

Fife City Council Regular Meeting Minutes

September 11, 2007

Page 2 of 18

Applications for the parade and as a vendor are welcome for submission by October 3, 2007. More information is available at the festival's website at fifeharvestfestival.org. The festival is free and open to the public.

COUNCIL DELEGATE REPORT

Councilmember Cerqui commented on the effective budget retreat held on Saturday, September 1, 2007.

Councilmember Roscoe reported on her attendance to the Zootrek Authority meeting scheduled for Wednesday, September 12, 2007 at Northwest Trek.

PUBLIC HEARING

Continuation of Modification of Radiance IV Preliminary Plat

Mayor Kelley opened the public hearing at 7:12 p.m.

City Manager Worthington reported the continuance of the public hearing is to consider the potential modification of Radiance IV Preliminary Plat. Since the initial public hearing, the City received three additional documents for the record – Exhibit P, Brief from the City Attorney on the legal basis for the proceedings; Exhibit R, legal brief from the Puyallup Tribe of Indians; and Exhibit S, legal brief from counsel representing DR Horton.

Mayor Kelley and Councilmembers were advised to disclose any ex parte contact regarding the matter as the hearing is a quasi-judicial proceeding.

Councilmember Edwards reported that since the opening of the initial public hearing, he had contact with a tribal representative from the Puyallup Tribe of Indians and he conveyed a suggestion of having a Tribal Councilmember attend the public hearing. There was no other discussion about the issue.

Mayor Kelley reported he said he had a similar discussion with another tribal member and he also suggested having a tribal representative attend the public hearing. No further discussion on the matter occurred.

No one in the audience objected to Councilmember Edwards or Mayor Kelley's participation on the Council for considering the matter.

Councilmembers Johnson and Godwin did not attend the initial public hearing. Councilmembers Johnson and Godwin advised that they viewed the video tape of the meeting and reviewed the minutes and are familiar with the testimony provided by both the applicant and others.

City Attorney Combs advised that there is no legal reason to disqualify any Councilmember from receiving testimony and deliberating on the matter under consideration.

Duana Koloušková, Johns Monroe Mitsunaga, PLLC, 1601 114th Avenue SE, Alderwood Building, Suite 110, Bellevue, WA 98004, referred to the additional exhibits and expressed appreciation to the Council to consider the information. Additionally, a letter is attached from DR Horton's wetland biologist, who has addressed some of the items within the City's report issued on August 28, 2007, as well as some site specific factual evidence that DR Horton believes is important for the Council's consideration.

Ms. Koloušková reported the City Attorney identified in the memorandum that the Council may have the authority to take a second look at the preliminary plat if DR Horton is found to have knowingly or deliberately violated conditions of the preliminary plat. This standard is taken from a court case, *HJS Development v. Pierce County*. The Court held that the County could revoke the preliminary plat "in those cases in which it is impossible to satisfy the conditions of approval because of knowing and deliberate violations of conditions." This is the standard under consideration. Ms. Koloušková said there is no evidence at all that DR Horton has in any manner knowingly or deliberately violated any condition of the preliminary plat approval. Everything DR Horton has done has been consistent with City approvals.

There is much debate concerning the trees that were cut down. Even though the clearing was approved, it would have been beneficial to know that the cutting would be a big issue prior to the action. However, no one knew about the issue and no one addressed any concerns to either staff or to DR Horton about the trees. Consequently, the clearing plans were approved and the trees were cut down. DR Horton's actions were consistent with all City approvals. There was absolutely no knowing or deliberate attempt in any manner by DR Horton to violate any conditions of the preliminary plat, construction approvals, and clearing and grading approvals. There is no evidence in the record to document that charge.

Ms. Koloušková advised that if that is the standard the Council is advised to follow, then DR Horton's response is that it's not supported by any evidence in the record. There is no reason to revoke the preliminary plat on that basis alone.

Another component of importance to consider is the state of the wetland as it currently exists today. A letter has been submitted from DR Horton's wetland biologist, Jim Carsner, a professional Wetland Scientist with Grette Associates. Mr. Carsner found that there is a beaver dam offsite and unmaintained drainage ditches offsite. These two components are backing up water into the wetland, which is considered to be an artificial or temporary condition that is affecting the status of the wetland. The City's biologist found, and Mr. Carsner agrees, that the wetland has had the same boundary and configuration for the last 40 years. The change that has occurred is very recent. Mr. Carsner indicates in his letter that the change could have occurred

Fife City Council Regular Meeting Minutes

September 11, 2007

Page 4 of 18

during the rainiest season. There is no information, no evidence, and no reason to believe that this time last year or in early winter or spring 2006 that the wetland boundary changed. When the Council considered the preliminary plat in July 2006 and again in December for the amended plat, there was no evidence the wetland had changed over the last 40 years. All the work previously concluded including site investigations by both DR Horton and the City points to the fact that the wetland had not changed.

The issue is whether the Council should require a change to a fairly significant development proposal, which was approved and which authorized DR Horton to move forward on based on a what appears to be a temporary condition DR Horton cannot control and that is likely to be resolved within a matter of months that will revert the wetland boundary back to its natural state.

The Washington State Supreme Court has ruled that when a Council issues a decision and gives a right to a property owner to develop a piece of property that is the highest priority. If there is no appeal, the property owner has the right to move forward in compliance with the preliminary plat. DR Horton respectfully requests the Council uphold the ruling of the Supreme Court, listen to both biologists who have indicated the condition of the wetland could very well be temporary, and allow DR Horton to move forward with its project.

Ms. Koloušková advised that the stop work order was lifted months ago except for three lots closet to the wetland. As of the day before, the first lift on the loop road was placed and the utilities are in the ground. Everything has been completed for the preliminary plat except for dry utilities and water meters.

The issue is of importance to DR Horton both because of the financial consequences and because of the company's reputation. DR Horton is extremely concerned about its name and image and wants to make it clear that there was never any attempt to hide anything or attempt an incomplete job when presenting the plat to the Council. It's important for the Council to understand that if the plat is revoked, DR Horton will have to appeal the decision as the affect on DR Horton will be egregious. DR Horton respectfully requests that the Council retain the preliminary plat and to ask staff to continue to work with the company to find a solution to the concerns that were raised, and in the future work together to identify any concerns.

Bill Sullivan, Natural Resources Director, Puyallup Tribe of Indians, said he reviewed the report as referenced by Ms. Koloušková. There is nothing odd about a beaver living in a wetland. In fact, that is what wetlands are all about. The importance of having them there in addition to building a dam is in infiltrating water. As far as the conditions being temporary and new, Mr. Sullivan said the newest thing that has occurred on the 100 acres of property

is that over 90% of the property is impervious surface and houses. In the Environmental Impact Statement (EIS) there is a section on unmitigated consequences. The section clearly states that one of the consequences of building out the property is that the wetland will fill with water. It simply has to as there is no where else for the water to travel.

Mr. Sullivan agreed that the ditch is not maintained, but at the same time it provides cover and habitat for juvenile fish and, if anything, when the culvert was installed it was during the era of when the levee was built and it was undersized. It is likely the tide gate is not in the best condition and hardly functions at all. When the river is tidally influenced for 12 hours a day there are more headwaters coming up the river during the tide than water escaping through the culvert. The condition of the culvert and the tide gate should be considered. Otherwise, the wetland is important and all the problems cannot be contributed to one beaver and one unmaintained ditch. The ditch does pass water, which has occurred over the last 20 years.

City Attorney Combs referred to testimony by Ms. Koloušková that the change to the wetland could have occurred since December 2006. He asked Mr. Sullivan, based on his experience, whether such a rapid change in the wetland level could have occurred. Mr. Sullivan replied that he doesn't believe the change is contributable to that. He said he viewed the property when it was undeveloped in November and April when the entire property was under water. The property is on a perched water table and the water table increases approximately six months a year. There is no where for the water to travel as most of the areas is now impervious surface. All the drainage is directed through treatment into the wetland, which consists of much water that no longer infiltrates or moves to the Wapato side or to the wetland.

Lisa Danielski, Wetlands Biologist and Botanist, Raedeke Associates, referred to a report submitted by Raedeke, which based on aerial photos, shows the approximate location of the beaver dam. It is a well functioning beaver dam. The dam is a four-foot dam and during the inspection there was approximately three feet of water upstream of the dam that was impounded. However, water trickled through the ditch downstream towards the Puyallup River. The dam was effectively holding back water. She said she visited the site in August during the dry season of the year. She said she couldn't assess if there was any potential over-bank flows. Photos of the site were difficult to take because of the topography of the area. She said she walked upstream from Levee Road and that was the only impoundment that was viewed at that point. The outlet further upstream towards the Radiance property boundary was viewed for the purposes of rating the wetland under the new Department of Ecology ratings manual. It represents a 15-foot wide channel near the property boundary that included over three feet of water.

Ms. Danielski said within conditions inclusive of beaver dams is the consideration of dramatic changes in vegetation communities that may come

Fife City Council Regular Meeting Minutes

September 11, 2007

Page 6 of 18

from plants that are typically not used to sudden inundation. There were no discernible changes in the vegetation community that may be present in recent beaver activity. There were several dead red alder trees that likely died because of wet soil conditions. However, it is unknown when the trees were impacted.

City Attorney Combs commented that DR Horton's legal counsel has skimmed over the highlights of state law. The plat violates the City's Critical Area Ordinance (CAO). The beaver dam, by evidence placed into the record by DR Horton, has been in existence for at least two years and at least 18 months before the Council approved the preliminary plat in December 2006. This is in the record. The record reflects an EIS that is seven to eight years old and clearly before the Council approved the preliminary plat. The EIS documents what will happen if the property is covered by impervious surface – the wetland will expand. Over the last six to seven years, the wetland has increased in size.

City Attorney Combs said there are three different legal theories, and not just one, that is advising the Council to revoke the plat, or at a minimum, modify the plat so that DR Horton redesigns the plat to meet the City's CAO requirements. Any improvements must occur outside the 150-foot buffer of the wetland. Only uses allowed in the wetland buffer should be authorized by the Council. The fact that DR Horton asphalted the disputed area the day before disregards the notice that the company was in violation, which was issued several months ago. If the company chooses to expend funds in such a manner, it's the company's problem not the Council's justification for doing its job. If the company elected to expend funds as if there is no violation of the CAO, then DR Horton did so at its own risk. City Attorney Combs advised that it is irrelevant to the decision the Council must make. Not only is it a violation of the City's CAO, there has been a mistake in fact as the only testimony in the record is that there was a beaver dam, habitat for an endangered species, and the endangered species within the habitat. If DR Horton's position is to do the right thing, they wouldn't have intentionally moved forward with their recent action. They must have made a mistake because the company's experts were present when the new wetland boundary was delineated. They were present when Ms. Danielski delineated the wetland boundary. The boundary is no different than the wetland boundary DR Horton relied upon and represented to the Council when requesting preliminary plat approval.

City Attorney Combs said the subdivision statute allows the Council to modify the conditions of a plat even after final plat approval. The plat has not received final plat approval. The issues were raised during the preliminary plat phase of the development. DR Horton has recently requested the City consider final plat approval. However, the wetland delineation is not included.

The wetland, which is a Class I wetland and the highest classification in the state, contains endangered species and a condition that was predicted seven years ago related to the expansion of the wetland. It was predicted by the EIS during the early stages of the project. The right thing is to protect the habitat. The wetland is the only Class 1 wetland within the reaches of the Puyallup River. It contains the endangered species that the Puyallup Tribe of Indians, City of Fife, State of Washington, federal government, Pierce County, City of Tacoma, and all signatories to the land claim settlement agreement have fought so hard to protect during the last 20 years to ensure future generations will be able to view the endangered species that came to the brink of extinction.

City Attorney Combs advised the Council to review City ordinances and consider whether the action was a knowingly intentional violation. If the Council believes the record supports that contention the Council should invoke the preliminary plat. The wetland cannot be restored unless the wetland is protected and the 150-foot buffer is achieved. The lift of asphalt recently installed is within the 150-foot buffer, an area that is to protect the Class I wetland and salmon that is on the Endangered Species List. DR Horton was aware of that situation when they poured the lift the day before. DR Horton is contending that they had a vested right to do so. The law does not support that contention as the cases cited by DR Horton are third party challenges to a final land use action granted by a jurisdiction. It's not the law in the State of Washington. City Attorney Combs said he believes the Council should do the right thing and enforce the City's CAO to protect salmon and the Class 1 wetland by requiring at a minimum, modification of the plat to reconfigure the plat to ensure all improvements are located outside the 150-foot buffer except those improvements allowed within the buffer by the CAO, and require DR Horton to restore the habitat destroyed by the company's actions to a condition verified by the City's experts, has the greatest chance of protecting and enhancing the functional value of the wetland.

Ms. Koloušková said there are concerns that somebody should have raised the issue to the Council and to DR Horton when the plat was under review. These are documents that have been in control of City staff for seven years. According to DR Horton's engineer, the records were not made available to him until recently. She asked why the issue wasn't addressed previously during the preliminary plat approval.

Councilmember Godwin asked whether DR Horton has any of the documents as referenced. Ms. Koloušková referred to 2006, when staff reviewed the project and when the Council approved the project, and contended there were environmental documents that were not provided to DR Horton's engineers.

City Attorney Combs said all the documents as referenced by Ms. Koloušková are public record and available to anyone. The plat is designed

Fife City Council Regular Meeting Minutes

September 11, 2007

Page 8 of 18

based upon the EIS that indicates the wetland will expand. DR Horton had to comply with the original EIS and is now alleging that the documents were not available to its experts. The documents were used by DR Horton to design its plat or DR Horton designed its plat and did not account for the EIS that indicated the wetland will expand.

Councilmember Roscoe referred to recent documentation received by the Council and suggested that there should be an opportunity for rebuttal, specifically any points addressed within the document. She suggested the Council should consider the testimony and have questions addressed followed by rendering a decision. She said she is uncomfortable rendering a decision without having the questions addressed.

City Attorney Combs advised that the proceeding is quasi-judicial and that the Council may continue the public hearing if it deems it's necessary for the purpose of reviewing the records and asking additional questions. The Council must use the record that has been provided.

City Attorney Combs advised the only information the Council has not received is the cases cited by the applicant, which will require staff time to produce. He said from the City's perspective, it's acceptable to close the record.

Motion

Councilmember Roscoe moved, seconded by Councilmember Johnson, to continue the public hearing until the Council's next regular meeting on September 25, 2007 to allow City counsel to review all documentation and testimony presented to date. Motion carried unanimously.

Mayor Kelley suggested in the meantime, that the City, DR Horton, and the Puyallup Tribe of Indians meet and discuss possible solutions that are favorable to all parties.

City Attorney Combs advised that the public record is continued solely for the purpose of the Council to ask questions of witnesses. No new evidence will be submitted in the record.

Councilmember de Booy arrived at the meeting.

The meeting was recessed for a break from 7:54 p.m. to 8:00 p.m.

ORDINANCES AND RESOLUTIONS

#1644-07 Alternative Sanitary Sewer Systems for Security Housing Facilities in

Director Blount reported the proposal is to include new language in the code allowing a minimal amount of additional flexibility to permit the construction of temporary sewage holding tanks for flows from existing structures in the Industrial zone to be converted to use as a watchman's residence.

Industrial Zone

City Clerk/Finance Director Marcotte read the title of Ordinance #1644-07:

An ordinance of the City Council of the City of Fife, Pierce, County, Washington, allowing the use of alternative sanitary sewer systems for security housing facilities in Industrial zones where public sanitary sewer facilities are not available, and amending Fife Municipal Code Section 13.08.060.

Motion

Councilmember Edwards moved, seconded by Councilmember Godwin, to adopt Ordinance #1644-07; Alternative Sanitary Sewer Systems for Security Housing Facilities.

Councilmember de Booy requested assurance that when sewer becomes available, connection to the sewer system will occur. Director Blount confirmed the requirement and that the amendment adds another option to the code. Historically, the City has permitted use of other exceptions as well as enforcing the provision that requires connection to the sewer system when the system becomes available.

Councilmember Godwin questioned whether the facility owner who pays for the General Facility Charge (GFC) and then becomes a participant in an LID at a later date as the property develops will receive a discount through the GFC for the cost of the LID. City Attorney Combs replied that an owner receives a credit against the GFC if the improvement constructed is included in the calculations on which the GFC was based. In this example, the facility is paying for the GFC now and any future sewer line to be constructed is not included in the current GFC, which would not result in a credit.

Motion

Motion carried unanimously.

The Council agreed to place the ordinance on the Council's consent calendar for the September 25, 2007 meeting.

#1642-07; Pacific Highway Building Height Increase

Planner Pasinetti referred to suggested changes to the proposed ordinance to include garages as a permitted use, requiring a Hearing Examiner review for buildings taller than the zoning allowance, and to extend the height limit overlay to all properties north to 12th Street East. Additionally, staff recommends allowing building height up to 60 feet without a Hearing Examiner review in Regional Commercial zones.

City Clerk/Finance Director Marcotte read the title of Ordinance #1642-07:

An ordinance of the City Council of the City of Fife, Pierce, County, Washington, amending the City's Zoning Map and Zoning Code, Fife Municipal Code 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; south to Interstate 5.

Motion

Councilmember Edwards moved, seconded by Councilmember Roscoe, to adopt Ordinance 1642-07; Pacific Highway Building Height Increase.

Councilmember Roscoe inquired about the basis for exempting a Hearing Examiner review for buildings less than 60 feet in height. Planner Pasinetti reported the goal is to spur redevelopment of the corridor by not requiring the additional timeline of approximately three months required for a Hearing Examiner review as well as the additional cost of \$5,000 for the review.

City Manager Worthington reviewed permitted uses.

Councilmember Roscoe questioned whether the proposed height overlay prior to redevelopment of property changes the calculation used to assess the value of a property. City Manager Worthington advised that it may, but until redevelopment of properties utilizing the additional height occurs, it is not likely to impact property values significantly. Most of the development occurring is single story development.

Councilmember Roscoe indicated she will be contacting property owners within the affected zoning about the proposed height overlay. City Manager Worthington advised that the proposed ordinance is for adoption.

Planner Pasinetti shared comments from several property owners regarding the proposal. One property owner does not want their property included in the overlay zone.

Mayor Kelley offered the option of having staff contact the neighborhood and provide feedback to the Council. Councilmember Edwards noted the Council received an e-mail from a citizen concerning the residential neighborhood.

One of the concerns of the Council about current zoning is that natural boundaries were not recognized creating incompatible zoning districts abutting one another. Eventually, the neighborhood will have the same problem as the area develops and industrial and commercial uses encroach on the residential area. The Council needs to consider the boundary and how it's defined because the residential area will be affected eventually.

Councilmember Cerqui said he spoke with several property owners and their main concern was whether the parcels are developable. He asked why accepted uses could not build to 90 feet. City Manager Worthington said the conditional use process allows building to 90 feet. The process considers impacts on neighboring properties and mitigates the impacts.

Councilmember Cerqui said he prefers referring the proposal to the Planning Commission to review and to consider whether the proposal is either a

detriment or a benefit to the neighborhood. The Planning Commission should solicit feedback from the Willows residential area. City Manager Worthington indicated there could be an amendment to exclude the Willows area with a request to the Planning Commission to examine its future inclusion.

Planner Pasinetti reviewed uses that are allowed in the Neighborhood Commercial zone. He noted staff's original proposal did not include the area. Councilmember Johnson pointed out that someone could buy a residential property and redevelop it as a commercial use. Planner Pasinetti said it would take several parcels to redevelop to a commercial use. Councilmember Johnson said he exchanged several e-mails with Mr. Fisher who lives in the area who expressed a desire to be excluded from the height overlay. There is concern by the neighborhood of being surrounded by 60-foot buildings.

Councilmember Johnson referred to the future State Route 167 corridor and Washington State Department of Transportation's (WSDOT) concerns regarding increased property values for right-of-way along the SR 167 corridor. He suggested excluding a section north of Highway 99 and east of 62nd Avenue. Mayor Kelley asked whether it's possible to exclude the proposed right-of-way from the proposal. Councilmember Roscoe noted the Council has stated publicly that it supports SR 167. City Attorney Combs suggested an executive session to address the question. However, generally speaking, the Council has a record of supporting the SR 167 extension. The Council also needs to consider the best interests of land use within the City by considering the length of time involved in the possible extension of SR 167.

Councilmember Godwin said he is satisfied with allowing a building up to 90 feet in height. He noted that if Sound Transit were to construct a station, 60 feet would not be adequate. He said he favors the proposal of allowing heights up to 90 feet.

Planner Pasinetti responded to questions about public outreach efforts to the community. Staff mailed out over 300 letters to all affected properties along the corridor as well as to a few parcels south of I-5. The mailing was prior to the August 28, 2007 Council meeting. The only response was from WSDOT.

Councilmember Edwards pointed out the zoning requires a 9,600 square foot lot size to develop. Most of the lots are smaller than 9,600 square feet. Before constructing a 60-foot building, an owner would need to assemble two or three lots. Currently, the code doesn't allow development of one lot. However, assembling of properties is already occurring. Redevelopment when it does occur will occur slowly. Sending the issue to the Planning Commission will not resolve the issue because the boundary will impact someone. Councilmember Johnson agreed the transition will be slow. He said he tried to solicit neighbors to attend the meeting and testify. He expressed a preference for the Planning Commission to work with the

Fife City Council Regular Meeting Minutes

September 11, 2007

Page 12 of 18

Motion

Willows neighborhood

Councilmember Cerqui moved, seconded by Councilmember Roscoe, to amend Ordinance 1642-07 to exclude the Willows neighborhood and refer the issue to the Planning Commission to reconsider the height overlay for the Willows neighborhood.

Discussion ensued on the meeting timeline for the Planning Commission to reconsider the issue.

Councilmember Roscoe said she previously committed to speaking to business and property owners, which she hasn't done. She acknowledged the importance of doing so. She also recognized that the City has undertaken due diligence in notifying property owners of the proposed height overlay including the residents of the Willows area. Often times, many people don't understand the issue or there may be a certain amount of apathy until the owner believes the threat is eminent. She said she supports the amendment to remove the neighborhood because she wants to follow through on her commitment to contact property and business owners. There are probably residents who have something to say but have elected not to testify.

Motion

The motion carried on the amendment. Councilmember de Booy abstained.

Motion

Councilmember Edwards moved, seconded by Councilmember Johnson, to amend Section E of Ordinance 1642-07 to allow building heights up to 60 feet in the Regional Commercial zone without a conditional use permit.

City Attorney Combs reviewed permitted uses in the underlying zone if the proposed height is 60 feet or less.

City Manager Worthington provided additional clarification to questions about permitted uses. City Attorney Combs added that all the uses in the underlying zone are not allowed to build to the higher height, only a specific number of permitted uses can build to the higher height. Those uses include residential, professional office, retail sales and service, parking garages, and hotels, which are permitted uses in the underlying zone and are allowed to build to a height of 60 feet without undertaking a Hearing Examiner review.

Motion

Planner Pasinetti provided a copy of the proposed language change to Section E, which was read by Councilmember Roscoe.

Motion

Motion carried on the amendment.

Motion carried on the amended main motion.

Fife City Council Regular Meeting Minutes

September 11, 2007

Page 13 of 18

RESOLUTIONS:

#1135-07; Authorize Award Valley Avenue Sidewalks/Wedge Park Phase III

Director Blount reviewed the proposed request. Construct Co. is the low bidder. He advised about the inconvenience to the public created by the construction project. The project achieves one of the Council's major goals. The proposal is approximately \$200,000 more than the original budget because of upfront utility work required instead of subsequent phases of work for conversion of aerial utilities to underground utilities.

City Clerk/Finance Director Marcotte read the title of Resolution #1135-07:

A resolution of the City Council of the City of Fife, Pierce County, Washington, authorizing the City Manager to award a construction contract with Construct Co. for sidewalk improvements on Valley Avenue East from 54th Avenue East to 62nd Avenue East in the amount of \$978,971.98.

Motion

Councilmember Edwards moved, seconded by Councilmember Roscoe, to adopt Resolution #1135-07; Authorize Award Valley Avenue Sidewalks/Wedge Park Phase III.

Councilmember Godwin asked whether the City has secured all the necessary right-of-way. Director Blount said with only one exception, all right-of-way has been secured.

Motion

Motion carried.

#1136-07 Authorize Easement Agreement with Erbes

City Clerk/Finance Director Marcotte read the title of Resolution #1136-07:

A resolution of the City Council of the City of Fife, Pierce County, Washington, ratifying the agreement with Patricia A. Erbes to purchase real property for right of way purposes.

Motion

Councilmember Edwards moved, seconded by Councilmember Roscoe, to adopt Resolution #1136-07; Authorize Easement Agreement with Erbes. Motion carried.

#1137-07; Authorize Easement Agreement with Stanberry

City Clerk/Finance Director Marcotte read the title of Resolution #1137-07:

A resolution of the City Council of the City of Fife, Pierce County, Washington, ratifying the agreement with Thomas Stanberry to purchase of a temporary construction easement for right of way purposes.

Councilmember Edwards moved, seconded by Councilmember de Booy, to adopt Resolution #1137-07; Authorize Easement Agreement with Stanberry.

Fife City Council Regular Meeting Minutes

September 11, 2007

Page 14 of 18

Director Blount said as part of the agreement, the City will narrow the existing driveway because the house is the closet to the street.

Motion

Motion carried.

#1138-07; Authorize Easement Agreement with Baubles

City Clerk/Finance Director Marcotte read the title of Resolution #1137-07:

A resolution of the City Council of the City of Fife, Pierce County, Washington, authorizing the City Manager to negotiate an agreement with Tracy Baubles and Angela Baubles to purchase real property for right of way purposes.

Councilmember Edwards moved, seconded by Councilmember Roscoe, to adopt Resolution #1138-07; Authorize Easement Agreement with Baubles. Motion carried.

#1139-07; Authorize Right of Way Agreement with Wright

City Clerk/Finance Director Marcotte read the title of Resolution #1139-07:

A resolution of the City Council of the City of Fife, Pierce County, Washington, authorizing the City Manager to negotiate an agreement with Faye A. Wright to purchase real property for right of way purposes.

Motion

Councilmember Edwards moved, seconded by Councilmember Roscoe, to adopt Resolution #1139-07; Authorize Right of Way Agreement with Wright. Motion carried.

Councilmember Godwin inquired about the remaining number of right-of-way agreements necessary. Director Blount reported there are several construction easements that may be necessary, but they are not critical to the completion of the project. No other right-of-way from any other property is necessary to complete the improvement.

#1140-07; Authorize Right of Way Agreement with ACO

City Clerk/Finance Director Marcotte read the title of Resolution #1140-07:

A resolution of the City Council of the City of Fife, Pierce County, Washington, ratifying the agreement with A.C.O. Industrial Park and ACO Fabrication, Inc. to purchase real property for right of way and utilities purposes.

Councilmember Edwards moved, seconded by Councilmember Roscoe, to adopt Resolution #1140-07; Authorize Right of Way Agreement with ACO. Motion carried.

#1142-07; 2007 Street Overlay Final Acceptance

Director Blount reported staff and the contractor conducted a final walkthrough after the staff report was printed. He asked the Council to defer action on the request or authorize the City Manager to issue a letter to the

contractor to complete the work. Some minor items need to be completed.

The Council agreed to defer action on the resolution until the contractor satisfies the requirements of the contract.

#1143-07; Authorize Approving David Evans and Associates Services for Construction Engineering of the Valley Avenue Sidewalks

Director Blount reported the typical range of engineering services is 12% to 15% of the project cost. The proposal is approximately 14% because of the complexities associated with the various properties and the utility work. Staff requests approval of Resolution #1143-07.

City Clerk/Finance Director Marcotte read the title of Resolution #1143-07:

A resolution of the City Council of the City of Fife, Pierce County, Washington, authorizing the City Manager to execute a contract with David Evans and Associates, Inc. for construction management on the Valley Avenue East Sidewalk Project.

Motion

Councilmember Edwards moved, seconded by Councilmember Cerqui, to approve Resolution #1143-07; Authorize Approving David Evans and Associates Services for Construction Engineering of the Valley Avenue Sidewalks.

Councilmember Roscoe inquired about the status of the next phase of sidewalk improvements. Director Blount reported the City does not have funding for additional sidewalk improvements nor is it included in the current five-year funding plan.

Motion

Motion carried.

NEW BUSINESS

Wapato Creek Drainage Easements

Director Blount referred to draft language the Council reviewed previously. Drainage District #21 Commissioners approved the language as well as a change for the City to be the easement "Grantee." Legal staff is recommending not approving the request from the Commissioners.

Director Blount said there was a question about the term "hazard." Staff reviewed the issue with legal staff. The term pertains to hazards to free passage of drainage. He asked the Council to direct staff to formally begin seeking signatures on the easements.

Motion

Councilmember Godwin moved, seconded by Councilmember Roscoe, to authorize staff to pursue execution of easements as currently drafted.

Councilmember Cerqui referred to the removal of hazards and obstructions (item 5) and asked whether the right to remove any physical interference within the easement area or within any portion of the property over which the

Fife City Council Regular Meeting Minutes

September 11, 2007

Page 16 of 18

creek has actually flowed within the preceding 12 months is considered the high water mark. If so, that is different than the Council's discussion of 10 feet. If it includes the high water mark, the distance could be greater than what the Council discussed. Director Blount said the issue pertains to hazards, such as downed trees or major obstructions to the passage of water. In general, routine operations are limited to 10 feet. City Attorney Combs clarified that if a flood occurred and there are hazards within the flooded area, staff can go outside the 10-foot easement to remove the hazard. However, if the Council chooses, language could be included excluding existing landscape and legal structures.

Discussion followed about the intent of the easement and that essentially, common sense applies. Director Blount noted that for all intents and purposes, the language is crafted to guide staff but not necessarily to prevent imprudent actions.

Motion

Motion carried. Councilmembers Cerqui and Johnson opposed.

CITY MANAGER REPORT

City Manager Worthington reported on the following:

A thank-you was extended to staff for their work on the 2008 budget process. The budget retreat resulted in a budget that captured the Council's direction and goals established for 2008. All Department Directors and staff were responsible for producing a successful budget in conjunction with the Council.

The budget adoption process begins in October with a planned adoption by the Council's first meeting in November.

The 54th Street to 62nd Street construction project will mean the necessary closure of the road to install pipe along the street. A full road closure is the only way to complete the work. Road closure is anticipated to cover seven days with the road scheduled to close on Monday, September 17, 2007.

The City Council received comments from residents near the Mayfair Condominium project. City staff met with residents on August 30, 2007 to discuss the concerns. A future meeting is scheduled to discuss the concerns with the developer.

Residents from Bethany Loop recently met with staff and expressed interest in annexation. Staff is working with them on different zoning considerations that might fit the neighborhood's overall needs. More work is needed. However, it may lead to a future rezone action for the City's urban growth area.

A number of citizen comments have been received about trucks on Valley Avenue north of 54th to 70th, which is a no truck zone. Some of the trucks are

Fife City Council Regular Meeting Minutes

September 11, 2007

Page 17 of 18

from City construction projects. However, there continues to be problems with other trucks. The Police Department is increasing patrol in the early morning hours to enforce the truck zone when warranted.

The City is competing in the Dragon Boat race for the Mayor's Cup. City Manager Worthington encouraged the Council's participation. Many City employees are participating and have been in training since March. Employee Bonnie Rushmire received her Dragon Boat wooden paddle because of her volunteer participation. The race is on Saturday, September 15, 2007 at 10:00 a.m. Seats are available in the boat.

City Manager Worthington requested an executive session following the Council meeting to consider a real estate matter for 30 minutes.

COUNCILMEMBER COMMENTS

Councilmember Cerqui thanked staff for meeting with residents from the Mayfair Condo area and Bethany Loop to address their concerns.

Councilmember Cerqui inquired about the project on Valley between 70th Avenue and Freeman. Director Blount reported the project is in-house street maintenance.

Councilmember de Booy commented on the opportunity to be a speaker and presenter for the Daisy Stallworth Award banquet earlier in the evening in Tillicum. She said she represented Fife. The event was hosted by the Pierce County Citizen Advisory Board.

Councilmember Roscoe inquired about the status of the citizen's issue concerning a neighbor's garbage. City Manager Worthington reported there was an initial contact with the Puyallup Tribe as the location involved tribal properties. City staff also discovered some of the garbage was in the City's rights-of way and staff took appropriate action. He said he spoke with the party and advised him of the City's contact with the Tribe.

Councilmember Johnson echoed similar comments as Councilmember Cerqui regarding staff's meeting with citizens to resolve concerns. He reported that he recently applied as a member of the Association of Washington Cities Forestry Council. He said he also sent an inquiry to the Puget Sound Partnership, responsible for the restoration of Puget Sound, which represents a 20-hour commitment.

Councilmember Edwards reported on the tri-cities (Edgewood, Milton, and Fife) meeting scheduled at Fife City Council Chambers at 7:00 p.m. on Thursday, September 13, 2007.

City Manager Worthington referred the Council to jubilee pens and other items the City will receive in time for the Fife Harvest Festival. Representative Adam Smith has been confirmed as the grand marshal for the

Fife City Council Regular Meeting Minutes

September 11, 2007

Page 18 of 18

parade.

Councilmember Johnson suggested enlarging the jubilee logo and displaying the logo at several of the City's main street intersections. City Manager Worthington acknowledged the request.

**ADJOURNMENT
TO EXECUTIVE
SESSION**

Mayor Kelley adjourned the meeting to an executive session at 9:37 p.m. to discuss a real estate matter RCW 42.30.110(b) for approximately 20 minutes. No action will be taken following the executive session.

**RECONVENE AND
ADJOURNMENT**

Mayor Kelley reconvened the meeting at 10:00 p.m. and adjourned the meeting at 10:00 p.m.

Mike Kelley, Mayor

Steve Marcotte, City Clerk/Finance Director

Prepared by Valerie Gow, Recording Secretary
Puget Sound Meeting Services