

COUNCIL MINUTES

Regular Meeting September 16, 2003

Mayor Kenneth J. Kilroy called the regular meeting of the Sammamish City Council to order at 7:30 pm.

Councilmembers present: Mayor Kenneth J. Kilroy, Deputy Mayor Ron Haworth, Councilmembers Jack Barry, Don Gerend, Kathleen Huckabay, Michele Petitti and Troy Romero (arrived at 7:30 pm).

Staff present: City Manager Ben Yazici, Director of Community Development Ray Gilmore, Deputy Director, Community Development Susan Cezar, Police Chief Richard Baranzini, Communications Manager Tim Larson, City Attorney Bruce Disend and City Clerk Melonie Anderson.

Roll Call/Pledge

Roll was called. 2003/2004 Student Liaisons Amber Hargraves, Lindsey Bull and Alex Madison led the pledge.

Approval of Agenda

MOTION: Councilmember Gerend moved to amend the agenda by removing the September 2, 2003 minutes from the Consent Agenda. Councilmember Petitti seconded the motion. Motion carried unanimously 7-0.

Presentations/Proclamations

➤ **Recognition of Evergreen Ford Dealership for vehicle donation**

Mayor Kilroy presented Dan Rowe, owner of Evergreen Ford in Issaquah with a certificate of appreciation for the donation of the use of a 2003 Ford Expedition. This vehicle will be used for the promotion of youth activities.

Council recessed for five minutes while Chief Richard Baranzini held a dedication ceremony for the new vehicle.

➤ **Issaquah School District**

Steve Crawford and Dean Mack, Issaquah School District employees answered Council questions regard the Capital Facilities Plan and proposed mitigation fees for 2004. Councilmember Gerend asked why is there a need to increase the impact fees since, according to the plan; bonds have funded all improvements. Mr. Mack responded that capital improvements are funded from three sources; state matching funds, bonds and impact fees. The current plan assumes that impact fees will continue to be collected to fund the projects. Impact fees are calculated every year based on a formula that is provided by King County.

Councilmember Gerend questioned whether the school district might be overbuilding. They responded that as enrollment declines, the portable structures would be removed.

MAYOR/COUNCIL/COMMITTEE REPORTS

- *Public Safety Committee (Councilmember Gerend):* He attended the Eastside Transportation meeting. They approved the use of funds for the proposed improvement package to come from the following sources: sales tax increase of ½ percent, \$50 vehicle license fee, 3/10 percent vehicle excise tax and 2.8 cents local option gas tax to generate \$9 billion for eastside projects including 244th SE. This might be a hard package to sell to the public but it will be on the ballot next year.
- *Finance Committee (Councilmember Barry):* August financial report was presented. Revenues and expenses are as projected with the exception of the Real Estate Excise Tax that is \$900,000 higher than projected. The investment account has earned \$655,000 in interest. The committee studied the contract amendment with the State Department of Licensing to allow for renewal of City Business licenses by credit card. This amendment is on the agenda for tonight and the committee recommends approval. The budget has received another award. Study sessions are being scheduled to consider budget adjustments for 2004.
- *Community Development Committee (Councilmember Huckabay):* The committee considered a request from a karate school for a Conditional Use Permit (CUP) to build a new school. The committee determined that the school did qualify for the CUP because they offer classes that are approved for PE credit in the public schools. Councilmember Huckabay and Gerend attended the Suburban Cities Association meeting. This organization provides significant services to this city and brings all the suburban cities together. They may need to increase their staffing.
- *Public Works Committee (Councilmember Petitti):* No report.
- *Legislative Committee (Councilmember Romero):* No report.
- *Mayor Report:* No report

PUBLIC COMMENT:

Bob Hamilton, 3931 E. Lake Sammamish Parkway NE, he lives next door to city-owned waterfront property and he considers it a public nuisance. He handed out pictures showing the garbage and graffiti on city property and wants to know what the city plans to do about the problem.

John Galvin, 432 228th Avenue SE, He asked if there were any forums planned for the council candidates to answer questions from the public and to state their position on the issues.

CONSENT CALENDAR

- 1) Payroll for pay period ending August 31, 2003 for pay date September 5,**

2003 in the amount of \$140,249.47.

- 2) Claims for period ending September 15, 2003 in the amount of \$1,760,039.54 for Check No. 8570 through Check No. 8677**
- 3) Amendment: Interlocal with Washington State Master Licensing Service/Business Licenses**

MOTION: Councilmember Romero moved to approve the consent calendar. Councilmember Gerend seconded. Motion carried unanimously 7-0.

MOTION: Councilmember Gerend made corrections to the minutes and moved to approve the minutes as corrected. Councilmember Romero seconded. Motion carried unanimously 7-0.

Unfinished Business

Ordinance: Second Reading Relating To School Impact Fees In The City; Amending Chapter 20.12 (Impact Fees) Of The Sammamish Interim Development Code; And Adopting The Issaquah School District No. 411 Capital Facilities Plan And Impact Fee Schedule For 2004(2003-129).

Community Development Director Ray Gilmore gave the staff report. This is the second reading of the ordinance and staff is recommending approval. The fees, as of January 1st will be increased \$693 for single-family homes and decreased \$25 for multi-family.

MOTION: Deputy Mayor Haworth moved to approve the ordinance relating to Issaquah School District proposed Capital Facilities Plan and Impact Fee Schedule for 2004. Councilmember Huckabay seconded. Motion carried unanimously 7-0 (O2003-129).

Ordinance: Second Reading Adopting the City of Sammamish Comprehensive Plan

Mr. Gilmore gave the staff report. The last public hearing was conducted on July 30, 2003. Adoption of this plan will allow the Planning Commission to start work on the areas of significance such as the Sammamish Commons sub area plan and proposed down zoning. There are some minor changes recommended by staff to correct some errors. Four new policies were added concerning protection for landowners in the proposed subarea plan. Staff is recommending some language regarding the length of concurrency that addresses both sides of the issue between three and six year concurrency by adding the term “or less” and adding a new policy that gives the Council some flexibility.

Councilmember Gerend questioned whether the city requires a binding agreement because the city has a two-year budget. Mr. Gilmore says that the Six-Year Plan is the commitment.

City Attorney Bruce Disend recommended further study on this issue before committing to it, perhaps at a study session.

Councilmember Huckabay recommended adding the words “within three to six years”. It doesn’t change the impact of the policy but does show the city’s commitment to concurrency in a timely manner.

Deputy Mayor Haworth asked if the council could apply concurrency on a project-by-project basis, leaving the length at six years. Mr. Disend recommended against it.

Councilmember Petitti also expressed concern that the transportation plan will not be a binding agreement to provide for concurrency of projects.

Public Comment

Nancy Rodgers (Representing Cairncross & ~~Hemlemen~~Hempelmann) She was representing landowners along 228th (Morelli and Kamp Families). They are requesting additional criteria be included in Land Use Policy LU9.1.A allowing the Planning Commission flexibility when considering downzoning the SO180/SO190 areas. They are also requesting revision of Land Use Policy 2.2d(2) to provide flexibility to the Planning Commission when considering rezoning of commercial areas.

MOTION: Councilmember Romero moved to adopt the ordinance adopting the Comprehensive Plan. Deputy Mayor Romero seconded.

AMENDMENT: Councilmember Huckabay moved to revise Transportation Policy 7.3.2(a) to include the words “within 3-6 years” and Item 4 within that policy should be changed to include the words “within 3-6 years” and section B will be revised to “The City shall consider, in developing the concurrency management ordinance whether a concurrency period within 3-6 years is appropriate and whether specific concurrency periods can be implemented by the City on a project specific basis”. Councilmember Gerend seconded. Motion failed 3-4 with Mayor Kilroy, Deputy Mayor Haworth and Councilmembers Barry and Romero dissenting.

Deputy Mayor Haworth will vote against this unless the wording is changed to “within” six years.

Councilmember Romero has concerns about whether a three-year concurrency is even practical. He also questioned Mr. Disend as to whether this could be challenged. Mr. Disend explained the Comprehensive Plan is not an implementing document. Subsequent ordinances will be the enabling legislative and will take precedence over the Comprehensive Plan.

AMENDMENT: Councilmember Gerend moved to amend the Comprehensive Plan to change the following two “shoulds” to “shalls” in the following areas: LUP 9.1(d) owners of property subject to ~~potential-potential~~ R-1 downzone areas shall be contacted. Councilmember Petitti seconded. Motion carried 6-1 with Councilmember Romero dissenting.

Councilmember Romero voted against the amendment because he believes the document to be fluid and time should not be taken on individual concerns tonight. The document should be voted on as a whole.

Councilmember Gerend responded that this is a very sensitive issue and should be corrected now.

Mr. Disend again reminded Council that this document is not the implementing document. Later ordinances ~~are~~ will take precedence over the Comprehensive Plan.

Councilmember Romero believes “should” is as strong a word as “shall” but leaves more flexibility.

MAIN MOTION: Approval of the Comprehensive Plan as amended carried 6-1 with Councilmember Huckabay dissenting (O2003-130).

Councilmember Huckabay congratulated the Planning Advisory Board on the strong document they have developed. She regrets that the Council has ~~weekend-weakened~~ the plan by the eliminating the ability to reduce the length of concurrency. For this reason she will vote against the plan.

MOTION: Councilmember Gerend moved to direct the Community Development Committee in 2004 to review the issue of “shall” vs “should” in every instance or refer it to the Planning Commission to do so and make recommendation to the Council. Councilmember Huckabay seconded.

Councilmembers Barry, Mayor Kilroy and Deputy Mayor Haworth think it should be referred to the Planning Commission.

AMENDMENT: Deputy Mayor Haworth moved to amend the motion by referring this to the Planning Commission. Councilmember Barry seconded. Motion failed 3-4 with Councilmembers Gerend, Huckabay, Petitti, and Romero dissenting.

Councilmember Romero thinks the Planning Commission will have too much to do to take on this project.

Councilmember Petitti thinks the Planning Commission could benefit from recommendations the Community Development Committee could give them.

MOTION: Councilmember Gerend moved to direct the CDC to complete the review before the end of 2004. Councilmember Romero seconded.

City Manager Yazici said that the Planning Commission will be required to study any issue that affects the Comprehensive Plan before Council can vote on it.

MOTION: Councilmember Haworth moved to table. Councilmember Romero seconded. Motion passed 4-3 with Councilmembers Gerend, Huckabay and Petitti dissenting.

Councilmember Romero said he voted to table to give the Council time to review the ordinance creating the Planning Commission to verify they do have to study the issues before they come to Council.

Council recessed from 9:10 pm to 9:15 pm.

New Business

Hardship Exception: Griff (22609 SE 32nd Street)

Mr. Gilmore gave the staff report. This request for hardship exception from the moratorium is to subdivide approximately 1.9 acres.

Paul Griff, 12104 NE 33rd Street, Bellevue, spoke on behalf of his mother, Marshay Anshell, the owner of the property. They are requesting exception due to loss of employment. They have already received water certificates although they are not sure when they expire.

MOTION: Deputy Mayor Haworth moved to approve the hardship exception. Councilmember Petitti seconded. Motion carried unanimously 7-0.

Councilmember Gerend pointed out that widening the narrow part of the property could impact the City's ability to widen the road in the future.

Councilmember Barry felt that Ms. Anshell was experiencing a hardship.

AMENDMENT: Councilmember Huckabay moved to amend the hardship exception to be granted only if the water certificates are still valid. Councilmember Romero seconded. Motion carried 4-3 with Mayor Kilroy, Deputy Mayor Haworth and Councilmember Barry dissenting.

Hardship Exception: Wallinger (24218 NE 20th)

Mr. Gilmore gave the staff report. The hardship exception to the moratorium is to subdivide one acre into a three-lot short plat.

Mike Wallinger, 24218 NE 20th St, explained the hardship. He has recently suffered substantial losses due to the poor economy. He has secured some financial backing for the project, but must move on developing it soon, or the backer will withdraw his support. He has secured water rights.

Councilmember Gerend asked if he would be selling the property to a builder. Mr. Wallinger said he would. Councilmember Gerend also asked why and how water certificates were secured before the property was purchased. Mr. Wallinger explained it was a special purchase with the previous owner.

MOTION: Councilmember Barry moved to approve the hardship exception. Deputy Mayor Haworth seconded. Motion carried unanimously 7-0.

Ordinance: First Reading Adopting the City of Sammamish Municipal Code.

Deputy Director, Community Development, Susan Cezar gave the staff report. This is the first reading of an ordinance to codify the City's existing ordinances into a municipal code. Edits

to the City's general ordinances to eliminate conflicts and inconsistencies and to clarify the language of the ordinances have been made. No action is recommended at this time. A public hearing and the second reading of the ordinance are scheduled for October 7, 2003.

Contract Amendment: Herrera/ECHS Environmental Impact Statement.

Mr. Gilmore gave the staff report. The consultant has requested additional studies be conducted to help develop the Environmental Impact Statement for the building of the high school. There is no financial impact to the City as Eastside Catholic is essentially paying for the services of this consultant. Staff is recommending approval to amend the contract by adding an additional \$19,500, bringing the total contract to \$228,256.

MOTION: Deputy Mayor Haworth moved to authorize the City Manager to sign the amendment with Herrera Consultants in an amount not to exceed \$19,500. Councilmember Petitti seconded. Motion carried unanimously 7-0.

City Manager Report

Mr. Yazici gave the Council a draft of the City's first Recreation Guide. When completed, this guide will be mailed to all residents of the city.

Mr. Yazici sadly informed the Council that Public Works Director John Cunningham will be retiring on January 15, 2004. He will be greatly missed.

Concerning the calendar of meetings for November, Mr. Yazici requested each Councilmember to check their availability because he is in the process of scheduling meetings to study the proposed 2004 budget.

Washington State Department of Transportation is accelerating the SR520 flyover project, but only the legislature can alter the schedule for construction. Mr. Yazici has met with both Senator Dino Rossi and Senator Bill Finkbeiner to help develop a schedule to propose at the next legislative session.

The bid opening for the sidewalk project on SE 24th will be September 17, with construction to begin shortly ~~there after.~~thereafter. However, to keep on schedule, it will not be possible to wait until the next Council meeting for Council to award the bid. Mr. Yazici asked for the authority to award the bid if it is within 10% of the engineer's estimate.

MOTION: Councilmember Haworth moved to allow the City Manager to award the contract for the SE 24th Street sidewalk project if the bid is within 10% of the engineer's estimate. Councilmember Petitti seconded. Motion carried unanimously 7-0.

Councilmember Haworth asked the Council and staff to consider starting a garden that would be developed and maintained by the community. He suggested using the Galley property for this purpose.

The development of Ebright Creek Park will be scheduled for an upcoming study session if that is possible while the project is being appealed.

Executive Session – Potential Litigation pursuant to RCW 42.30.110(1)(i) and Personnel pursuant to RCW 42.30.110(g)

Council retired to Executive Session at 9:45 pm. They returned at 10:15 pm. No action was taken.

Adjournment – Mayor Kilroy adjourned the meeting at 10:15 pm

Melonie Anderson, City Clerk

Kenneth J. Kilroy, Mayor