

April 27, 2006

**CALL TO ORDER:** Mayor Tjeerdsma called the meeting to order at 7:01 p.m., with the Pledge of Allegiance. Council Members present: Bensen, Doyle, Loving, Aslett, Straathof and Montgomery. Staff present: Aarstad, Fleek, Sheahan, and Thomas.

A motion was made by **Councilors Bensen/Doyle** to excuse **Councilor Valentine** from tonight’s meeting. All approved. Motion carried.

**APPROVAL OF MINUTES:**

A motion was made by **Councilors Loving/Bensen** to approve the minutes of the April 13, 2006 Council meeting. All were in favor. Motion carried.

**AUDIT OF BILLS:**

**Councilor Aslett** presented the bills. A motion was made by **Councilors Aslett/Bensen** to approve vouchers 46347 – 46458 in the amount of \$578,815.55. All were in favor. Motion carried.

Current Expense	\$ 73,934.16
Current Expense Cumulative Reserve	31,160.95
Fire Equipment Cumulative Reserve	4,419.93
City Street	152,234.60
Library	5,180.08
Library Permanent Book	375.00
Parks & Recreation	15,480.58
Cemetery Fund	94.13
Stadium Fund	10,000.00
Local Capital Improvement Fund	129,204.16
Parks & Recreation Reserve	91,506.18
Sewer Fund	33,631.29
Sewer Cumulative Reserve	31,594.49
<b>Total</b>	<b>\$ 578,815.55</b>

**PUBLIC COMMENTS:**

There were no public comments.

**OFFICER REPORTS:**

**Planning Director Fleek** distributed a brochure with suggested designs for directional signs for restaurants located on Fairhaven Avenue. The cost for this type of signage would be a joint financial venture between the restaurant owners and the city. She noted that grant funding might also be available.

**City Attorney Thomas** discussed the flood storage issue regarding Baker Dams. Talks have been underway with PSE, Skagit County, Corps of Engineers, Dike Districts and this week Congressman Rick Larsen attended a local meeting regarding this issue. Congressman Larsen intends to support legislation to require additional storage behind the dam during periods of eminent flooding. The legislation is also supported by the other agencies that have been involved in the discussions. **City Attorney Thomas** distributed information regarding the proposals and asked council to let him know if they had any objections to the proposed legislation.

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**Councilor Aslett** reported that Recreation Coordinator Kinney was recently awarded a VIP award from the Burlington-Edison Community Parenting Network and the Skagit Prevention Council for her efforts to provide activities and prevent drug and alcohol use by children.

**City Administrator Aarstad** reported on the new web site design progress by the staff committee.

**City Administrator Aarstad** announced that the Association of Washington Cities Annual Conference will be held in Spokane June 20 – 23, 2006.

**City Administrator Aarstad** announced that the 2006 legislature set aside \$200,000 to provide a flood hazard study specifically focused on the protection of the I-5 corridor. He distributed a letter from Mount Vernon Mayor Norris explaining more about this state funding as well as a draft Scope of Work regarding the flood hazard study. City Administrator Aarstad asked that council members review both documents and forward any comments to him very soon.

### **PROCLAMATION**

**City Attorney Thomas** read the proclamation declaring May 1, 2006 as Law Day.

**City Administrator Aarstad** read the proclamation declaring the week of April 30 – May 6, 2006 as Native Plant Week in the City of Burlington.

### **UNFINISHED BUSINESS:**

There was no unfinished business.

### **NEW BUSINESS:**

#### **APPOINTMENT OF DONNA PLANTY TO THE BOARD OF ADJUSTMENT.**

**Planning Director Fleek** recommended that Ms. Donna Planty be appointed to the Board of Adjustment. She works and lives in the City of Burlington and has expressed an interest in participation in local government. A motion was made by **Councilors Aslett/Montgomery** to appoint Donna Planty to the Board of Adjustment. All approved. Motion carried.

#### **NOTICE OF INTENT TO COMMENCE THE ANNEXATION PROCESS FOR NORTH SKAGIT STREET. APPLICANT IS LANDMARK HOMES AND THE BURLINGTON-EDISON SCHOOL DISTRICT.**

**Planning Director Fleek** stated that this is a request to initiate the annexation process for the property located along North Skagit Street and extending to include the Urban Growth Area east of Burlington Hill, except for some areas on Peacock Lane. The site directly abuts the City limits. The final extent of the annexation may be enlarged to include more homes on the east side of North Skagit Street. To annex into a Code City 60% of assessed value owners must sign a petition in favor of annexation. The first step is that 10% of the property owners petition the City. If the City Council is in favor of moving forward, the next step will be a detailed petition to annex. **Planning Director Fleek** noted that she is not in favor of moving forward to the detailed petition if the City Council is not at all interested in this annexation. Following receipt of the detailed petition there will be public hearings and opportunities for the property owners to comment on their desire to be a part of the annexation. She suggests that at that time the City could also try to clean up the city limit line along Skagit Street (to assist with law enforcement jurisdictions for the City and/or County). **City Attorney Thomas** clarified the procedure and decision to be made tonight by Council. Councilor Straathof asked about the size of the school property in that area. Councilor Doyle noted it is about ten acres. **Councilor Aslett** stated that he thinks Council needs to give the property owners a chance to move forward. A motion was made by **Councilors Aslett/Doyle** to commence the annexation process, subject to complying with the City's Comprehensive Plan

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for the area and subject to assumption of all or part of the existing City indebtedness by the area to be annexed. All approved. Motion carried.

**REQUEST FOR CITY COUNCIL TO EVALUATE WHETHER A PETITION TO ANNEX LAND EAST OF GARDNER ROAD WOULD BE CONSIDRED.**

**Planning Director Fleek** noted that the City Council annexed a limited portion of this area and the question is whether it would be timely to consider annexing some or all of the remaining land in this location. Gentry and Wickert were the original proponents and there is no point in starting the process if it is unlikely to be successful. **Councilor Aslett** and **Councilor Loving** commented that it has been less than a year since the City considered annexation of this area. The consensus of the City Council was to advise the parties to not moving forward with annexation.

**PRELIMINARY 9-LOT SUBDIVISION, THE PLAT OF ASPEN LANE, TO BE ADDED TO THE EXISTING 9-LOT SUBDIVISION LOCATED WEST OF 935 E. GILKEY ROAD ON ASPEN LANE. APPLICANT IS ASPEN LANE LLC.**

**Planning Director Fleek** stated that the Planning Commission conducted a public hearing on the proposed subdivision on March 15, 2006 and recommended approval of the preliminary subdivision, subject to the conditions recommended by the Planning Department. Following a review of the drainage issues and concerns of adjacent property owners raised at the Planning Commissioner public hearing, the applicant has revised the plan to address the concerns, including eliminating one lot, retaining a low drainage swale, providing the required emergency access on Miracle Lane, and these changes have been agreed on with the city. A neighbor is requesting that Miracle Lane be paved; this issue to be decided by City Council. She stated that the neighbor to north (Darrell Johnson) needs easement for access and utilities in addition to drainage. She would like to see a 30' easement required as part of the approval so that Mr. Johnson is not land-locked. A motion was made by **Councilors Loving/Doyle** to approve the preliminary subdivision subject to conditions 1-18 plus the addition of #19 to provide a 30 foot easement for drainage, access and utilities to the property to the north (Darrell Johnson) to provide access to Miracle Lane. All agreed. Motion Carried

**APPEAL OF DECISION OF THE PLANNING COMMISSION OF LAND USE CLASSIFICATION OF "HEALTH CARE" FOR THE PROPOSED SKAGIT COUNTY BEHAVIOR CRISIS TRIAGE PROGRAM LOCATED AT 201 LILA LANE.**

**City Attorney Thomas** stated that this is an appeal of a decision of the Planning Commission pursuant to BMC 17.76.070. An appeal of the decision of the Planning Commission was filed in a timely manner by Anderson and Tucker. He reviewed the rules and process for this appeal hearing. He noted that parties of record will be able to make a statement (up to 10 minutes). He is not taking a position, only here to advise the council.

**Planning Director Fleek** stated that this is an appeal of a decision of the Planning Commission pursuant to BMC 17.76.070. An appeal of the decision of the Planning Commission was filed in a timely manner by Anderson and Tucker. The matter came before the Planning Commission for a public meeting on March 15, 2006 to gather public comments on whether the land use classification of "health care" is correct as it applies to the proposed Skagit County Behavioral Crisis Triage Program in the C-1 General Commercial Zoning District located at 201 Lila Lane. The applicant is Skagit County Human Services. The Planning Commission adopted Findings of Fact and Conclusions on April 19, 2006. **City Attorney Thomas** invited the business owners to come forward.

Mr. Guy Anderson, Guy Line Construction, Lila Lane, noted that Lila Lane is lined with many small businesses. He noted that the County wants to put a detox center in the middle of the street. He doesn't believe a detox center is compatible with their businesses. He does not believe that proper procedures were followed when planning for this facility. He noted that he visited a similar site in Everett and found that several close businesses were out of business, and there was only a bar at the end of the street. He stated that locating the detox facility on Lila Lane would attract situations and clients that will negatively impact businesses.

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Mr. David Asia, Substance Abuse Coordinator for Skagit County, noted that he and his staff have been working on this process for nearly a year. He referred to the Finding of Fact statement noting that the point of issue seems to be noting that the C-1 zoning allows for health care facilities. He stated that many other occupations and facilities are licensed by the State Health Department such as massage and physical therapists. He believes that the detox facility on Lila Lane is not about a health care facility but rather what kind of client will use the facility. He asked if the real argument about “who” we are going to serve? His staff has done much research and has not entered into this process lightly. They are looking for professional ways to meet the needs of those who are suffering from mental or alcohol issues and want help. He reviewed the fears that are rumored and assured council that none of these things will happen. He stated that this location is very appropriate for this facility.

**City Attorney Thomas** stated that Council members could now asked questions of either speaker. **Councilor Aslett** asked for clarification of the definition of “health care facility” and “medical”. **Planning Director Fleek** stated the differences. **Councilor Aslett** noted his support for these type of facilities but asked Mr. Asia to clarify why he described Lila Lane as the “perfect place”. Mr. Asia noted that this is a good site because of its proximity to I-5, central location within the County, close to services, close to bus services, etc. **Councilor Straathof** asked about other similar facilities within the County and asked Mr. Asia if he had read Harriet Follman’s letter. He noted that Ms. Follman is a respected professional in the area but disagrees with the opinions stated in her letter. He noted that there is a 12-bed detox facility located in a residential area of Mount Vernon. They’ve had no problems at that location. **Councilor Straathof** asked Mr. Anderson if there were any business owners on Lila Lane who are in favor of the triage center. He thought there might be one; Mr. Drake. **Councilor Aslett** asked Mr. Asia about normal operations of the triage center – would patients be outside during their stay. Mr. Asia noted that in the past, they would have been allowed to go outside to smoke, but now that the law forbids smoking within 25 feet of the entrance so patients will remain inside (and not smoke). Loitering will not be allowed. Patients will not be leaving the facility unless for appointments or perhaps against staff advice. **Councilor Montgomery** asked about the possibility of patients leaving and then coming back. Mr. Asia noted that they have not had problems with patients leaving and then choosing to return but that it could happen. **Councilor Montgomery** asked **City Attorney Thomas** for clarification as to the responsibility of the City Council at this meeting. **City Attorney Thomas** clarified that the Council is to uphold the Planning Commission decision or repeal the Planning Commission decision. The Planning Commission decision was that the land use classification of “health care” is correct as it applies to the proposed triage program in the C-1 General Commercial zoning District located at 201 Lila Lane. Councilmembers discussed the municipal code, the triage center and the zoning designations. **Councilor Asslett** asked for clarification as to the Superior Court decision regarding this issue. **City Attorney Thomas** noted that Judge Rickert stated that the final decision within the City regarding this issue should be made by elected officials rather than staff. After discussions with Attorney Martin Lind (representing the business owners) and the County attorney, it was determined the process would be to take the issue back to the Planning Commission and the City Council. **City Administrator Aarstad** noted that the County Health Department and County had requested an opportunity to come to the City to make a presentation regarding plans for the triage center. Prior to scheduling the presentation, the land was purchased and an article appeared in the paper. **Councilor Straathof** asked if County Commissioner Dahlstedt could speak. **City Attorney Thomas** advised that he not be allowed to speak, as both sides had already presented their arguments. If Commissioner Dahlstedt were allowed to speak, then the business owners would have to be given time for rebuttal. Although, as he is a party of record he can speak if the Council requests. **Councilor Aslett** asked for clarification regarding residential sites (new and/or existing) in the C-1 zoned areas. A motion was made by **Councilor Loving/Straathof** to overturn the Planning Commission decision. Voting in favor of the motion were **Councilors Loving, Straathof, and Bensen**. Voting against the motion were **Councilors Doyle, Aslett and Montgomery**. **Mayor Tjeerdsma** asked for clarification if he should vote to break the tie. **City Administrator Aarstad** and **City Attorney Thomas** checked to be sure that the Mayor could vote in this case as this is a land use issue/quasi judicial hearing. It was clarified that **Mayor Tjeerdsma** could vote. **Mayor Tjeerdsma** voted against the motion. Thus, the Planning Commission decision stands.

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**REVIEW APPROVAL AND SIGNATURE OF REVISED AMENDED INTERLOCAL AGREEMENT FOR SKAGIT RIVER IMPACT PARTNERSHIP.**

**City Administrator Aarstad** noted that is a revision to the impact partnership interlocal agreement signed in 2005. This amended agreement will authorize SRIP to accept funding, assigns the City of Mount Vernon to manage this fund on behalf of the SRIP with certain conditions for approval of authorizing expenses and mandates auditing by the partnership members. The state has awarded \$200,000 to the partnership. The agreement must be amended to allow the partnership to accept and expend these funds as well as enter into contracts. A motion was made by Councilors Bensen/Doyle to approve the amended interlocal agreement for the Skagit River Impact Partnership. All approved. Motion carried.

**EXECUTIVE SESSION:**

There was not an Executive Session.

**ADJOURNMENT:**

A motion was made by **Councilors Aslett/Doyle** to adjourn the meeting at 8:26 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