

February 8, 2007

**CALL TO ORDER:** Mayor Pro Tem Loving called the meeting to order at 7:00 p.m., with the Pledge of Allegiance. Council members present: Aslett, Bensen, Doyle, Loving, Valentine, Straathof and Montgomery. Staff present: Aarstad, Dite, Fleek, Martin, Patrick, Perkins, Sheahan, Thomas, and Tingley.

**APPROVAL OF MINUTES:**

A motion was made by **Councilors Doyle/Aslett** to approve the minutes of the January 25, 2007 Council meeting. All were in favor. Motion carried.

**AUDIT OF BILLS:**

**Councilor Bensen** presented the bills. A motion was made by **Councilors Bensen/Aslett** to approve vouchers 48631 – 48756 in the amount of \$925,328.74. All were in favor. Motion carried.

Current Expense	\$ 29,059.46
Current Expense Cumulative Reserve	646.67
Fire Equipment Cumulative Reserve	3,752.16
City Street	95,664.97
Library	5,108.53
Parks & Recreation	5,442.74
Cemetery Fund	241.64
Stadium Fund	6,147.57
Local Capital Improvement Fund	709,442.79
Park & Recreation Reserve	4,146.30
Sewer Fund	34,494.03
Sewer Cumulative Reserve	11,251.28
Storm Drainage Utility	19,830.60
<b>Total</b>	<b>\$ 925,328.74</b>

**PUBLIC COMMENTS:**

Mr. Roger Knutzen, 16505 Peterson Road, asked permission to place a raised stone, rather than a flat stone, on the graves of his parents at the Greenhills Cemetery. He noted that current City cemetery rules do not allow for anything other than a flat stone. He did purchase a flat stone for his parents’ graves and found that the City staff set the stone in a position that is not level. His requests are that the City; park the arch truck out of sight of funeral services; that each councilmember drive around and look at other cemeteries in the County to see how much better they look than ours; and requested that his parents’ stone be lifted and replaced level. If the City staff cannot re-set the stone, he would like permission to do so.

**OFFICER REPORTS:**

**Public Works Director/City Engineer Martin** stated that Hillcrest Drive project is going well. Councilor Loving asked if April 7<sup>th</sup> is still considered the completion date. **Public Works Director/City Engineer Martin** stated that the target date is April 14<sup>th</sup> although that is weather dependent.

**Public Works Director/City Engineer Martin** distributed a copy of a letter he sent to Mr. Carl Cook at FEMA Region IX along with a report on the Hamilton “Smith” House Preliminary Investigation.

**Public Works Director/City Engineer Martin** noted several City officials will be going to Olympia next week and are hopeful they can obtain additional funding for the Nevett Road project.

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**Library Director Perkins** asked if any Council members would be willing to serve on the Art Committee for the new Library. **Councilors Straathof** and **Aslett** volunteered to serve on the committee.

**Councilor Loving** noted that he has spoken to Chinook Enterprise regarding providing persons to assist with the move to the new library.

**City Administrator Aarstad** announced that last Saturday several citizens volunteered to paint over graffiti. He thanked them for their helpfulness and willingness help. The project went well.

**City Administrator Aarstad** stated that the Library project is moving along at a quick pace. To date the overall project is about under the estimates for construction by about \$700,000. He noted that the furnishings category of the project was estimated (in September 2005) to be \$352,000 (plus tax). Revised estimates have increased that figure by about \$15,000 plus tax. He asked for council approval to move funds from the construction category to the furnishings category to cover anticipated shortages. He noted that the overall project would still be under estimates. A motion was made by **Councilors Bensen/Doyle** to approve this request. All approved. Motion carried.

**Councilor Aslett** noted that the Fred Meyer Department store donated the paint and Ekrem Hardware mixed the paint for the graffiti covering project. He extended a thank you to those businesses. He noted there are others who would like to volunteer to assist with this project in the future.

#### **CONSENT AGENDA:**

- 1) Agreement with Skagit Domestic Violence & Sexual Assault Services for 2007 funding.
- 2) Agreement with Skagit County Community Action Agency for services in 2007.

A motion was made by **Councilors Bensen/Doyle** to approve Consent Agenda items 1 & 2 and authorize the Mayor to sign appropriate documents. All agreed. Motion carried.

#### **UNFINISHED BUSINESS:**

#### **PROPOSED ANNEXATION OF 15.78 ACRES FOR THE SEVENTH DAY ADVENTIST CHURCH AND SCHOOL, ALONG THE NORTH SIDE OF SR20 EXTENDING FROM EXISTING CHURCH EAST TO GARDNER ROAD, NORTH TO GAGES SLOUGH. (PUBLIC HEARING)**

**Planning Director Fleek** stated that the Seventh Day Adventist Church has acquired the site located east of the church, including the house, barn and vacant land, with an eye to the future of the school that is growing rapidly, and the church. She noted that this property is in special flood risk area and any usage would have to come back before the City Council. **Mayor Pro Tem Loving** opened the Public Hearing. **Planning Director Fleek** stated that this proposed annexation will bring all the church property under one jurisdiction. In addition, they have verbally agreed to allow a City entrance sign to be located on their property. Development of the site will require the extension of sanitary sewer. This was not required at the time of construction of the church, because of the costs associated with a regional pump station. She noted that a motion to approve the annexation will lead to sending the annexation proposal to the Boundary Review Board for Washington State, followed by a 45 day appeal period. The annexation will then come back to the City Council for final action. A motion was made by **Councilors Bensen/Valentine** to close the public hearing. All approved. Motion carried. A motion was made by **Councilors Bensen/Doyle** to approve the proposed annexation. All approved. Motion carried.

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**AN ORDINANCE REGULATING CAMPING WITHIN THE CITY OF BURLINGTON.**

**City Administrator Aarstad** stated that a similar ordinance to establish a City Code that would regulate formal and indiscriminant camping within the City was submitted to the Council in 2005. A Public Hearing was held with a number of individuals presenting their concerns over the proposed ordinance. The ordinance presented tonight has been revised to allow visiting travelers to stay with their relatives or friends for a period of up to seven (7) days without the requirement of a Temporary Use Permit. **Councilor Montgomery** asked if a person could get an extension to allow more than 30 days in one consecutive twelve-month period. **Councilor Bensen** asked about the possibility of a person wanting to live in an RV while building a home. **City Administrator Aarstad** noted that the Building & Planning Department could issue a special permission to live in an RV during construction along with a building permit. **Councilor Loving** asked about a relative living in an RV for more than 30 days. He suggested we also allow the opportunity for the permit to be extended beyond the 30 days. Council discussed several other options. **City Administrator Aarstad** suggested that he, the City Attorney and the Planning Director get together to review the Council suggestions and bring the ordinance back for reconsideration at a later date. Council members were in favor of that plan.

**ADDENDUM TO WASTE MANAGEMENT GARBAGE COLLECTION CONTRACT.**

**City Administrator Aarstad** stated that Waste Management has requested the City to add another type of collection class to the rate schedule. The industry now has bins that include compactors that range from one to six yards and are collected by using a front-load vehicle. Since this bin includes a compaction process, the volume of garbage is considerably heavier than the normal dumpster of the same size and the proposed rates reflect the cost of handling this increased weight. A motion was made by **Councilors Aslett/Montgomery** to approve the amendment to the Waste Management, Inc. garbage collection contract. All agreed. Motion carried.

**AMENDMENT TO SKAGIT RIVER IMPACT PARTNERSHIP AGREEMENT.**

**City Administrator Aarstad** stated that this amendment will allow for members of the Skagit River Impact Partnership to share in the cost to have a review of the Pacific International Engineering flood frequency analysis for the Skagit River at Concrete. A motion was made by **Councilors Aslett/Bensen** to approve the amendment to the Skagit River Impact Partnership Agreement. All approved. Motion carried.

**NEW BUSINESS:****PROPOSED APPOINTMENT OF MARK KRAMER TO THE BURLINGTON BOARD OF ADJUSTMENT.**

**Planning Director Fleek** stated that **Mayor Tjeerdsma** has recommended that Mr. Mark Kramer be appointed to the Burlington Board of Adjustment to replace Michelle Bennett who moved outside the City limits. Mr. Kramer lives at 506 South Cherry Street. He is interested in getting involved in city government. A motion was made by **Councilors Valentine/Doyle** to appoint Mr. Mark Kramer to the Board of Adjustment. All approved. Motion carried.

**PROPOSED PILOT PROJECT TO GET A HANDLE ON CITY MAINTENANCE ISSUES.**

**Planning Director Fleek** presented a request for a six-month pilot project to hire a City Worker Supervisor who would supervise up to four persons per day to work for the City in lieu of serving time jail. These persons are not currently available to work for the City in lieu of jail as they must be under supervision at all times. Currently the City does not have a person available to serve as a constant supervisor. Thus these individuals must serve their time in jail at a cost to the City of \$65 per day. She noted that in the period September 20 – December 31, 2006 there were workers available to equal 258 days that the City could not use as these individuals required direct supervision. The cost to the City of housing these individuals in jail (at the rate of \$65 per day) was \$16,770 for this three-month period. Over a year's time this proposal could save the City about \$67,000. She indicated there are many tasks that could be completed by these individuals for the Buildings & Grounds Department,

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Parks Maintenance and Street Department that aren't currently being done. She suggested that \$13,000 in funding could be moved from the Police Department "Care & Custody" line item to pay for this supervisor in 2007. If the project is successful, we would not need the funding in the Care & Custody line item. **Councilor Bensen** spoke in favor of the project. A motion was made by **Councilors Valentine/Bensen** to approve the pilot project for six months in 2007. All approved. Motion carried.

**PROPOSAL TO ADOPT A RESOLUTION TO MOVE FORWARD WITH GETTING THE BURLINGTON LEVEES CERTIFIED FOR 100-YEAR FLOOD PROTECTION IN PARTNERSHIP WITH DIKE & DRAINAGE DISTRICT #12.**

**Planning Director Fleek** stated that she would like the City to move forward in partnership with Skagit County Dike & Drainage District #12 to take the necessary steps to get our levees certified under 44 CFR 65.10. The plan of action is to remove the City of Burlington from the 100-year floodplain. She noted it is time to take action in support of the long term future of Burlington. She recommends an Environmental Impact Statement in cooperation with Skagit County. She would link this with our long range plan for the City and the zoning codes that include a Farmland Heritage Program. A motion was made by **Councilors Valentine/Doyle** to approve the joint resolution with Skagit County Dike & Drainage District #12 to achieve FEMA-Certified 100-year flood protection for the City of Burlington. All approved. Motion carried.

**(Resolution # 01-2007)**

**PROPOSED CONDITIONAL USE PERMIT AND VARIANCES TO CONSTRUCT A 140' LATTICE TOWER, AN UNMANNED COMMUNICATIONS FACILITY WITH ANTENNAS AND EQUIPMENT, LOCATED AT 829 BELLA VISTA LANE. PUGET SOUND ENERGY IS THE APPLICANT.**

**Planning Director Fleek** stated that the Planning Commission conducted a public hearing on January 17, 2007 regarding a Conditional Use Permit and Variance to construct an unmanned communication facility consisting of a 140' tall lattice tower with communication antennas mounted on it including parabolic dishes and panels with all related equipment inside an 11' x 20' pre-fabricated shelter, emergency generator and propane tanks, located on Burlington Hill at 829 Bella Vista Lane. The applicant is Puget Sound Energy. She noted that there were two parties of record and the opportunity to request an appeal closed at 5:00 p.m. on January 31, 2007. One letter requesting further consideration was received prior to the deadline, thus this is a Closed Record Appeal. **Mayor Pro Tem Loving** asked about the set-back regulations mentioned by Mr. Bucko in his appeal letter. **Planning Director Fleek** noted that the property to the west is very steep, thus there will not be any structures built very close to the tower. **City Attorney Thomas** noted that Council does have some discretion in this matter. Mr. Bucko, owner of lot #40 on Burlington Hill stated that he has plans to build a home on the hill very close to the location of the proposed tower. He knows that he will have to follow the set-back rules when building his home; thus he believes Puget Sound Energy should also follow the same rules when they build their tower. He does not disagree with their right to build their tower; he wants PSE to follow the same rules. He noted that the set-back rule is two foot set-back for each one foot of height. The PSE request is for 7.5 inches set-back for each one-foot of height. Mr. Robert Heller, land use attorney for PSE, noted that this tower is very important to PSE for use with the new PSE Service Center under construction just north of Burlington Hill. He noted that an industrial/manufacturing zone is located at the top of Burlington Hill. This zone is a very small area so as to keep towers to one area rather than all over the hill. He noted it would be impossible for any tower construction on Burlington Hill to comply with the set-back requirements because the area is so small. He noted that the proposed PSE tower will be lower than the existing Washington State Patrol tower. The PSE tower must also be higher than existing trees – which are 85'. There will be no lighting on the tower at night and would be further from the Bucko property than current towers. The purpose of the tower is to maintain sophisticated communications between PSE personnel. This is especially important during power outages, etc. **Councilor Straathof** asked if there are other places PSE could put the tower. Mr. Heller noted that there are no other locations in Burlington suitable for the tower and it is the only location available on Burlington Hill. **Councilor Straathof** asked where the tower would be located if PSE complied with the set-back requirements. He noted the tower could not be built on the property if they complied with the set-back as there is not enough property to get far enough away from surrounding properties. Mr. Bucko clarified

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his statement that the PSE proposal is for 7.5 inches per two feet of height from the edge of PSE property line; his property does not abut the PSE property. A motion was made by **Councilors Valentine/Montgomery** to approve the Conditional Use Permit and Variance. **City Attorney Thomas** suggested that the motion be amended to include findings of fact and inclusions of law. **Councilors Valentine/Montgomery** amended the motion to approve the Conditional Use Permit and Variance and adopt Findings of Fact and Inclusions of Law. Voting in favor were **Councilors Bensen, Loving, Valentine, Aslett, Doyle, and Montgomery**. Voting against was **Councilor Straathof**. Motion carried.

**RAILROAD GRADE CROSSING PROTECTIVE FUND: ACCEPTANCE of \$6,000 GRANT.**

**Public Works Director/City Engineer Martin** stated that Engineering Technician Kidder of the Public Works Staff worked with the Washington Utilities and Transportation Commission and Dynes Farms to obtain this grant which should cover the cost of installing a fence west of the tracks near Gages Slough. This fence will fill in the last unfenced railroad track segment along the entire rail reach from Greenleaf to Pease Road, which should help with the trespassing problem at the Dynes Farm property. Upon acceptance of this grant, Public Works staff will contract with a local fencing company to install the fence. This work must be completed by June 20, 2007. A motion was made by **Councilors Aslett/Valentine** to accept the WUTC Railroad Grade Crossing Protective Fund grant in the amount of \$6,000. All approved. Motion carried

**ORDINANCE TO AMEND ORDINANCE #1583 RELATING TO BURLINGTON MUNICIPAL CODE 13.04 SEWAGE DISPOSAL.**

**City Attorney Thomas** stated that following the adoption of Ordinance #1583 it was sent to Code Publishing for review in inclusion in the Burlington Municipal Code. During review of the Ordinance by Code Publishing staff it was determined there were some errors. The ordinance presented this evening should be adopted in order to correct and clarify the intention of Ordinance #1583. A motion was made by **Councilors Aslett/Montgomery** to approve and adopt the ordinance to amend Ordinance #1583 relating to Burlington Municipal Code 1304 Sewage Disposal. All agreed. Motion carried.

**(Ordinance # 1617)**

**EXECUTIVE SESSION:**

There was no Executive Session.

**ADJOURNMENT:**

A motion was made by **Councilors Bensen/Aslett** to adjourn the meeting at 8:25 p.m. All were in favor. Motion carried.

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Richard A. Patrick  
Finance Director / City Clerk

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Roger "Gus" Tjeerdsma  
Mayor