

**Town of Concrete
Town Council Meeting
April 9, 2007**

7:30 P.M. The meeting was called to order by Mayor Jack Billman. Mayor Billman led the gallery in the Pledge of Allegiance.

Roll Call: Council members Judd Wilson, Tamera Glaser, Mike Criner, Marla Reed and Jack Mears.

Staff Present: Attorney David Day, Clerk-Treasurer Lacy Lahr, Public Works Director Alan Wilkins and Deputy Clerk Andrea Fichter.

Audience Members Signed In: Kevin Rogerson, Ray Trzynka, Ed Schild, Phil Hilgert, Cary Feldmann, Paul Wetherbee, Arn Thoreen, Carol Fabrick, Alice Kelly, George Theodoratus, John R Schultz, Larry Tornberg, David Brookings, Stan Brookings, Jeannie Summerhay, Chal Martin, Scott Thomas and Darrell Reed.

Scheduled Presentations:

Public Safety: Mayor Billman reported on a request from the City of Burlington's Chief of Police on acquiring the Town's old police badges to add to a collection. Mayor Billman will report further on this request at the next meeting.

HDR –No Report

Consent Agenda:

- Town Council Minutes – March 26, 2007
- Claims Warrants - #23781-#23822

Mike Criner made a motion to approve the consent agenda. Judd Wilson seconded the motion. The motion carried unanimously.

Public Hearings: Puget Sound Energy Shoreline Substantial Development Application No. LU 05-005.

Town Planner Lacy Lahr presented application #LU05-005 to be considered for approval by the Town Council. Mayor Billman then addressed the Council as to any interest, conflict, bias or ex-parte communications that would directly effect any Council Members decision. Council Member Judd Wilson commented that his father-in-law is an operator for Puget Sound Energy at the Upper Baker Dam. He stated that this would not influence his decision on the application. Town Planner Lacy Lahr presented the staff report for Land Use Application #LU05-005. Mayor Billman then called on the applicant, Puget Sound Energy for their presentation. Larry Tornberg, a land planner for Puget Sound Energy presented the application and the exemption request to the Council. He included in his presentation Exhibit's A through E for the record. Mr. Tornberg discussed these exhibits and explained the Federal Energy Regulatory Commission re-

licensing process. Paul Wetherbee, a Hydro Manager for Puget Sound Energy presented Exhibit F explaining the flood control elements of the project. Mr. Wetherbee also explained the additional benefits of the project relating to flood storage. Phil Hilgert with R2 Resource Consultants presented Exhibit G demonstrating the Downstream Study Area of the project.

Mayor Billman opened the public hearing for public comment.

John Schultz-Attorney for Skagit Dike District #1 and #12: Mr. Schultz commented on the responsibilities of the Skagit County Dike Districts. He expressed his concerns relating to flood control and the protection of the public during flood events. Mr. Schultz stated his objection to the exemptions applied for in this application. Mr. Schultz also stated that he believes that the settlement agreement is flawed. Mr. Schultz went on to describe what he believes to be the flaws in the settlement agreement. Mr. Schultz also made comments on certain findings in the staff report. He again expressed his concern about the settlement agreement process and requested that the Town not grant the exemptions on the application.

Kevin Rogerson-Attorney for the City of Mount Vernon: Mr. Rogerson also expressed his concerns about the flood control elements related to the project. The City of Mount Vernon is concerned that the project fails to protect against adverse effects to the public health and fails to protect against flooding. Mr. Rogerson stated that according to Article 107 in the settlement agreement, the project will result in a reduction in the amount of existing flood storage. He also stated that obtaining additional storage capacity would take an act of congress. Mr. Rogerson also noted his concern that the Army Corp of Engineers only has jurisdiction of the Upper Baker Dam and not the Lower Baker Dam during flood events. Mr. Rogerson expressed concern that portions of the project are being considered for exemptions and portions are required to obtain a substantial development permit, and that the project as a whole should be considered for its cumulative impacts.

Scott Thomas-Attorney for the City of Burlington: Mr. Thomas noted that he concurred with the comments from the City of Mount Vernon Attorney and the Dike Districts. Mr. Thomas discussed the requirement of Puget Sound Energy to obtain a consistency determination from the Department of Ecology in order to obtain a license from F.E.R.C. and in order to get that determination it is necessary to look at the Shoreline Management Act. Mr. Thomas commented on the process of adopting a Shoreline Master Program and approval that is needed from the Department of Ecology. He also stated that in 1977 the Town of Concrete did this by adopting the Skagit County Shoreline Master Program. The Town did this once again in 2004 but in this instance they did not send it to Department of Ecology for approval. Mr. Thomas noted that the Town should be utilizing the 1977 version of the Master Program in reviewing the application. He also stated that according to the Shoreline Management Act, if a project requires a Substantial Permit for any part of the project that the project as a whole would also require a Substantial Permit and would not be eligible for exemptions. Mr. Thomas also commented on the issue of flood control and flood storage.

Jeannie Summerhay-Department of Ecology Regional Director: Ms. Summerhay reported on the Departments of Ecology's role. She noted that this permit relates to the construction of a new powerhouse and associated fish passage facilities and the application appears to be consistent with the Shoreline Management Act and with the Settlement Agreement. Ms. Summerhay also stated that compliance with SEPA regulations, the Clean Water Act, and the Shoreline Management Act are all considered before issuing the consistency determination. She also stated that the project includes important environmental benefits.

Mark Quehrn- Attorney for Puget Sound Energy: Mr. Quehrn addressed the issue raised by the City of Burlington, the City of Mount Vernon, and the Dike Districts concerning the Settlement Agreement process. He reported that they, like everyone else who signed the Settlement Agreement, received notices inviting them to participate in Settlement Agreement process. They chose not to participate at that time. Mr. Quehrn again pointed out Exhibit F and revisited the discussion on current flood control, proposed flood control and what constitutes best reasonable efforts. He also stated that the project does not cause flooding; it actually provides flood control benefits.

Arn Thoreen- Mr. Thoreen noted that when the Army Corps of Engineers were charged with managing the Skagit River in 1965, the intent was to protect existing structures from flooding, not to allow for additional development in the floodplain.

Chal Martin-City of Burlington Public Works Director: Mr. Martin who was previously with Skagit County, reported on the independent studies that were conducted regarding the amount of the flood control needed.

Mayor Billman closed the public hearing at 9:28 PM

Discussion ensued regarding the application. Mike Criner commented that he believed that the application meets the requirements as identified in the staff report. Jack Mears stated that there were only three items for them to consider. Judd Wilson also commented that he believed all requirements had been met based on the staff report. Mayor Billman stated that after additional experts had reviewed the staff report he would support the recommendations of the staff.



Council Member Jack Mears made a motion to accept the proposal including the exemptions. Mike Criner seconded the motion. The motion carried unanimously.

Mayor Jack Billman called for a five minute recess.

Public Participation: None.

Old Business: Council Member Mike Criner noted that the speeding on Cedar Street is continuing. The Mayor will write a letter to the Sheriff's Department requesting enhanced patrols on Cedar Street, on Main Street, Limestone Street and Superior Avenue.

New Business: No new business

Council Reports:

Airport: No Report

Parks: No Report

Department Reports:

Planning Commission: Town Planner Lacy Lahr informed the Council that there was not quorum at the last Planning Commission meeting, and that the meeting has been rescheduled for April 17, 2007. Discussion ensued regarding grant funding for the Town Center Signage project.

Administration/Finance Report:

Public Works: Public Works Director Alan Wilkins reported that the tanks at the treatment plant had been filled and were being tested for leaks. It was reported that there are potholes on Dillard Avenue and Airport Way that need fixing.

Mayors Report: Mayor Billman reported on the tree cutting project at Evalyn Goeringer's property. The Mayor also reported that there has been more vandalism at the Old Grade School and it is becoming a safety hazard. The Mayor noted that there are efforts in progress to secure the building. Mayor also noted that he thought tonight's public hearing went very well.

Announcements: None

Executive Session: No Executive Session

Adjournment: Judd Wilson made a motion for adjournment at 9:59 PM. Mike Criner seconded the motion. The motion carried unanimously.

Jack R. Billman, Jr., Mayor

Attest: Lacy J. Lahr, Clerk-Treasurer

Minutes prepared by Lacy J. Lahr