, 2007.
 - Email from Eric & Jeannette Davidson, dated October 7, 2007.
 - Email from Norma Smith, dated October 7, 2007.
 - Letter from Audrey Schwartz, received October 8, 2007.
 - Letter from Dennis Olason, dated October 8, 2007.
 - Email from Eric Davidson, dated October 8, 2007.
 - Email from John & Suzanne Dougan, dated October 8, 2007.
 - Email from Joanne Slivinski, dated October 8, 2007.
 - Email from Mary Johnson, dated October 8, 2007.
 - Email from Ted & Elisabeth Angell, dated October 8, 2007.
 - Email from Didier & Evelyne Charrier, dated October 8, 2007.
2. Faxes from Joel Douglas received September 28, October 2, and October 3, 2007.
3. Letter from Doug Campbell, dated October 4, 2007.

G. CONSENT AGENDA

H.

1. Approval of Bills – Amount: \$ 105,059.41

2. Approval of September Payroll – Amount \$ 411,824.83
3. Approval of September 24, 2007, City Council Minutes

**MOTION MADE BY KEN ELY TO APPROVE THE CONSENT
AGENDA, SECONDED BY CHARLIE HAWKINS AND APPROVED
UNANIMOUSLY (6 – 0)**

H. COUNCIL ACTION ITEMS

1. Code Amendments to Change Planning Commission/Hearing Examiner Responsibilities and Amend The Appeal Process With PC Recommendation – presented in public hearing

Council Discussion:

- Liebert advised that former council member Wolf had wanted to speak but is unable to attend the meeting this evening and requested to wait and vote on the 22nd of October, and/or have a study session.
- Bonnie Onyon, did not expect the issue to be so controversial and mentioned that MRSC listed pros and cons – 8 pros 3 cons. Also reviewed letters and provided some responses.
- Jason Overstreet asked Terry Galvin if the public would have verbal and written testimony regarding Type II. Terry Galvin responded affirmatively. Regarding addressing the salary issue, Jason requested confirmation that it would be passed on to the applicant. Terry Galvin responded affirmatively. Tom Black stated that revenue and expenditure accounts need to be set up even though the payment is coming from the applicant.
Council had a discussion about having a study session.

(MAIN) MOTION MADE BY KEN ELY TO ADOPT ORDINANCE 07-2663, UPDATING THE BLAINE MUNICIPAL CODE, TITLES 2, 8, 15, AND 17, TO AMEND THE APPEALS PROCEDURE AND TO EXPAND THE RESPONSIBILITIES OF THE HEARING EXAMINER TO INCLUDE DEVELOPEMNT PERMIT REIVEW, SECONDED BY JASON OVERSTREET

Jason Overstreet suggested that the City of Ferndale's model should be reviewed and that the council should accept public appeals 1st, then take it on to superior court.

John Liebert addressed Dennis Olason's testimony.

(AMENDED) MOTION MADE BY JASON OVERSTREET TO AMEND 07-2663 TO INCLUDE CHANGES UNDER SECTION 3, 2.58.040 SALARY, "ALL PERSONS OR PARTIES HAVING A

MATTER HEARD BEFORE THE HEARINGS EXAMINER SHALL PAY A FEE EQUAL TO THE COST THE EXAMINER IMPOSES UPON THE CITY FOR SAID SERVICES. UPON SCHEDULING A MATTER BEFORE THE EXAMINER, THE PROPONENT SHALL PAY A DEPOSIT FEE TO THE CITY EQUALING \$500.00. UPON ISSUANCE OF THE HEARING EXAMINER'S FINDINGS AND DECISION AND UPON RECEIPT BY THE CITY OF THE FINAL HEARING EXAMINER'S COST, THE CITY WILL REFUND ANY UNUSED PORTION OF THE DEPOSIT OR SHALL MOVE TO RECOVER THE ADDITIONAL COST FROM THE PERSON OR PARTY INVOLVED IN THE ACTION." IN ORDER TO INCORPORATE AND REPLACE EXISTING VERBAGE, SECONDED BY JOHN LIEBERT

(AMENDED) MOTION MADE BY JASON OVERSTREET TO AMEND 07-2663 TO REPLACE WHATCOM SUPERIOR COURT UNDER APPEAL SECTION 2.58.160 WITH BLAINE CITY COUNCIL, SECONDED BY BONNIE ONYON

Discussions on Amendment: Terry Galvin suggested minor amendment, instead of referencing specific dollar amount to refer to the fee schedule.

(AMENDED) MOTION MADE BY JASON OVERSTREET TO AMEND AMENDMENT TO 07-2663 UNDER SECTION 3, 2.58.040 "SALARY" TO REFERENCE THE FEE SCHEDULE, SECONDED BY BONNIE ONYON

AMENDED MOTION(S) APPROVED UNANIMOUSLY (6 – 0)

MAIN MOTION DEFEATED 3 – 3 (HAWKINS, ELY, MYERS AGAINST)

2. East Maple Ridge Planned Unit Development Proposal With PC Recommendation – presented by Senior Planner and Development Manager Tom Black.

City Council requested that Study Session be set for week of October 22, 2007.

3. Ordinance 07-2672, Adoption of International Fire Code 2006 – presented by Terry Galvin and Fire Chief Tom Fields

MOTION MADE BY KEN ELY TO ADOPT ORDINANCE 07-2672, AMENDING THE BLAINE MUNICIPAL CODE, TITLE 15 BUILDING AND CONSTRUCTION; CHAPTER 15.08 INTERNATIONAL FIRE CODE AND CHAPTER 15.09 AUTOMATIC

FIRE SPRINKLER SYSTEM, REPEALING ORDINANCE IN CONFLICT; ESTABLISHING PENALTIES FOR NON-COMPLIANCE PROVIDING FOR SERVERABILITY AND EFFECTIVE DATE, SECONDED BY CHARLIE HAWKINS AND APPROVED UNANIMOUSLY (6 – 0)

4. Fire District 21 Interlocal Agreement – presented by Gary Tomsic

(MAIN) MOTION MADE BY KEN ELY TO AUTHORIZE THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH FIRE DISTRICT 21, WITH CHANGES TO “INSURANCE” 3.1, REMOVING INSURED AMOUNT, AND CHANGING “ASSESSED” TO “FAIR MARKET” IN LAST SENTENCE, SECONDED BY JASON OVERSTREET

(AMENDED) MOTION MADE BY JASON OVERSTREET TO AMEND SECTION 6.1, “REQUIRED MAINTENCE” REPLACING “CITY” WITH “DISTRICT” SO THAT THE DISTRICT WILL BE RESPONSIBLE FOR THE REPAIRS, SECONDED BY KEN ELY

AMENDED MOTION APPROVED UNANIMOUSLY (6-0)

MAIN MOTION APPROVED UNANIMOUSLY (6-0)

5. Resolution 1473-07, Sole Source for Utility Meters – Presented by Meredith Riley

MOTION MADE BY CHARLIE HAWKINS TO ADOPT RESOLUTION 1473-07, AUTHORIZING A SOLE SOURCE FOR SENSUS METERS WITH UNITED PIPE AND SUPPLY, SECONDED BY KEN ELY AND APPROVED UNANIMOUSLY (6 – 0)

6. Close-out on Community Center Roof – presented by Steve Banham

MOTION MADE BY KEN ELY TO ACCEPT THE COMMUNITY CENTER ROOF REPLACEMENT PROJECT AS COMPLETE, SECONDED BY JASON OVERSTREET AND APPROVED UNANIMOUSLY (6 – 0)

7. City of Bellingham Public Facilities District Interlocal Agreement – presented by Gary Tomsic

MOTION MADE BY CHARLIE HAWKINS TO AUTHORIZE THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH THE CITY OF BELLINGHAM/WHATCOM COUNTY PUBLIC FACILITY DISTRICT AND WAIVE THE 2ND

**READING, SECONDED BY JASON OVERSTREET AND
APPROVED UNANIMOUSLY (6 – 0)**

8. Ordinance 07-2681, Rename Harvey Road north of H Street to North Harvey Road – presented by Steve Banham

MOTION MADE BY BONNIE ONYON TO ADOPT ORDINANCE 07-2681, RENAMING HARVEY ROAD NORTH OF H STREET AS “NORTH HARVEY ROAD” AND WAIVE THE 2ND READING, SECONDED BY JOHN LIEBERT AND APPROVED UNANIMOUSLY (6 – 0)

9. Alder Street Repair – presented by Steve Banham

MOTION MADE BY BONNIE ONYON TO AUTHORIZE THE PUBLIC WORKS DIRECTOR TO HAVE THE ALDER STREET REPAIRS EAST OF MITCHELL PERFORMED AS DESCRIBED ON THE QUOTATION FROM PANORAMA INVESTMENTS, INC. AND WAIVE THE 2ND READING, SECONDED BY CHARLIE HAWKINS AND APPROVED UNANIMOUSLY (6 – 0)

I. UNFINISHED BUSINESS - NONE

J. COUNCIL NEW BUSINESS

Jason Overstreet discussed Representative Doug Ericksen letter and has requested that the sign be

K. MAYOR AND COUNCIL REPORTS

L. ADJOURN 10:13PM

Mayor

City Clerk