

POULSBO CITY COUNCIL MEETING OF JUNE 4, 2008
M I N U T E S

PRESENT: Mayor Quade; Councilmembers: Berry-Maraist, Erickson, Lord, McGinty, Rudolph, Stern.
Staff: Berezowsky, Brown, Diehl, Funk, Jones, Kasiniak, Loveless, Swiney, Treacher. City Attorney Belbeck.

ABSENT: Councilmember Crowder.

MAJOR BUSINESS ITEMS

- * * * Minutes of May 7, 2008 Council Meeting
- * * * Minutes of May 14, 2008 Council Meeting
- * * * Minutes of May 21, 2008 Council Meeting
- * * * Budget Amendment BA-28-0204, Lions Park Sewer Main Repair
- * * * Budget Amendment BA-28-0205, Noll Road Corridor Study Revisions
- * * * Budget Amendment BA-28-0206, Repair Garbage Truck
- * * * Budget Amendment BA-28-0207, Financial Plan in City's Comprehensive Sanitary Sewer Plan
- * * * Budget Amendment BA-28-0209, Aerial Photos
- * * * Budget Amendment BA-28-0210, Traffic Demand Management Study for Downtown Poulsbo
- * * * Budget Amendment BA-28-0211, Police Department Remodel
- * * * Budget Amendment BA-28-0212, Hotel/Motel Tax Funding for 2008 Viking Fest
- * * * Payroll – May 1-31, 2008
- * * * 7:15 PM Public Hearing: Unruh Investments LLC Latecomer's Agreement Application
- * * * Ordinance 2008-10, Unruh Investments Latecomer Agreement Final Assessment Area and Pro Rata Share
- * * * Unruh Investments LLC Latecomer's Agreement
- * * * Workshop: Annexation Approach
- * * * Award On-Call Surveying Contracts to Bush, Roed & Hitchings, Inc. and AES Consultants, Inc.
- * * * Amendment to Scope of Work for Stormwater Plan
- * * * Executive Session – Potential Litigation

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Quade called the meeting to order in the Council Chambers at 7:01 PM and lead the Pledge of Allegiance.

2. CITIZEN COMMENTS

- a. Andrew Sargent representing the "Save Our Pool" citizen group stated that the pool is scheduled to be closed at the end of August due to the school district's funding cuts. Sargent stated the public support includes the use of the pool by 10,000 people and kids learning to swim and would like the City to help with the funding.
- b. Tyler Rencher, North Kitsap/Kingston Boys Swim Captain, stated he learned to swim at the pool, has lots of memories from the pool and hopes funding can be found to save the pool.

3. CONSENT AGENDA

MOTION: Lord/Erickson. Move to approve Consent Agenda items a through l.
Motion carried unanimously. Absent: Crowder.

The items listed are:

- a. Minutes of May 7, 2008 Council Meeting
- b. Minutes of May 14, 2008 Council Meeting
- c. Minutes of May 21, 2008 Council Meeting
- d. Budget Amendment BA-28-0204, Lions Park Sewer Main Repair
- e. Budget Amendment BA-28-0205, Noll Road Corridor Study Revisions
- f. Budget Amendment BA-28-0206, Repair Garbage Truck
- g. Budget Amendment BA-28-0207, Financial Plan in City's Comprehensive Sanitary Sewer Plan
- h. Budget Amendment BA-28-0209, Aerial Photos
- i. Budget Amendment BA-28-0210, Traffic Demand Management Study for Downtown Poulsbo
- j. Budget Amendment BA-28-0211, Police Department Remodel
- k. Budget Amendment BA-28-0212, Hotel/Motel Tax Funding for 2008 Viking Fest
- l. Payroll – May 1-31, 2008

4. MAJOR BUSINESS ITEMS

a. Award On-Call Surveying Contracts to Bush, Roed & Hitchings, Inc. and AES Consultants, Inc.

City Engineer Kasiniak reported on the advertisement for surveying services in which twelve applications were received and reviewed by Engineering, Public Works, & Planning. Bush, Roed & Hitchings, Inc. received 237 points and AES Consultants, Inc. received 236 points. The Public Works Committee recommended the contract be awarded to the top two points earners.

MOTION: McGinty/Lord. Move to approve and authorize the Mayor to sign the On-Call Professional Surveying Services contracts with Bush, Roed & Hitchings, Inc. and AES Consultants, Inc. to help supplement the City's staff resources in completing projects.

Motion carried unanimously. Absent: Crowder.

b. Amendment to Scope of Work for Stormwater Plan

Public Works Director Loveless asked for a contract amendment to the Comprehensive Stormwater Plan for work not included in the original contract. A series of items were not performed in the amount of \$1,600 and additional items have been proposed for addition to the amendment in the amount of \$6,600 to incorporate the items identified after the 2008 storm. Loveless asked for the authority to carry forward a contract amendment.

Councilmember Berry-Maraist noted that Table 1 shows a credit for a public process and asked for clarification as to whether or not a public process was not going to be deleted from the current plan. Loveless stated a public process would still be conducted.

MOTION: Berry-Maraist/McGinty. Move to authorize Amendment No. 2 to the consultant's scope of work in order to finalize the Comprehensive Stormwater Plan.

Motion carried unanimously. Absent: Crowder.

c. Public Hearing: Unruh Investments LLC Latecomer's Agreement Application

At 7:15 PM Mayor Quade opened the public hearing.

City Engineer Kasiniak stated the application has five different components.

1. Sewer Benefit: 1800 linear feet of sewer line installed along Viking Avenue for the Vetter Homestead Plat and included crossing under State Highway 305. There are 128 lots in benefit area, improvements in the amount of \$416,275.45.
2. Stormwater Benefit: upgrading the culverts and basins to handle the flow from the benefiting area. There are 30 lots in benefit area, improvements in the amount of \$88,322.99.
3. Sewer Benefit #2: sewer improvements on Vetter Road and Cooperation Way. There are 5 lots in benefit area, improvements in the amount of \$68,756.88.
4. Stormwater Bypass Pipe: 19 acres in the benefit area, improvements in the amount of \$48,786.21.

5. Road and Water Improvements: included Vetter Road and Cooperation Way and provided an eight inch water main. There are 221 lots in the benefit area, improvements in the amount of \$351,256.34.

Councilmember Stern questioned why this did not go through the Public Works Committee first for a more in depth look.

Councilmember Berry-Maraist questioned rather collecting latecomers fees for stormwater was not allowed in our ordinance. City Attorney Belbeck stated that they are but only if they are a portion street improvements. Berry-Maraist questioned whether there is a standard in the different options used to determine the calculations. City Attorney Belbeck stated the State law does not address the methodology but typically frontage and road improvements are done by the linear foot and larger areas are done by the acre.

Ron Templeton stated it was difficult to calculate the sewer components due to the different zoning in the benefit areas and calculations were modified to fit commercial and residential. Templeton addressed the letter submitted by William Lynn in regards to the objection on the assessments being allocated to the Vetter Homestead;

- Regarding the first claim that the Vetter Road, LLC cannot be assessed the costs of the street improvements because they were not supported by an ordinance. Templeton stated the City does have an ordinance in place that allows the planning staff to require dedications of public right of ways in connection with a plat. In his opinion this ordinance supports the street improvement reimbursement Mr. Unruh seeks.
- In the second claim Vetter Road, LLC claims they shall not have to pay the assessment for water and sewer until each home is constructed on the individual lots. Templeton states that State law says the assessments are to be paid on the earlier of one of two things: 1) issuance of a permit such as final plat approval, and 2) the benefited owner taps on to or use the benefited facilities. Templeton stated he feels the claims are unfounded and seeks Council approval.

Doug Mekalsen, 21663 Vetter Road stated he has a small piece of property at the end of the benefit area and wishes to be left off the latecomer agreement. He has an adequate supply of water, a functioning septic system and has no intention of connecting to City water and sewer. Mekalsen questioned being assessed the sewer availability charge since he is 246 feet away from the sewer line. Public Works Director Loveless stated the sewer line was measured to be 146 feet from Mr. Mekalsen's property line. Berry-Maraist questioned when Mr. Mekalsen would be required to pay the latecomer assessment. City Attorney Belbeck responded he would only be subject to the latecomer assessment if he decides to connect to the system and he would be charged the sewer availability

charge if he is within 200 feet of the sewer line. Belbeck noted it will show on his title there is a latecomer agreement in effect and if the property is developed or he decides to connect to the system the assessment will be charged and this is valid for a fifteen year period.

Vetter Road, LLC attorney William Lynn stated he objects to the latecomer agreement which will result in approximately \$400,000 in assessments. Lynn stated they have three concerns: 1) When charges are imposed, the ordinance states payment will be due when property owners tap into or use the improvements. Lynn noted the State statute says you can not be granted a permit, tap into or use any improvements without first paying and 2) Whether the City could charge the \$200,000 to his client for road improvements. The State statute and the City code are very explicit in that an ordinance be in place requiring the road project as a condition to the development. Lynn claimed there was no advanced notice given to property owners in the way of an ordinance.

City Attorney Belbeck stated if it is determined the property is adjacent and you connect to the system you have to pay. Poulsbo Municipal Code (PMC) 17.08.080 states a sub divider shall develop all streets within or outside the sub division in compliance with City standards and these improvements are conditions of approval at the preliminary plat stage. The ordinance directs improvements be made in the preliminary plat stage, creating a condition of development and this creates notice.

Councilmember Erickson requested clarification on the legality of passing along the 7% overhead charge. City Attorney Belbeck stated the code allows for the cost of the improvements to be included in reimbursement and the city attorney's office has determined the overhead charge was part of the cost of the improvement.

Councilmember Berry-Maraist stated all the other costs are documented costs and feels the developer's construction management costs are different from those documented costs. When a developer creates a latecomer agreement they realize most of the property owners are not reimburse payment, because they are not going to develop their property. Berry-Maraist noted it is important the developers who provide the improvements know the City will back them because the city cannot afford the improvements without the developers participation.

Harley Unruh thanked the staff for their hard work on this agreement.

Ronald Templeton thanked the city attorney for her comments and pointed out the Comprehensive Plan Circulation Plan Map lists Vetter Road and shows it was a known improvement to be made to this area. Templeton explained the difference between General Authority and Specific Authority as being; General

Authority which is derived from the planning and enabling ordinance where general health safety and welfare issues are addressed; and Specific Authority is when there is an ordinance that lets you take specific actions. Templeton noted RCW 35.72.030 states the reimbursement is a pro rata cost of construction and contract administration cost of the project is where the authority is given to recuperate those costs.

MOTION: Lord/Rudolph. Move to close the Public Hearing.
Motion carried unanimously. Absent: Crowder.

Councilmember Rudolph agreed with Councilmember Berry-Marist in the importance of latecomer agreements. Rudolph stated he feels the acreage based costs for stormwater, sewer and water are more appropriate and fair for property owners with long narrow properties as opposed to the frontage aspect based costs. Rudolph noted there are three available benefit options to fund growth; 1) Funding by the taxpayer which taxpayers do not want to be burdened with funding growth, 2) Latecomer Agreements where a developer is willing to front the costs for the improvements, and 3) Local Improvement Districts (LID) which require a 50% vote and forces property owners to pay a fee for development. Rudolph stated he feels latecomer agreements are the most fair of the three available benefit options since under a latecomer agreement you only pay if you benefit as opposed to the LID where you pay and might never benefit.

Berry-Marist stated this latecomer agreement is very complex and the City has shown a great effort to be fair in their calculations and feels it is important to know property owners do not have to pay until they use the service.

Councilmember Lord requested clarification on when the payment is triggered and if payment is due when there is final plat approval. City Attorney Belbeck stated payment would be due no later than final plat approval since this would be when the service would be being used.

Councilmember Stern questioned why latecomer agreements are not put to the Public Works Committee before coming to Council for a public hearing. Planning Director Berezowsky stated it has not been policy to bring specific projects to the committee, but more policy related questions or issues to get direction from the committee for refinement. City Attorney Belbeck stated bringing specific projects to the Public Works Committee would be a policy decision and legally makes no difference. Councilmember Lord stated all Councilmembers would need the information provided on specific projects and taking it to a committee of three would still require it to be relayed to the other four councilmembers to bring them up to speed. City Engineer Kasiniak stated the Engineering Department is

working on an ordinance dealing with the procedure on giving notice with regards to the intent of creating improvements and filing latecomer agreements.

MOTION: McGinty/Erickson. Move to adopt the final determination of the reimbursement area boundaries and assessments related to the improvements constructed by Unruh Investments for Vetter Homestead as recommended by the City Engineer.

Motion carried unanimously. Absent: Crowder.

d. Ordinance 2008-10, Unruh Investment Latecomers Agreement Final Assessment Area and Pro Rata Share

MOTION: Lord/McGinty. Move to approve and authorize Mayor Quade to sign Ordinance 2008-10 Final Assessment Area and Pro Rata Share for the Unruh Investments, LLC Latecomer Agreement #63 for street and/or utility improvements between the City of Poulsbo and Unruh Investments, LLC.

Motion carried unanimously. Absent: Crowder.

e. Unruh Investments LLC Latecomer's Agreement

MOTION: McGinty/Lord. Move to approve and authorize Mayor Quade to sign the Latecomer Agreement #63 for street and/or utility improvements between the City of Poulsbo and Unruh Investments, LLC.

Motion carried unanimously. Absent: Crowder.

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Mayor Quade recessed the meeting at 8:16 PM. The meeting was reconvened at 8:24 PM.

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f. Workshop: Annexation Approach

Councilmember Rudolph reported on the twelve member annexation task force and noted the Completed Plan of Action Milestones:

- April 9-20, 2008: information gathering and working group membership establishment.
- April 21, 2008: kick off meeting regarding the purpose of the annexation task force, back ground, and proposed schedule. Review and discussion of functional plan updates and polices for system connections.
- April 28, 2008: discussion of annexation issues – orderly development and environmental protection.
- May 5, 2008: discussion of annexation issues – clarification of annexation versus development issues.

- May 12, 2008: conducted a roundtable with public regarding issues / concerns about annexation.
- May 19 & 26, 2008: public education and outreach approach.

Remaining Plans of Action Milestones:

- June 4, 2008: annexation approach council workshop.
- June 9, 2008: review and incorporation of comments from workshop.
- June 16 & 23, 2008: final annexation approach recommendations.

Final annexation approach recommendations were:

- New and or changes to the annexation polices.
- Improvements to annexation process.
- Any specific recommendations for annexation of area east of SR 3 and south of Finn Hill.
- Record of task force discussion and minutes of meetings.

Task force recommendations:

1. Improved communication:
 - a. Involving an extensive question and answer document;
 - b. New public notification procedure that includes the petitioner contacting everyone in the area by mail within 30 days of the council allowing the petition and holding a community meeting within 60 days of the city council granting the petitioners request.
2. Protection of the Urban Growth Area (UGA) from an un-equal up zoning to achieve population targets:
 - a. There was concern that the city might up zone areas of the UGA to compensate for underachieving targeted growth and residents in this area are non voters and would not have a voice in the decision;
 - b. Adopting a policy that the city will treat zoning decisions within the city and the UGA with equal care and concern and if changes are necessary they will be handled in a city/uga wide process.

Policy issues for Council discussion are:

1. Defining the annexations Boundary:
 - a. There was agreement on requiring future annexation of the entire contiguous UGA for each of the stand alone portions, but there was no consensus on how to handle the large area south of Finn Hill and east of SR 3;
 - b. Establishing a policy to guide annexation boundaries for this area.

2. Tax Exemptions (continued and new) that avoid development and lower individual property taxes:
 - a. Continue to allow continued tax exemptions and continue to as temporary land use classification;
 - b. Should temporary down zoning and or zoning or a special zoning be allowed since there are options to reduce taxes through open space or other tax designation from county assessor's office. Annexation should not increase taxable land value unless and until city services are extended to the neighborhood;
 - c. Should the comprehensive plan allow for exemptions and should council permit new permanent dedications; this reduces individual property tax impacts, but affects the available developable land and could affect achieving target population growth and cause a need for higher density in the rest of the city.

3. Construction of a single residence on large lots:
 - a. It would result in short term development well below the target densities, it is not required either pre planning on large lots or a short plat to allow for construction of a single residence on an existing lot;
 - b. Should the city establish a policy for pre-planning or short plat to promote orderly development in achieving target growth? The city attorney has stated that there is no legal basis in state law to deny building a single residence on a large lot.

Marilyn Miller stated she was in favor of annexation of the westside and was under the assumption if a property owner did not develop their property their tax rate would not change. Miller stated she feels the citizens should not be burdened with finding tax relief when annexed. Planning Director Berezowsky stated the City could annex people that do not want to develop and he does not believe the City can ask for tax relief on properties the City does not own in an effort to help with the tax burden that will be placed on those people who did not wish to be annexed.

Bob Hawkinson stated the City will get smaller piecemeal annexations if a tax relief is not created for people who do not wish to develop. Hawkinson stated these areas are not going to be built out right away, but are being taxed as if they were going to and he feels it is wrong to get three times the taxes just because you become annexed into the City. Hawkinson stated he would like to see the City come up with a process where people are not taxed until they develop.

Kurt Nordberg stated property in excess of ½ acre is affected in taxes not five acres like Councilmember Stern stated. Nordberg stated he feels annexation is about the people not developers and would like to see the Councilmembers stand up for people in the Urban Growth Area (UGA) since they have no voting right and will ultimately be a part of the City one day.

Councilmember Erickson thanked the task force for all their hard work.

Councilmember Rudolph stated he would like to bring the task force decision to the Council in one of the first two meetings in July.

Councilmember Stern commented on the sentence in the annexation task force report which read "during our conversation it became apparent that developer pre-application conferences had occurred before annexation occurred." And felt annexation is a question of jurisdiction and should not be confused with development. Stern stated he would like to see the answers to the following questions looked into by the task force with regards to the question of jurisdiction or development:

- Does the city routinely hold pre-application conferences for development of land?
- Are pre-application meetings open to the public and if so what role does the public maintain in the meetings?

Councilmember Berry-Maraist expressed concern over requiring annexations to be contiguous and feels this would create different rules for different people. Berry-Maraist stated she feels making annexation contiguous, makes annexation more difficult and expressed concern about a comment that was brought up at the task force meeting about being annexed and immediately having a development come in. Berry-Maraist questioned if there a way of doing a "pause", so that if a property was annexed, it could not immediately be developed. She would like to see this looked into by the task force.

Councilmember McGinty stated the reason the City has the odd shapes in the Urban Growth Area is because those property owners did not wish to be annexed, and questioned how the City deals with that. McGinty stated the motivation for annexation is having plans for development, and questioned how the City motivates property owners to annex without a benefit.

5. COUNCILMEMBER COMMENTS

- a.** Councilmember Stern stated the Finance/Administration Committee was looking into short and long term solutions in regards to the "Save the Pool" campaign and it will be discussed further at their next meeting.

- b. Councilmember Berry-Maraist stated she went to the Parks and Recreation Committee board meeting where they recommended Mary McCluskey be nominated for the National Parks and Recreation Association Pacific Northwest Regional Professional Award. Berry-Marist asked the Mayor to submit a letter on McCluskey's behalf in support of her for this award.

6. EXECUTIVE SESSION AND ADJOURNMENT

Mayor Quade called for a 30-minute Executive Session for the purpose of discussing potential litigation (RCW at 9:42 PM).

MOTION: Stern/McGinty. Move to adjourn the meeting following the executive session.

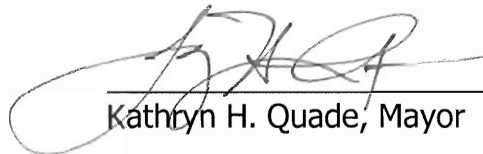
Motion carried unanimously. Absent: Crowder.

Mayor Quade extended the Executive Session for an additional 15 minutes and automatically adjourned meeting at 10:28 PM.

ATTEST:



Jill Boltz, City Clerk



Kathryn H. Quade, Mayor

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