

# FIFE CITY COUNCIL MINUTES

**Fife City Hall  
Council Chambers**

**Date: May 1, 2007  
Time: 7:00 p.m.**

## **CALL TO ORDER AND ROLL CALL**

Mayor Pro Tem Edwards called the special meeting of the City Council to order at 7:15 p.m. with the following Councilmembers present: Godwin, Johnson, Edwards, Kelley, Cerqui, de Booy, and Roscoe.

Staff: Worthington, Marcotte, Blackburn, Forbes, Smith, Blount, Reuter, Reinbold, and Recording Secretary Cheri Lindgren.

## **PLEDGE OF ALLEGIANCE**

Councilmember Roscoe led the pledge of allegiance.

## **PUBLIC COMMENT**

**Boyce Patrick, 4820 12<sup>th</sup> Street E**, reported on April 30, 2007, Police Officer Schwan and Ms. Knight with the Tacoma/Pierce County Health Department provided conflicting information to him about when his father-in-law is required to vacate the motor home located on his property. Additionally, he was not provided with an explanation about why his father-in-law is required to vacate the motor home. He asked the Council and staff for guidance on how to comply with City regulations. His father-in-law has lived in the motor home for the last 15 years.

City Manager Worthington said staff will research the matter, identify potential violations and corrective actions, and follow up with Mr. Patrick.

In response to a question from Councilmember Godwin about why it took 15 years for Fife and the county to investigate, Police Chief Blackburn replied that the Police Department provided assistance to the Health Department in response to a complaint from a neighbor.

## **STUDY SESSION**

### **Pierce County Request for Floodway Study Funding**

City Manager Worthington reported Pierce County submitted a letter to the Washington State congressional delegation about funding a Lower Puyallup Alternatives Study.

**George Walk, Director of Government Relations for Pierce County**, reported that the need for a study is in response to the new Federal Emergency Management Agency's (FEMA) 100-year floodplain and floodway mapping anticipated to become effective in 2008. The existing lower Puyallup River levee system was found to have inadequate levee height above the 100-year floodplain. Concerns were raised on the structural integrity of the levees as part of the new mapping study. The federal government wants a cushion of three feet of levy over and beyond what is required to contain a 100-year flood.

The first phase of the study involves charting existing conditions. The county is funding and managing phase 1 work.

A second phase will build off outcomes from the first phase and identify alternatives. The study includes a detailed analysis and cost estimates for structures required and any regulatory changes that will need to be adopted by individual jurisdictions.

The county is asking the federal government for \$800,000 to fund the phase 2 study in 2008. Stakeholders want to ensure the study complies with the U.S. Army Corps of Engineers levee standards.

Councilmember de Booy asked whether the project involves tribal lands. Mr. Walk affirmed tribal land is involved. Tribal representatives will be involved as stakeholders.

Councilmember Cerqui asked whether the project involves the City of Tacoma at the lower end of the Puyallup River. Mr. Walk affirmed the City of Tacoma is involved.

**Valley Avenue as well  
as 48<sup>th</sup> Street Utility  
Construction**

City Manager Worthington briefed the Council on possible next steps to consider for funding utility extensions (water and/or sewer) along Valley Avenue East, from 70<sup>th</sup> Avenue East to Freeman Road East, and 48<sup>th</sup> Street East, from 70<sup>th</sup> Avenue East to Freeman Road East. The Council discussed the matter at a previous study session and asked staff to move forward with preliminary efforts to form a Local Improvement District (LID) to fund a portion of the cost. Fife staff met with the City of Tacoma staff. Tacoma staff has extensive experience in administering LIDs.

Director Blount reviewed a parcel map of the Valley Avenue vicinity. He outlined the parcels benefiting from a utility extension project and identified existing constraints. A decision about extending water and sewer utilities has some urgency because of the Valley Avenue improvement project.

Director Blount presented an overhead of the 48<sup>th</sup> Street area. Shaded parcels identify property owners that signed up for previous LIDs (98-1 and 98-2). However, sewer construction wasn't extended to the neighborhood and the property owners were not assessed an LID. Currently, the neighborhood does not have sewer service. Property owners have approached the City about sewer service for their properties. The 48<sup>th</sup> Street vicinity has fewer constraints than Valley Avenue.

Director Blount reviewed initial sewer LID financial information for Valley Avenue and 48<sup>th</sup> Street.

Tacoma's LID process includes completion of a licensed appraiser's feasibility study and the completion of a formal engineering report. Neither study was completed by Fife for the LID 98-2. Staff recommends the Council direct staff to obtain proposals for appraiser and engineer feasibility

reports and prepare authorizing resolutions for the Council's consideration before circulating petitions for the two LIDs under consideration.

Councilmember Johnson said he's not opposed to looking at LIDs for either area and would like information concerning the percentage of property owners who are interested in participating in the LIDs.

Director Blount reported determining more accurate costs are required before proceeding with either LID. City staff does not have the expertise for deep sewer or property appraisals.

Mayor Kelley conveyed support for exploring both LIDs in greater detail.

Councilmember Cerqui expressed concerns about an LID. He asked whether other alternatives such as latecomer agreements and establishing a different General Facility Charge (GFC) have been considered as a way to recover some of the capital costs. Director Blount said staff considered other options. However, the Council has been reluctant to change the GFC because other utility customers also pay for improvements for other properties. Other funding mechanisms involve a loan underwritten by the utility as a whole to be repaid at the discretion of the benefiting properties. He described the pros and cons of alternative funding methods.

Councilmember Cerqui asked staff to evaluate other funding options that would not burden current ratepayers or small landowners. He asked whether the studies will include a comparison of the property tax rate before and after the improvement. Director Blount indicated the information will be included.

Discussion ensued about the timeline to complete the studies and the legal requirements for notifying property owners.

Councilmember de Booy expressed support for examining other funding options that could emerge from the studies.

Councilmember Roscoe said she supports an appraiser's feasibility study and the completion of a formal engineering report. The City cannot realistically expect property owners to commit to an LID without knowing the costs.

Councilmember Godwin said a LID for the 48<sup>th</sup> Street vicinity should be looked at. However, improvements for Valley Avenue are more urgent at this time because of the larger road construction project. He indicated he would not support the City fronting the capital costs for extending utilities. If utilities cannot be installed in conjunction with the Valley Avenue street construction project, Fife should wait with a LID until it's time to rebuild the roadway. He said he supports advancing the studies.

**Public Comment**

**Marty Potter** reported he has a vested interest in the work that should be done on 48<sup>th</sup> Street. Residents are unable to walk along 48<sup>th</sup> Street and often drive to another development to walk on safe streets. Trucks currently utilize 48<sup>th</sup> Street and there are times when residents are unable to access the narrow roadway. He offered his assistance to help advance an LID for 48<sup>th</sup> Street.

**George Dill, a business owner in Fife**, said Valley Avenue is overdeveloped. He moved his business and rented out the buildings on Valley Avenue to a trucking company. Five months later he was told that trucking activities were not allowed. Additionally, he was told that he couldn't rent the building to another user without water or sewer utilities. He indicated that he wanted sewer to be available by October 2007. A major street without sewer doesn't make sense. The City should consider the additional property tax revenue when the area is developed when considering the LID. He said he feels victimized by the slow process.

**Consensus**

**A majority of the Council directed staff to proceed with a licensed appraiser's feasibility study and the completion of a formal engineering report for Valley Avenue and then 48<sup>th</sup> Street utilizing the same appraiser.**

Councilmember Cerqui said it would be beneficial to undertake the studies concurrently. The studies should include evaluation of other options, such as latecomer agreements, ULID, and GFC.

Councilmember Roscoe said she supports Councilmember Cerqui's request to explore alternative funding mechanisms.

Mayor Kelley reported that depending on study outcomes, it is possible to work on the LIDs for both Valley Avenue and 48<sup>th</sup> Street concurrently.

**Utility Billing Cycle**

Interim Director Marcotte reviewed the City's previous 75-day billing process and the current 60-day billing process. The Council adopted an ordinance in 2006 changing the utility penalty shut off procedures by shortening the time between the end of a billing cycle and when a penalty is assessed. The Council's intent was to provide a 25-day window between the time a utility bill is prepared and when a penalty is assessed. However, it appears customers might have less than 25 days from the time a bill is prepared until they actually receive the bill because of vendor handling and mailing.

Interim Director Marcotte said a comparison of the previous and new billing cycles is included in the staff report. The research concludes that the new billing cycle and assessment of penalties are consistent with the ordinance. However, discussions reviewed in previous minutes are silent about when

the customer actually receives the utility bill and the Council's expectation about how much time should lapse between the penalty and shut off. If the Council intended that "prepared" means when the customer receives the bill, the customer has less than 25 days before a penalty is assessed for nonpayment. He outlined alternatives for the Council's consideration.

Councilmember Johnson indicated he is not overly concerned about the current utility penalty provisions. City Manager Worthington advised that the number of customers assessed a penalty is basically the same compared to the previous billing cycle.

Councilmember Cerqui said he was opposed to shortening the time between when a bill is due and when penalties are assessed. There is a concern that those customers who have difficulty paying their bill will also incur penalty fees. It appears the behavior hasn't changed. He expressed support for implementing the previous timelines and evaluating how other jurisdictions assess penalties.

Councilmember de Booy expressed support for the current process and recommended having staff monitor the issue. She questioned whether the City has clearly established that the bill is due from the date it is prepared or when the customer receives the bill.

Interim Director Marcotte said there is a defined due date. However, there is a gap between when the bills are prepared and when a customer receives the bill. Customers must read the back of the bill to find out when a penalty will be assessed.

Mayor Kelley suggested including the penalty date on the face of the utility bill.

Councilmember Roscoe expressed support for continuing with the current practice. It appears the new procedures are working and are not a serious hardship for the community.

Councilmember Godwin agreed some customers have difficulty in paying their bill. The billing date stipulates the 28<sup>th</sup> of the month. However, the City doesn't begin to read the meters until after the 28<sup>th</sup>, which takes several days. It also takes up to five days before the bill is mailed. These delays infringe on the time a customer has to pay their bill. He said he had 11 days from the time he received his last utility bill until it was due. The City is not providing good customer service by shortening the payment window. If a customer only has 10 days to pay the bill, that's what they should be told. The bills should be mailed to customers on time. The window shouldn't include the time it takes the City and the vendor to prepare the bill. The Council should revisit the issue. The ordinance should be written to reflect that utility bills are to be mailed out in a timely manner.

Discussion ensued about radio meter reading to shorten the time between the billing date and the date the bill is prepared. City Manager Worthington said new meters are retrofitted to accommodate radio meter reading. Reading meters currently takes five to seven days. Electronic meter reading can be accomplished in one day.

Interim Director Marcotte verified staff can monitor internal billing processes and ensure the vendor is preparing and mailing the bills in a timely manner.

Councilmember Roscoe expressed support for analyzing current procedures to determine ways to shorten the gap between the time bills are prepared and when they are mailed to the customers.

Mayor Pro Tem Edwards commented that some customers will not pay the bill until it is due regardless of when they receive it.

### **Majority Support**

**A majority of the Council supported maintaining the current practice and investigating internal improvements before reconsidering an amendment to the ordinance.**

### **Drainage District #21 Easement**

City Manager Worthington reviewed the current version of drainage easement agreement language. Staff reviewed the proposed changes with Pierce County Drainage District #21 and incorporated the district's comments. The amendments include reducing the easement to 10 feet on each side of the creek from centerline and allowing obstruction removal after high water flows recede. Staff recommends presenting the draft agreement to District #21 Commissioners for consideration before mailing the proposal to affected property owners and holding a public meeting.

Director Blount reported the Commissioners and the City share similar interests. He reviewed changes to the agreement. The agreement is ready to go to the public under the Commission's signature following its next meeting.

**Doug Skelly, Drainage District #21 Commissioner**, shared observations from a tour of the creek he took earlier in the day. There are areas where vegetation could affect creek flow in the future. Edgewood has seven outfall pipes at the head of the creek. Stormwater runoff from the hill affects upstream and downstream flows. He said he observed extreme and good conditions along the creek. Prescriptive easement rights among the neighboring entities are making it difficult to control the system both downstream and upstream. All the entities basically control the creek system and have different opinions concerning operation and maintenance issues. The creek system should be treated as a whole system regardless of jurisdictional control. Fife staff has done their best to refine the easement

language; however, there are issues beyond easements. A consistent approach to maintaining the creek system is vital. He said he can support the easement approach if the stakeholders also support easement strategy. He said he supports the Council holding a meeting with stakeholders to talk about restoration and easement processes. He asked staff to provide him with a list of the stakeholders.

Discussion ensued about what is meant by “physical interference” within the agreement. Director Blount said the last sentence of the paragraph clarifies the intent.

Mayor Kelley said he’s comfortable with the proposed easement agreement language. Many property owners view granting the easement as a taking. Prior to a public meeting, he suggested drafting an explanation that is easily understood by the public.

Councilmember Cerqui asked for a map showing the creek and ditches. He inquired about the need to take an action if the current scenario is working and expressed concerns about some of the proposed language changes, specifically within item B on page 1 and within item 4 on page 2. He acknowledged the need to schedule a meeting with the stakeholders to hear what they have to say prior to the City taking the next step.

Councilmember de Booy agreed “easement” sends a red flag to property owners. She agreed with Mayor Kelley to clearly explain the intent of the agreement to property owners. The City should move ahead.

Councilmember Roscoe conveyed that she also supports staff presenting the language for the Commission’s consideration before mailing the proposal to property owners and holding a public meeting. The 10-foot easement doesn’t totally solve the problem, but is a move in the right direction. The agreement refers to the entire drainage system, but the easements relate to Wapato Creek. She asked that staff provide information to residents concerning authorized personnel that can maintain the creek, their qualifications, and an outline of allowed activities within the easement area. She asked if the contract between the City and the drainage district should be referenced in the drainage easement agreement recognizing the City as a participant in the process.

City Manager Worthington noted the drainage district will have the prescriptive easements rights. A cover letter accompanying the agreement will note that in time the easements will be assigned to the City.

Discussion followed about when it is appropriate to cut vegetation that impedes water flow and language that speaks to the removal of hazards and obstructions.

Councilmember Johnson expressed a preference against language stating, “any area on the property over which the creek has actually flowed” and suggested deleting the words “cut and” within the second sentence of item 4 on page 2. Director Blount acknowledged that staff can refine the language. However, the City wants to retain the right to cut within the easement and outer areas. Councilmember Johnson said the City doesn’t have the right to cut within areas that are developed and landscaped. There should be a distinction between developed and undeveloped properties. Director Blount said he understands the drainage district has cut trees that were deemed hazardous.

Councilmember Godwin suggested eliminating “creek” from the agreement is troublesome and not acceptable. Wapato Creek was not intended to function as a drainage system, but it is part of the drainage system. Striking “creek” and/or “Wapato Creek” creates another ditch. He expressed frustration about the complexity of the agreement.

Discussion ensued concerning staff’s understanding from the Council to narrow the purpose for the easement (maintaining a drainage system) and retaining “Wapato Creek” language as often as possible within the agreement to maintain the integrity of the creek. City Manager Worthington verified staff can make the changes concerning referencing “Wapato Creek” consistently throughout the agreement.

Staff and the Council discussed including a distinction between restoration and maintenance of the creek. Councilmember Johnson said the agreement is related to drainage and not removal of vegetation or habitat.

City Attorney Forbes noted the rights under the easement are what matters and not how the agreement is titled.

Director Blount commented that staff is also attempting to respond and balance input from a number of elected officials.

Mayor Kelley suggested the Council should direct staff to refine the agreement language and release it for public review.

Mr. Skelly referred to an earlier agreement and language within the current draft that addresses condemnation proceedings. He asked the Council to review the previous document because the public might not be aware of the condemnation language. City Manager Worthington explained the interlocal agreement was reviewed and approved by the Council and the drainage district. Director Blount added that the drainage district agreed condemnation proceedings are at the Council’s discretion.

The Council shared various concerns ranging from refining paragraph 4 on page 2, moving forward cautiously, releasing the document for public

review, the importance of stakeholder meetings, not consulting the Council about previous easement width discussions, and the time it has taken to arrive at this point.

Councilmember Cerqui said the City will need an interlocal agreement with Drainage District #23. There is an issue with outfalls at the headwaters. Dissecting the issue further limits the City's ability to work with the other jurisdictions.

Mayor Pro Tem Edwards offered a suggestion to present the agreement to the public for feedback prior to revising the language.

Councilmember Johnson said he agreed the City needs to work with all stakeholders. It might not be prudent to move forward without involving the other jurisdictions. He suggested incorporating language that specifies the purpose of the easement, wording that ties the easement to the drainage system functions and maintenance, retain the Wapato Creek language and associated drainage ditches, and make the following specific language changes to paragraph 4 on page 2:

- Strike the words, "within the Easement Area" within the last sentence
- Delete "cut and" within the second sentence

There were no objections to Councilmember Johnson's suggested language changes.

**Pierce County Bridge  
Inspection Interlocal  
Agreement**

Director Blount reported the update to the current agreement includes minor housekeeping issues.

**Consensus**

**The Council directed staff to complete the negotiations outlined in Fife's letter to Pierce County and bring the agreement back to the Council for formal action.**

**Letter of  
Understanding  
Regarding Port of  
Tacoma Ramp**

Director Blount reported WSDOT requires the Letter of Understanding to include a provision authorizing WSDOT to issue required change orders, which basically gives WSDOT a blank check. WSDOT also requires the City of Fife to commit to a 25% contingency totaling approximately \$381,533 of the construction contract, which will increase the \$2 million authorized budget to approximately \$2.24 million. A typical contingency is 10%. The additional \$236,000 has not been factored in to the construction budget. The state requires the additional contingency before construction commences within its right-of-way.

City Manager Worthington noted the City initially factored 14% contingency for the project.

Councilmember Godwin said the state and the Port of Tacoma should be responsible for the additional contingency.

Director Blount reported that Fife also has the authority to stop the project if the bids are too high.

**Consensus**

**The Council concurred with staff's recommendation to prepare a resolution authorizing execution of a letter of understanding in substantially the form requested by WSDOT.**

**OTHER BUSINESS**

City Manager Worthington reported on the following:

- Approximately 70 tree seedlings (Blue Spruce) offered during the City's recent Parks Appreciation Day are still available. Interested citizens can pick them up at City Hall.
- The City's "Excellence in Public Service Awards" process is gearing up. A nomination form was provided to Councilmembers. Staff will also forward nominations to the Council by May 8, 2007 for consideration. A tentative award date is scheduled for May 22, 2007.
- City departments are preparing information for a third annual report highlighting significant 2006 accomplishments. City Manager Worthington provided a sample of an annual report produced by University Place. Staff is working with staff from *Fife Free Press* to include an annual report insert in the May/June publication. It will cost the City approximately \$3,500 to produce the annual report. Staff will follow up with the Council as additional details become available.

Director Reuter reported he and Assistant City Manager Reinbold attended the 21<sup>st</sup> Annual City of Destiny Awards event earlier in the evening. Fife resident David Callen was recognized for his volunteer efforts spearheading the Steward Heights Neighborhood Coalition. The coalition works to reduce crime, clean up the neighborhood, and brings the community closer together.

Director Reuter reported the Fife pool is scheduled to reopen on either May 19, 2006 or May 26, 2007. The reopening is tied to the City receiving delivery of new lighting fixtures. If necessary, the old lighting fixtures will be installed to obtain the Certificate of Occupancy.

Discussion ensued about the liquidated damages clause in the contract. Staff is reviewing the information.

Assistant City Manager Reinbold reported another City of Destiny Awards recipient was the Puyallup Tribe of Indians. Mr. Bean, who accepted the award on behalf of the tribe, mentioned the tribe's partnership with Fife.

