

**City of Puyallup**  
**Regular Session of the City Council**  
**Deputy Mayor Martin Presiding**  
**Monday, June 5, 2006**  
**5:30 p.m.**

**Councilmembers Present:** Deputy Mayor Martin, Councilmember Turner, Councilmember Malloy, Councilmember Dill, Councilmember Offenbecher

**Staff Present:** City Manager Jim Bacon, City Attorney Gary McLean, Fire Chief Merle Frank, Deputy Fire Chief Ruth Obadal

Council, Mr. Bacon, Mr. McLean, Fire Chief Frank, Deputy Fire Chief Obadal recessed to executive session at 5:30 p.m. to discuss labor relations, litigation, and property acquisition. Also included was Mr. Bruce Schroeder.

At 7:00 p.m. the executive session adjourned. No action was taken. The council then moved into the regular business meeting.

**Staff Present:** City Manager Jim Bacon, City Attorney Gary McLean, City Clerk Barbara Price, Executive Assistant Stephana Coffey, Public Affairs Officer Glenda Carino, Bailiff Warren Hartle, Parks and Recreation Director Ralph Dannenberg, Assistant City Attorney Brett Vinson, Finance Director Scott McCarty, Deputy Fire Chief for Training Kelvin Johnson, Various members of the city's fire department

**Council Action:** A motion was made by Councilmember Turner, second by Councilmember Malloy, to excuse the absence of Mayor Deal and Councilmember Brouillet. The motion passed 5-0.

**APPROVAL OF THE AGENDA**

**Council Action:** A motion was made by Councilmember Malloy, second by Councilmember Offenbecher, to approve the agenda as submitted. The motion passed 5-0.

**CONSIDERATION OF THE MINUTES**

**Council Action:** A motion was made by Councilmember Turner, second by Councilmember Offenbecher, to approve the minutes of May 15, and May 22, 2006, as submitted; and to postpone consideration of the May 8, 2006 minutes subject to changes. The motion passed 5-0.

Deputy Mayor Martin asked that a moment of silence be observed for the passing of David Potter of the city's fire department. Mr. McLean spoke of Mr. Potter's importance and presence in the community and in the fire department, and commented on the show of support by fire department staff in attendance. He added that all in the city would mourn his passing and condolences were extended to his family.

Mr. McLean stated that the city would not be pursuing any appeal on its own behalf. He wanted to set the record straight by pointing out that the city's excess insurance carrier could choose to appeal the claim. In response to questions from Councilmember Turner, Mr. McLean noted that the appeal must be filed within sixty days, and that some of that period has already lapsed.

Deputy Mayor Martin noted the young students and Boy Scouts in attendance.

### **CITIZEN COMMENTS**

Ms. Tiffany Potter, 624 15<sup>th</sup> Street, Puyallup, eldest daughter of Mr. Potter, spoke about her father's career with the City of Puyallup Fire Department and of the pride and dedication he brought to his profession. She talked about his injuries and illnesses resulting from his career, and although he had survived various set backs, he was unable to beat the cancer that took his life.

Mr. Dennis Lawson, representing IAFF #726, and on behalf of the Washington State Council of Firefighters, referred to the state law under RCW 51.32.185 and stated that the local union was shocked to learn that the city had appealed the Labor and Industries (L&I) claim, and it had been overturned twice by the State of Washington. He thanked the city for the determination that the L&I claim would not be appealed by the city, and talked about city staff as family. He also spoke of his concern that Mr. Potter had been worried during his last days that the city would prevail on denying his L&I claim. He added that Local #726 was concerned for the Potter family and ensuring that Mr. Potter's rights be maintained. He also questioned the city council on their knowledge of the denial of claims, and if they had received information on the matter. He questioned why the council may not have been involved in the decision to deny the claim, and asked that his questions be answered at an open public meeting, rather than being discussed at an executive session.

In response to Councilmember Turner, Mr. McLean explained that there are several steps that must occur before an appeal can occur before the Board of Industrial Insurance Appeals. He explained that there had been a determination and a request for reconsideration, but never an appeal. He added that the city's decision to not pursue an appeal on its own behalf was made by staff and that council has made no decisions in executive session regarding this issue. He also stated that the city's excess insurance carrier was able to appeal a claim, and it would run out at some point within sixty days following the Thursday before last Thursday.

He also responded to a question from Mr. Lawson explaining that the same situation could arise with an opportunity to appeal, even if the city was not self-insured. He added that a public memorial service for Mr. Potter would be conducted in the next week, would be an official city event, and would be noticed on the city website, allowing Mr. Potter to receive the respect, honor and recognition to which he is entitled.

Mr. Howard Schick, 502 19<sup>th</sup> Street NW, Puyallup, discussed his concerns with impact fees for schools and roads. He related his mathematical calculations that showed for a new development in his neighborhood of 42 homes on eight acres of land: school impact fees would be \$1700 per lot, resulting in \$71,400. Street impact fees from the same area would be \$3,000 per lot and he did not feel that the current regulations provided enough revenue to offset the costs of development and expansion for schools and streets. He asked that the council consider a one percent impact fee for new development based on the value of the development for schools and streets. He acknowledged that he had attended school board meetings, and would need to attend the Pierce County Council meetings to address impact fees for those areas currently located in the county.

Mr. Robert Lord, 206 7<sup>th</sup> Avenue NW, Puyallup, stated that he had a hard time believing that a local neighborhood issue such as streets would receive much attention from at-large council representatives over those elected by district. He asked that the voters be given an opportunity to make the decision on at-large versus district representation, and stated that if the system was not broke, there was no need to fix it, and there was no reason for Puyallup to change.

Mr. Fred Meyer, 445 19<sup>th</sup> Street NW, Puyallup, spoke regarding the extension of Fifth Street NW and his concern that the street would not be part of the street grid, as it appeared to be a street to nowhere. He asked that the Council take another look at the development plan for that area. Councilmember Turner inquired if the land development issue would be heard by the council or by the Hearing Examiner, and Mr. Bacon affirmed that the plat would be considered by the Hearing Examiner. He clarified that the impact fee issues raised by Mr. Schick is, and would be, a decision to be considered and made by the Council, and there was no requirement that city impact fees match those in the county.

Ms. Carol Lee, 6320 119<sup>th</sup> Avenue East, Puyallup, shared her anger after having conversations with Councilmembers Malloy and Turner, and County Councilmember Shawn Bunney about the North Puyallup area annexation. She expressed her dismay that the people of the north Puyallup area are the important resource; they voted against the annexation when it was a ballot issue, and now the city had taken a different route to annex the area. She felt that the city was acting as a spoiled child, holding the residents as hostage over the threats to discontinue fire and EMS services to the area, resulting in the citizens being treated as pawns in a chess game. She stated that many residents were scared into accepting annexation in lieu of going without fire services, and she felt that the city had misled the North Puyallup community and dodged questions on what future land uses might be. She was alarmed that the city was using threats to get what they wanted and referenced "corruption" and "extortion." She also stated that she had heard from another fire department that Puyallup had told them not to respond to any calls from the North Puyallup area, and that she knew a neighboring property owner had signed away his rights in order to receive water service.

Mr. Bacon responded to the allegations stated by Ms. Lee that it was not true that Puyallup had instructed other departments not to respond, and the rumor he heard that the closest fire department to respond to North Puyallup was from Enumclaw was also not true. He also stated that it was incorrect to characterize the city's approach that people are required to give up rights prior to annexation and he knew that no such types of documents had been signed in over three years.

**CONSENT AGENDA**

**Awarding a contract to Doolittle Construction not to exceed \$450,000 for the 2006 Bituminous Surface Treatment Project.**

*Staff Recommendation:* Award the bid and approve the contract for the 2006 Bituminous Surface Treatment to Doolittle Construction, for an amount not to exceed \$450,000.00, and authorize the City Manager to sign the contract substantially in the form as approved by the City Attorney.

**Awarding a contract to Glacier Construction Services, Inc. not to exceed \$191,890.56 for the closed Landfill D Vapor Extraction Project.**

*Staff Recommendation:* Award the bid and approve the contract for the Closed Landfill D Vapor Extraction Project to Glacier Construction Services, Inc. in an amount not to exceed \$191,890.56 and authorize the City Manager to sign the contract for such project substantially in a form approved by the City Attorney.

**Awarding a contract to Nova Contracting not to exceed \$308,020 for the 39th Avenue SW Roadway Widening Project.**

*Staff Recommendation:* Award the bid and approve the contract for the 39th Avenue SW Roadway Widening Project to Nova Contracting in an amount not to exceed \$308,020.00 and authorize the City Manager to sign the contract for such project substantially in a form approved by the City Attorney.

**Resolution authorizing the execution of a contract approving a multi-family tax exemption for the Puyallup Place Senior/Activity Center Condominium Project.**

*Staff Recommendation:* Adopt the resolution and authorize the City Manager to sign the contract approving a multi-family tax exemption contract and conditional certificate of acceptance of tax exemption for the Puyallup Place Senior/Activity Center-Condominium project, substantially in a form as approved by the City Attorney.

**Approving an air space lease with the state Department of Transportation relative to construction of the Riverfront Trail Phase 2 Project at the State Route 512 right-of-way.**

*Staff Recommendation:* Approve the WSDOT Air Space Lease allowing the City to use a portion of the State Route 512 Right-of-Way for construction of the Riverfront Trail Phase 2 Project, and authorize the City Manager to sign the lease substantially in a form approved by the City Attorney.

**Authorizing the purchase of approximately 1.8 acres at the SW corner of Shaw Road and 12th Avenue SE for a storm pond site relative to the future widening of Shaw Road.**

*Staff Recommendation:* Approve the purchase of approximately 1.8 acres at the SW corner of Shaw Road and 12th Ave SE for \$300,000 and authorize the City Manager to sign documents to effectuate such purchase substantially in a form as approved by the City Attorney.

**Approving and ratifying payments for accounts payable, payroll and electronic funds transfers.**

*Staff Recommendation:* Approve accounts payable, payroll, and electronic funds transfers in the amount of \$5,039,390.37, ratifying and confirming payments previously authorized and approved by the Finance Director.

**Council Action:** A motion was made by Councilmember Turner, second by Councilmember Offenbecher, to approve the consent agenda after removing the item dealing with the contract with A&J Contractors for the demolition of buildings on the future city hall site. The motion passed 5-0.

#### RESOLUTION NO. 2004

A RESOLUTION of the City of Puyallup, approving a multi-family tax exemption contract and conditional certificate of acceptance of tax exemption for residences to be constructed as part of the Puyallup Place Senior/Activity Center-Condominium Project," located within the City's Residential Target Area at 210 West Pioneer.

**Authorizing the execution of a contract with A&J Development, Inc. not to exceed \$60,000 for the demolition of buildings on the future city hall site across from Pioneer Park.**

**Staff Recommendation:** Authorize the City Manager to sign a contract in an amount not to exceed \$60,000 with A & J Development, Inc. for the demolition of buildings on the future city hall site, substantially in a form approved by the city attorney.

Councilmember Dill stated that he would like more discussion on the topic. In response to a question from Councilmember Turner on what additional discussion he would need, he stated that it would be on whether the buildings should be torn down at this time.

Councilmember Offenbecher read the agenda item for the benefit of those in the audience who may not have an agenda, explaining that it referred to the abandoned buildings across from Pioneer Park.

**Council Action:** A motion was made by Councilmember Malloy, second by Councilmember Offenbecher, to approve the agenda item as recommended by staff. The motion passed, 4-1 (Dill).

#### **PUBLIC HEARINGS**

**Public hearing regarding the proposal to change three City Council District positions to at-large positions.**

**Staff Recommendation:** Conduct the public hearing

Mr. Bacon noted that the topic has had a lot of discussion in the community over the last several months. He explained that almost one year ago the matter began with a discussion of amending city council districts between District One and District Two due to the amount of development and annexation in the city. This redistricting proposal did not pass. In February, 2006, after some discussion on proposals regarding some possible changes to district representation, staff was asked to prepare an ordinance for council consideration in the following month; a public hearing was conducted in March 2006. The council then asked that another public hearing be scheduled for today, June 5, 2006. He explained the maps located in the meeting room showing the current district boundaries and the designation of each councilmember's residence. He also noted that the council had changed how newly-annexed areas are assigned to council districts, and the map indicated that the most recent annexation shown on the map had not yet been assigned to a council

district or voting precincts by the Pierce County Auditor. He also stated that regardless of any action taken, the council districts will be re-examined after the 2010 federal census as required by law.

Deputy Mayor Martin declared the public hearing open at 7:55 p.m.

Mr. James Clinton, 1720 Highland Drive SE, Puyallup, stated that he felt the proposal for at-large districting was wrong and the population should be consulted.

Mr. Steve Shores, 201 7<sup>th</sup> Avenue NW, Puyallup, talked about his residency in District One for 15 years, and the atrocious state of the street with a collapsed sewer. He stated that the street has basically been ignored for 50 years. Now the costs to repair the street are prohibitive and the bottom line is “who” will pay for the repairs. He said that it makes common sense that if you don’t live in a district, you won’t support the needs of that district. People need to be informed, and he asked that the citizens make the decision on at-large representation.

Mr. John Knutson, 322 17<sup>th</sup> Street NW, Puyallup, said that he heard two of the councilmembers wanted to move to the downtown and don’t want to lose their seats on the council. He stated that he supported Councilmember Dill because he felt that Mr. Dill would do a good job on the council; however, he wants to be sure that all councilmembers up for election the next time will have opposition. He stated that the council postponing the matter over a period of time meant that he could not run for office in the last election. He was unhappy with things the city was doing and mentioned the location of a restaurant business and a rental facility in Pioneer Park which he did not agree with. He stated that the council was not paying attention to the Eckerson/Dill election and should North Puyallup be added to the city, people will come in that will vote the council out of office.

Upon Mr. Knutson’s return to his seat in the audience, Councilmember Malloy asked Mr. Knutson to explain his comment on how he was denied an opportunity to run for office. From the audience, Mr. Knutson stated that if the decision had been made for the at-large changes to be implemented prior to the last council election, he would have been able to run for office. As it was, those council seats that were up for election, other than Mr. Dill’s current seat, were both unopposed, and he said that had it (i.e. postponement) been done on purpose, then there is a potential crime.

Councilmember Turner interjected that Mr. Knutson’s comments were about her, and she heatedly questioned why it appeared that the people in the audience and the newspaper knew more about her plans than she did. She requested that Deputy Mayor Martin advise Mr. Knutson to return to the podium if he wished to comment further, as discourse between the audience and the council was unacceptable.

She stated that she had indeed purchased a condominium in the downtown with proceeds from the sale of another rental property. She clarified that the at-large issue referred to by Mr. Knutson was brought up recently by the council and not one year ago. She further stated that she purchased the downtown property to use as a rental and perhaps as a future place to live. She stated that all in the community should be proud to invest in the downtown area.

Mr. Charley Stokes, 710 17<sup>th</sup> Street SE, Puyallup, stated that there is a large amount of opposition to the proposal for at-large representation as evidenced by the many petitions submitted, and referenced a recent newspaper article where Mayor Deal conceded that the topic appeared to be “dead on arrival.” However, he acknowledged that the council could implement the at-large change if it so chose. He explained that the City of Puyallup qualifies for the powers of referendum and initiative, and he suggested that the council consider making those powers part of the city’s Municipal Code. He felt that attempts to try and stay ahead of annexation as related to redistricting boundaries was not a good idea, as annexations do not always occur as planned and he felt that the city should wait for the results of the 2010 census to look at redistricting.

Mr. Arnold Landry, 210 17<sup>th</sup> Street NW, Puyallup, submitted additional petitions totaling 1,740 signatures in opposition to what was considered a taking-away of voting rights. He asked that the council refrain from attending expensive retreats out of town and use the funding to fix city streets.

Mr. John Eskelin, 2641 Thornhill Road, Puyallup, commented on what he learned by assisting in the petition drive, and stated that the city needed to conduct an active and visible dialogue with city residents as a teaching and communication program for the community. He stated that citizens do not call with questions because they do not know what is going on in the community, and he felt that town hall meetings should be conducted at a time that was suitable for working families. He used the tax exemption resolution approved by the council earlier in the meeting as an example, asking if the city residents had been informed of what the exemption was and how it worked. He also stated that the correlation between the at-large matter and the disparity in district populations was not a viable issue, but two separate issues.

Mr. Howard Schick, 502 19<sup>th</sup> Street NW, Puyallup, said he believed in numbers, and there are approximately twice the number of people in the valley than the 6,000 when he first moved to town. That would make approximately 12,000 people in the downtown area, and the total population is over 36,000. Therefore, he surmised the four at-large positions would all be from the South Hill area, as that is the highest population area, and the only area in which he felt the city had space to continue to grow.

Deputy Mayor Martin declared the public hearing closed at 8:19 p.m.

Mr. McLean provided some information to the council by explaining that according to *Robert’s Rules of Order* which is referenced in the *Council Rules of Procedure*, a motion on a subject must be made in the affirmative.

Councilmember Malloy stated that he wanted to read the following statement for the record:

I am providing my comments to clarify some of the inaccuracies, and my rationale for voting against the proposed ordinance to change some of the city council district positions to at-large positions. In doing so I ask that this statement be attached to the official public record.

The discussion, and subsequent vote on this item, during the February 23/24, 2006 city council retreat was not to approve this proposal but to direct the city staff to

prepare an ordinance for future council consideration. This is not a minor point. The purpose in this process is to have the staff provide specific wording in the proposed ordinance and to make it available for press dissemination and public scrutiny, with public debate before the council votes in a public arena. To vote to prepare an ordinance for future consideration does not imply that council members have committed themselves to later vote in favor of this issue that was discussed during a retreat when the press and public were not present. (Note: one public citizen was present during parts of this retreat).

Furthermore, to vote in favor of such an ordinance at that time would obviate the validity of public discourse, negate the reason for a public hearing, and minimize the importance of public first and second readings on the matter. In simple terms, that did not happen. In my opinion, any vote to approve that ordinance at that time would have violated a fundamental precept that public policy of this nature should be discussed and voted on in a public venue, not in a conference room during a council retreat.

I do not support this proposed ordinance for the following reasons:

As I said in a prior council meeting, I believe there are cogent arguments both pro and con on this issue. What first made me decide to vote in opposition to this ordinance was when I asked myself, "Is this proposal about good public policy or personal privilege?" I further asked myself, "Would this proposal pass if we exchanged those council members who chose to be at-large with those who elected to remain in their districts?" Mr. Dan Grimm later wrote a letter to the editor of the Herald suggesting that if this is about public policy, rather than personal privilege, the council should have a drawing after passage to determine which council members would serve at-large.

I was further incensed with the article in the City of Puyallup newsletter that, in my opinion, directly advocated this proposal rather than providing the public a balanced discussion on the pros and cons of this issue. This article also contained a deceptive discussion on the potential impact on council district boundaries due to future population growth as a result of impending annexations. Yet there is no proposal in this ordinance to alter council district boundaries to mitigate the impact of future population growth on council districts.

As of this writing the council has received petitions in opposition to this proposal with over 1300 signatures. The other day I attended a city sponsored community meeting with approximately 60 citizens present. At that time I heard comments commending such a fine turnout. How can one be enthusiastic about a turnout of approximately 60 people at a public meeting and then turn around and discount petitions with over 1300 signatures? If the council is genuinely in favor of this ordinance as good public policy, while discounting the significance of 1300 plus signatories, then the council should vote to authorize an advisory ballot during a subsequent election.

In my opinion there is almost always a solution to every problem. After much consideration I believe that this ordinance is not designed to be a solution to a problem. To me the specious arguments that I have heard on this topic cause me to believe that this ordinance has developed a life of its own and that it is a solution in search of a problem.

Councilmember Malloy confirmed with the City Attorney that proper procedure would be to make a motion to approve the second reading of the ordinance, and the ensuing vote would determine the outcome of the action.

**Council Action:** A motion was made by Councilmember Malloy, second by Councilmember Dill, to approve second reading of the ordinance.

Councilmember Turner agreed that the matter had developed what seemed to be a life of its own. She noted her anger earlier in the meeting and again wondered how everyone in the community was aware of her personal business. She stated that she was not ashamed of her purchase of the condominium, and that someday she hopes to live downtown; however, her plans to purchase the downtown property started long before this matter arose. She further noted that the first proposal was to mitigate the district boundaries. She stated that when she was first elected to the City Council, Councilmember Dill's residence was in her district. She agreed that the proposal at hand is not the answer, but some action was needed before the 2010 census when council action on redistricting would not occur until sometime in 2011. She said that the answer is not to ignore what is happening and that the district populations are skewed. She noted that she buys and sells real estate and has over 20 years in the business. She mentioned that it was unfortunate that Mayor Deal was not in attendance to speak for himself. She further explained that the governing covenants at the condominium project where she purchased a unit has identified those rental units, and her unit is one of those so designated. In summary, she stated that she will determine when she chooses to move.

Councilmember Offenbecher spoke regarding the discussion at the February retreat and at the time she felt the proposal had merit on both sides, and the citizens have elected representatives to vote for them. She agreed that the public should be advised and provide comment. After doing her own doorbelling survey and finding that around 90% of those she spoke with had not heard of the measure, and she said that she knew then that she could not be the person to the community that she wanted to be if she supported the change. She stated that she was proud that the community has turned out the way it has.

**Council Action:** The motion failed, 0-5, with a roll call vote indicating all present voted against second reading of the ordinance.

Councilmember Dill stated that this matter shows democracy at its best.

Councilmember Malloy stated that he would like to discuss the powers of initiative and referendum at the Council's next retreat, and Councilmember Dill noted he still supported the adoption of those powers. Mr. Bacon suggested that a good time for council to discuss the topic would be at the February retreat, as the July retreat is traditionally and specifically organized around budget preparation for the next year.

## **ORDINANCES**

### **Amending Chapter 10.40 "Restricted Parking Areas - Time Limits" of the Puyallup Municipal Code relative to parking in public lots near the Activity Center and the Pioneer Park Pavilion.**

**Staff Recommendation:** Amend Puyallup Municipal Code Chapter 10.40 related to Restricted Parking Areas in public parking lots near the Activity Center and Pioneer Park Pavilion.

Mr. McLean noted that the revisions for the parking regulations come with the new developments downtown, dealing with permits for senior citizens at the Activity Center and parking uses at the Library and Pavilion in Pioneer Park.

**Council Action:** A motion was made by Councilmember Turner, second by Councilmember Dill, to approve first reading of the ordinance. The motion passed 5-0.

## **CITY MANAGER AND STAFF REPORTS**

Mr. McLean noted that there had been a real estate discussion in executive session and asked that the council take action on the settlement agreement relating to the Thackeray property relative to the 39<sup>th</sup> Avenue Extension project.

**Council Action:** A motion was made by Councilmember Turner, second by Councilmember Malloy, to approve a settlement agreement between the City of Puyallup and William D. Thackeray and Janice L. Thackeray to conclude the pending eminent domain action to acquire portions of the Thackeray's property as part of the 39<sup>th</sup> Avenue Expansion Project, paying an additional \$32,095.00 for such land in addition to the \$649,359.00 already deposited into the Court's registry, providing their consideration as set forth in the settlement agreement, and authorizing the City Manager to sign such Agreement substantially in a form as approved by the City Attorney. The motion passed 5-0.

## **CITY COUNCIL REPORTS**

Councilmember Malloy stated that he wanted clarity on when the discussion of initiative and referendum would be in front of the council.

**Council Action:** A motion was made by Councilmember Malloy, second by Councilmember Dill, to direct that the topic of initiative and referendum be placed on the agenda for the next Council retreat in July. The motion passed 3-2 (Offenbecher, Turner).

Councilmember Turner complained of the local telephone directory company delivering the yellow page publication by dumping the books on driveways in the rights of way. She also referenced comments made by Mr. Shores earlier in the meeting and asked for a listing of the ten worst roads in the city. She also referenced a telephone call from Mrs. Ellison and deadman's pond. She thanked Deputy Mayor Martin for his participation in the well-attended Memorial Day event. He in turn, thanked Councilmember Turner for her efforts in assisting to organize the event.

**ADJOURNMENT** – 8:47 p.m.

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Barbara J. Price, City Clerk