

**FIFE CITY COUNCIL
MINUTES**

**Fife City Hall
Council Chambers**

**Date: August 28, 2007
Time: 7:00 p.m.**

EXECUTIVE SESSION Mayor Kelley convened an executive session at 6:30 p.m. for the purpose of Labor Negotiations, RCW 42.30.140 (g) for approximately 30 minutes.

ADJOURNMENT: Mayor Kelley adjourned the executive session at 6:50 p.m.

**CALL TO ORDER AND
ROLL CALL** Mayor Kelley called the regular meeting of the City Council to order at 7:00 p.m. with the following Councilmembers present: Edwards, Kelley, Cerqui, de Booy, and Roscoe.

Excused: Councilmembers Godwin and Johnson.

Staff: Worthington, Marcotte, Blackburn, Combs, Reuter, Smith, Pasinetti, Richards, Ringus, and Recording Secretary Jessica Tate.

**PLEDGE OF
ALLEGIANCE** Councilmember de Booy led the pledge of allegiance.

CITIZEN COMMENTS Clifford Bennett, 7822 50th Street E, Fife, inquired about the acreage adjacent to his property that was sold to DR Horton. The property has significantly increased Mr. Bennett's property value to a seemingly inaccurate amount for 2.28 acres. He requested details regarding how his property could be used if he decided to sell or develop a short plat. Director Blount responded that he will provide Mr. Bennett with details regarding his property following the Council meeting.

Mr. Bennett said he has had issues with his neighbors to the east residing in duplexes. He found hoses pumping excess water from an unkempt 52nd Avenue drainage ditch onto his property. Mayor Kelley asked Mr. Bennett to leave his name and phone number with Director Blount to address the issue.

Councilmember Edwards stated Mr. Bennett's questions are of value to others in the community. He requested an update at the next Council meeting.

City Manager Worthington reported the September 18, 2007 worksession might be the best time to discuss the issues, as a sewer study will be presented. He suggested Mr. Bennett also attend the meeting.

Rich Garchow, Great American RV, 5959 Pacific Highway, Fife, requested the City inquire about the status of left-turn lanes from 62nd Avenue NE to 65th Avenue NE.

City Manager Worthington explained the area is under the jurisdiction of the Washington State Department of Transportation (WSDOT). WSDOT

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issued permits for construction of the left-turn lanes. The City believes the project will be completed this year.

CONSENT AGENDA

a. Approval of Minutes: Date: August 14, 2007

b. Approval of Vouchers:

 Claims: #69603 – 69763 \$305,025.71

 Payroll: #43097 – 43205 \$491,931.64

c. Set a Special Meeting for September 8, 2007

d. Set a Special Meeting for September 13, 2007

Adopt Ordinances:

e. #1640-07 Parking Ticket Late Fees

f. #1641-07 Emergency Response/DUI Cost Recovery

Councilmember Roscoe corrected the spelling of “Larry Whitman” to “Larry Wagman” on page 9 of the August 14, 2007 minutes. She urged citizens who provide public comment to ensure they sign in on the sign-up sheet to avoid misspelling of names.

Motion

Councilmember Roscoe moved, seconded by Councilmember Edwards, to approve the consent agenda as amended. Motion carried.

SPECIAL PRESENTATIONS

New Employee Introductions

Mayor Kelley introduced Julie Wurm as the new Aquatics Coordinator for the City of Fife. Previously, Ms. Wurm was a high school math and chemistry teacher, as well as a pool manager.

Presentation Emerald Queen Casino & Conference Center

Jim Merritt, Project Architect, provided an update on the status of the project. The project consists of two phases with subphases totaling approximately 235,000 total square feet. The project is utilizing high quality materials and include amenities:

- 4-floor Hotel
- High end restaurant with a view of Mt. Rainier
- Buffet restaurant
- Parking structures
- Extensive security
- Separate entrances for the hotel and restaurants
- New signalization at 59th Avenue at the east end of the parking structure
- 7 conference rooms totaling 100,000 square feet
- Glass face elevators
- Gaming space
- Office space
- Pool

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- Health spa
- Circulated tram for shuttle rides to the facility

The goal is to complete the project by mid-spring 2008.

Frank Wright, General Manager, Emerald Queen Casino, expressed excitement about project and is happy to see so many local contributors. One goal of the project is to prevent traffic backups. Three lanes will be provided for the drop off area to address the issue. All parking structures will be painted to avoid an industrial look. All elevators include surveillance cameras for additional security. A casino employee will be stationed at the base of each elevator to contact security if warranted. Detailed landscaping will be planted to create an aesthetically pleasing entrance for the casino and for the City of Fife. WSDOT will also be contacted regarding its portion of property near the casino to improve landscaping.

The casino will be signature development unlike any other facility in the Pacific Northwest in terms of the size and quality of the facility. The facility will include two restaurants, to avoid competition with local restaurants.

Councilmember de Booy commented that she is happy to see the project located in Fife. The conference center is warranted because of the growth experienced in the area.

Councilmember Cerqui thanked Mr. Merritt for the presentation and expressed support for the project. He asked about stormwater storage for the project. Mr. Wright replied that he is working with City staff to determine the best location for stormwater retention.

Councilmember Edwards applauded Mr. Wright for emphasizing public safety. Mr. Merritt reported that separate entrances to the hotel and restaurants will be included to segregate minors from gambling areas.

Mayor Kelley said it is exciting to see so many local contributors working on the project.

Fife Specialty Outlets/Labor Day Promotion

Laurel Potter, City of Fife, Marketing Coordinator, gave a brief presentation on the Fife Specialty Outlets Labor Day Promotion. The promotions will take place the weekend prior and weekend following Labor Day. Participants include:

- Emily's Chocolates
- Morning Sun
- Sportco

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- Brown and Haley
- Parr Cabinet

The aggressive campaign includes e-mail blasts and direct mailings with cutout coupons. An ad will also be published in the *Fife Free Press* and *Edgewood/Milton Signal*. A Spanish version will be included. Ten banners will be hung on 20th Street and Frank Albert Road signifying event locations.

In January 2008, an ad campaigns will be refined and implemented as warranted.

COUNCIL DELEGATE REPORT

Councilmember Edwards announced Mayor Kelley recently received an award of recognition from the VFW for his volunteer work and efforts with the Milton VFW Memorial. Mayor Kelley thanked the VFW for the positive recognition.

Councilmember Edwards thanked all veterans of war and their families for their sacrifice.

Councilmember Cerqui said he attended the first annual Mayor's Invitational Golf Tournament in University Place. The event was successful, fun, and a good place to network with other elected officials.

Councilmember de Booy reported on her attendance to an informal meeting with members of the Fife Historical Museum regarding the possibility of acquiring a train engine to display with the caboose. No decisions were made, but there is much support for the idea.

Councilmember de Booy said plans for the Senior Center were made at the Senior Advisory Board meeting.

Councilmember Roscoe reported she attended the Tall Ships Festival and participated in the Buccaneer Bash Fundraiser in Tacoma. She was able to speak to several Puyallup Tribal members during the event.

Councilmember Roscoe promoted the Metro Parks Tacoma Familiarization Pass.

Councilmember Roscoe inquired about the status of the residential garbage issue along 48th Street. Director Smith indicated staff is addressing the issue.

ORDINANCES AND RESOLUTIONS

PUBLIC HEARING

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Pacific Highway Building Height Increase

Director Smith reported the public hearing is to receive comments on Ordinance No. 1642-07, a potential building height increase in certain areas along the Pacific Highway corridor. The ordinance amends Fife Municipal Code (FMC) 19.68.090 to provide a potential building height increase up to 90 feet in certain zones along the Pacific Highway corridor. A public notice was published in the *Tacoma News Tribune* on July 18, 2007 and August 13, 2007. In accordance with FMC 14.06.030, a notice was mailed to all affected property owners including all affected owners within 300 feet of the affected area.

The Council and the Planning Commission have indicated interest in a building height increase and other improvements along the Pacific Highway corridor to encourage revitalization of the area.

The Council discussed the matter at its July 17, 2007 and July 24, 2007 meetings, and determined that the height increase could extend to more than just the Regional Commercial (RC) zone and could include properties abutting Pacific Highway in other zones, such as, Industrial (I), Business Park (BP), and Community Commercial (CC).

Under the proposed ordinance, building heights higher than the existing zoning code are required to seek Council approval prior to construction.

Most of the land along the Pacific Highway corridor is zoned RC. The building height allowance is 40 feet. At the Council's study session on July 17, 2007, the Council expressed concerns with height increase and fire safety along the Pacific Highway corridor, particularly along areas of the corridor that were not located in the RC zoning district.

Presently, the tallest building along the Pacific Highway corridor is 60 feet tall (Trans-Pacific Trade Center). Multiple story buildings have fire-fighting mechanisms incorporated during construction of the building. According to the 2006 International Building Code, buildings 75 feet or higher must have automatic sprinkler and fire detection systems.

A building height increase along the Pacific Highway corridor could spur revitalization and aid in Fife's economic development. Growth is occurring in the Tacoma/Fife area.

Some citizens have expressed concerns about the potential for new taller buildings to block the I-5 view of existing businesses. City staff has proposed a 3-step building approach to avoid the issue.

Planner Pasinetti reviewed slides illustrating the proposal as well as existing conditions along the Pacific Highway corridor.

Mayor Kelley opened the public hearing at 8:02 p.m.

VCB Representative, P.K. McAlean indicated the proposal will bring more diversity to the local business economy and will improve the cityscape. She said she likes the idea, but it will most likely cause some small businesses to fail.

Mike Seeger, Fife Flowers, 5121 Pacific Highway, said the proposal is a great idea. However, many important businesses in Fife might have to relocate. He suggested Councilmembers should take time to talk with business owners such as Volvo, Acura, and Mercedes car dealerships prior to making a final decision.

Rich Garchow, 5959 Pacific Highway, Fife, reported the proposal will benefit future transit. The City must address current and long-term economic needs.

Pat Holsey, 4703 15th Street E, Fife, indicated the residential area bounded by Pacific Highway East, 12th Street East, 46th Avenue East, and Willow Street East, should be purchased to deter issues associated with 90-foot buildings surrounding residential properties. The City has not adequately planned for the area. Most people living in the area have resided there since the 1940s. Mr. Holsey indicated he understands the economic direction of the future and most of the residents would be happy to relocate. He expressed opposition of the proposal for that reason.

Mayor Kelley closed the public hearing at 8:12 p.m.

**Modification of
Radiance IV Preliminary
Plat**

Director Smith reported the public hearing is to address potential modification or revocation of the Radiance Division IV Preliminary Plat. The purpose of the potential modification or revocation is to rectify violations of the preliminary plat conditions and the FMC regarding environmental impacts to protected wetlands and buffers.

Conditions of preliminary plat approval require the developer to comply with all applicable City of Fife development regulations. During spring 2007, unauthorized clearing occurred by the developer within the Class I Oxbow wetland and buffer adjacent to the plat in violation of FMC 17.17.080 (activities in a wetland without a permit) and FMC 17.17.240 (buffers to be left in a natural state unless enhanced).

An environmental officer from the Puyallup Tribe of Indians submitted a complaint to the City about the unauthorized clearing. The action led to a “stop-work” order from the City, which was posted on April 19, 2007 and also prompted regulatory action by the Puyallup Tribe of Indians who own property immediately south of the plat, including land with the same affected wetland.

Meetings between the parties were held to seek corrective actions. The original wetland delineation study used for the plat was conducted in 1999. A wetland “verification report” was issued in 2000. A wetland buffer study was issued in 2001.

To more accurately assess current wetland conditions, the City commissioned a new wetland reconnaissance and delineation in spring 2007. The reconnaissance report indicates the wetland has expanded as compared to the 1999 delineation. Consequently, the buffer boundary also expands accordingly. The expansion caused additional portions of the plat features located within the protective buffer.

The original approved plat also had the buffer overlapping portions of some plat features, including an unnamed road and lots #722, #723, and #724. An additional nondeveloped area outside of the buffer using wetland buffer averaging compensated for the overlapping. The new delineation is expected to result in a greater portion of the road and lots number #722, #723, and #724 located within the buffer. To compensate for this, the City sought a voluntary agreement from the applicant that would be acceptable to the City and Tribe to mitigate the new impacts.

Components of the agreement requested by the City include eliminating the affected lots from the plat and providing a mitigation plan for the unauthorized clearing within the wetland. Efforts to reach a voluntary agreement between the parties have been unsuccessful to date, leading to the present proposal for the Council’s consideration.

In addition to the violations of the FMC, threats to health and safety resulting from the impacts to the wetland and buffer have been identified.

In a related action on July 20, 2007, the applicant submitted application materials for processing a final plat for Radiance Division IV. In the application, the applicant placed lots number #722, #723, and #724 in a “separate tract, reserved for future development.” City staff is reviewing the final plat, but will not render a final decision, pending Council direction on the matter.

FMC 17.17.230 requires a 150-foot buffer zone around Category I wetlands. The approved plat violates FMC 17.17.230, because measuring from the actual existing wetland boundary results in a further reduction of the wetland buffer of less than 150 feet. In the present plat configuration, the plat cannot be compensated through wetland buffer averaging. If the actual wetland boundary had been known at the time, City staff would not have recommended approval of the preliminary plat as submitted.

Director Smith submitted and reviewed the following additional exhibits:

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- **Exhibit O:** Map of current wetland delineation and buffer
- **Exhibit P:** Wetland Boundary Review from Raedeke Associates, Inc., dated August 28, 2007 (identifying 16 affected lots)

Attorney Combs explained the public hearing is different from a typical public hearing because it addresses a specific piece of property and related rights. He described the process and procedures for the hearing. The appearance of fairness doctrine restricts discussion of the matter outside of the hearing. Each Councilmember indicated they had no discussion about the item outside of the hearing.

Mayor Kelley opened the public hearing at 8:22 p.m.

Duana Kolouskova, Attorney for DR Horton (property owner), 1601 114th Avenue SE, #110 Bellevue, stated she provided the Mayor and Councilmembers with a binder containing three letters and a number of additional exhibits not contained in the staff report.

Ms. Kolouskova requested the Council not modify or revoke the Radiance IV Preliminary Plat. The City Council does not have jurisdiction to undertake the process or to take action to modify or revoke the preliminary plat.

The property owner has been 100% consistent in abiding to the approved preliminary plat conditions. There has been no indication that the property owner has violated conditions of the approved preliminary plat. DR Horton has a vested right to develop the property. The financial impact of modification or revocation of the preliminary plat would cost approximately \$5.6 million to the applicant.

Whatever the outcome, the applicant has no intention of implementing any type of development in the original or newly proposed wetland or wetland buffer.

DR Horton wishes to continue cooperation with the City to address the issue of concern. DR Horton has also assisted the City with upsizing and relocating the sewer main along 54th Avenue, which runs along the edge of the plat.

The issue must be addressed in the originally approved plat. There is no legal or factual information to warrant modification or revocation of the plat.

Bill Sullivan, Director of Natural Resources, Puyallup Tribe of Indians, said he became aware of the issue on March 15, 2007. The issue was brought forward based on the cutting of old growth trees. The person who cut the trees was likely standing in water and should have questioned the

wetland delineation.

Mr. Sullivan concurred with City staff's explanation of the importance of wetlands. The area is passable fish habitat. Endangered juvenile Chinook move through the area at times. If development occurs, salmon bypass mitigation should be required. This area is one of the last oxbows capable of protecting juvenile salmonids.

Lisa Brautigam, Environmental Attorney, Puyallup Tribe of Indians, 3009 East Portland Avenue, Tacoma, stated she did not receive the information presented to the Council by Ms. Kolouskova. She stated she will formally request the information following the meeting.

Ms. Brautigam reported photos included in the staff report show the cut trees are extremely close if not inside the water of the wetland. The applicant should have raised question regarding the wetland delineation when the action was observed.

Ms. Brautigam stated DR Horton should have considered financial ramifications prior to continuing work. She questioned whether the \$5.6 million figure provided by Ms. Kolouskova is accurate.

Ms. Brautigam requested time to review the information presented by Ms. Kolouskova prior to a Council decision.

Ms. Brautigam indicated Ms. Kolouskova's statement indicating the Council does not have the authority to revoke or modify the plat is inaccurate. The Council cannot assume the new information provided by the applicant is true.

Ms. Brautigam said tribal staff believes the cut trees were located in the originally identified wetland buffer. The Tribe would like to hear how the applicant plans to remedy the fact that old growth tree were cut. The trees are of significant value and cannot be replanted. This value can only be achieved over time.

Pat Holsey, 4703 15th Street E, Fife, said future impacts to creeks in the City must be recognized. Many creeks have been rerouted and not maintained. The City must consider that citizens will live in the City and not developers. The City must fight for environmental aspects, as natural resources cannot be replenished.

Burgon Peterson, 8022 48th Street East, Fife, questioned the Tribe's definition of clear-cut and old growth. He indicated he has never seen old growth cotton wood trees.

City Attorney Combs reiterated that it appears the Council, Tribe, City staff,

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and the applicant need additional time to review the newly added information. He indicated he will provide a memo to the affected parties identifying the Council's authority to revoke or modify the plat. He suggested the public hearing remain open to allow additional comments.

City Attorney Combs clarified absent Councilmembers must review the audio tape from the meeting and state on the record that they have done so in order for the Councilmember to participate.

Councilmember Edwards stated it would be proper due diligence to thoroughly review the information presented by Ms. Kolouskova.

Motion

Councilmember Edwards moved, seconded by Councilmember Roscoe to continue the public hearing to September 11, 2007.

Councilmember Roscoe said it's appropriate for absent Councilmembers to participate in the matter. She said she would also like time to review the additional information and receive a legal response as well.

Councilmember de Booy stated she would also like to allow absent Councilmembers to participate in the matter, as they are very passionate about the issue.

Councilmember Cerqui asked that the Council receive a copy of the memo City Attorney Combs referred to concerning the Council's authority in the matter.

Motion

Motion carried unanimously.

Mayor Kelley closed the public hearing at 8:59 p.m.

City Attorney Combs stated the binder submitted by Ms. Kolouskova will be identified as Exhibit Q containing sub-exhibits.

ORDINANCES

**#1642-07 Pacific
Highway Building
Height Increase
Motion**

Councilmember Edwards moved, seconded by Councilmember Roscoe, to postpone action until the September 11, 2007 meeting, to allow Councilmembers the opportunity to talk with affected business owners and residents as suggested during the public hearing.

Councilmember Edwards expressed concern with voting on the item after the first reading. Director Smith clarified that required notification was sent to each affected property owner, which included 374 mailings. Appropriate

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public outreach was pursued.

Councilmember Roscoe asked that the Council review the Planning Commission meeting minutes regarding the issue. Director Smith acknowledged the request.

Councilmember Roscoe agreed with Director Smith's comment indicating appropriate public outreach was achieved.

Motion

Mayor Kelley called for the vote on the motion. Motion failed. Councilmember Edwards voted in favor of the motion. The remainder of the Council voted against the motion.

Mayor Kelley said he would like to see construction of buildings higher than 90 feet. Director Smith indicated stringent fire code requirements are required in buildings over 75 feet. The issue is addressed in City building codes.

City Clerk/Finance Director Marcotte read the title of Ordinance #1542-07:

An Ordinance of the City Council of the City of Fife, Pierce County, Washington, amending the City's zoning map and zoning code FMC 19.68.090 and extending the height exception overlay for the Pacific Highway Corridor, bounded by the existing City limits to the east and west running along the length of Pacific Highway East, north to existing city limits, and south to Interstate-5.

Motion

Councilmember Roscoe moved, seconded by Councilmember Cerqui, to adopt Ordinance #1642-07 Pacific Highway Building Height increase.

Discussion followed regarding allowed uses and various technicalities in the zoning overlay. City Attorney Combs recommended the Council defer issues of technicality and conditions to the Fife Hearing Examiner and amend the ordinance accordingly.

Motion

Councilmember Roscoe moved, seconded by Councilmember Edwards, to amend Ordinance #1642-07, to include parking structures as an allowed use under applicable uses. Motion carried.

Motion

Councilmember Roscoe moved, seconded by Councilmember Edwards, to amend the Ordinance #1642-07 to insert the Fife Hearing Examiner where applicable, as the deciding body. Motion carried.

Motion

Councilmember Roscoe moved, seconded by Councilmember, Edwards, to amend Ordinance #1642-07 to extend the physical boundary of the northern portion of the overlay area to 12th Street

East. Motion carried. Councilmember Cerqui voted against the motion.

Motion Mayor Kelley called for the vote on the original motion as amended. **Motion carried. Councilmember Cerqui voted against the motion.**

RESOLUTIONS

#1134-07 Accept Dacca Park Parking Lot Contract as Complete Director Reuter reported the resolution authorizes the close out of the construction contract with Precision Earthworks Inc. for the Dacca Park parking lot and Columbia Junior High School Commons improvements.

Director Reuter clarified that only one change order was submitted, which was approved and completed as part of the project.

City Clerk/Finance Director Marcotte read the title of Resolution #1134-07:

A resolution of the City Council of the City of Fife, Pierce County, Washington, accepting construction of Dacca Park Improvements and Columbia Junior High School Commons Improvements in accordance with the contract with Precision Earthworks Inc. as complete.

Motion Councilmember Edwards moved, seconded by Councilmember Roscoe, to adopt Resolution #1134-07; Accept Dacca Park Parking Lot Contract as Complete.

Councilmember Cerqui asked about the status of the old wellhead. Director Reuter indicated the wellhead has been covered and remains usable.

Motion Motion carried unanimously.

NEW BUSINESS

Public Works Construction Update Director Blount reported Fife has four projects under contract, one is out to bid, and one is pending.

The City Council authorized a \$40 million construction program to begin in 2007 and extend through the next four years.

2007 projects include:

1. Overlay Program
2. Port of Tacoma Road to I-5 southbound ramp widening
3. Construction of storm, sanitary, and water mains in 20th Street East between 54th and 62nd
4. Signalization of 54th Avenue East and 23rd Street East
5. Construction of sidewalks along Valley Avenue between 54th Avenue

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and Dale Lane

6. Construction of environmental mitigation work for Valley Avenue between 70th and Freeman – no permits acquired yet – not likely this year.

Local businesses will be open during construction.

Councilmember Roscoe stated construction does make driving inconvenient. However, she appreciates all of the construction projects.

**Determine Facts and
Conclusions on the
Radiance IV Plat
Modification**

The item was deferred to the September 11, 2007 meeting.

**CITY MANAGER
REPORT**

City Manager Worthington reported the Council established a huge direct investment in the transportation system. City staff is making every effort to provide adequate public notification about construction projects.

The Summer Day Camp Program was a success with 40 children participating.

A meeting is scheduled on August 30, 2007 with the Mayfair Place Condominium residents to discuss concerns regarding nearby construction.

The Community Center and pool painting will be completed this week.

Police Chief Blackburn is serving on a statewide commission to address gangs. Yakima County expressed positive feedback regarding Fife's zero tolerance stand against drugs.

The special enforcement police program is underway and going well.

The City received a \$10,000 grant to transition City records to permanent media. .

The Association of Washington Cities (AWC) Sustainable Communities Conference is scheduled on September 27-28, 2007 in Vancouver, Washington. City Manager Worthington requested interested Councilmembers contact him or Assistant Richards.

The Council's budget retreat is scheduled for September 8, 2007.

The Dragon Boats Event is scheduled for September 15, 2007.

**COUNCILMEMBER
COMMENTS**

Councilmember Roscoe said she noticed outlets are displaced along 54th Avenue. Director Reuter acknowledged the issue.

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Councilmember Roscoe indicated current construction along 54th Avenue consistently has signage tipped over in the bicycle lane. Director Blount acknowledged the concern.

ADJOURNMENT

There being no further business, Mayor Kelley adjourned the meeting at 9:54 p.m.

Mike Kelley, Mayor

Steve Marcotte, City Clerk/Finance Director

Prepared by Jessica Tate, Recording Secretary
Puget Sound Meeting Services