

**Special City Council Meeting  
July 29, 2008**

Mayor Johnson called the Special City Council meeting to order at 7:00 PM.

Upon roll call the following members were present: Reed, Boyle Barrett, Montgomery, Ramsey, McNally, Twardoski and Weigelt. Also in attendance were City Administrator Dave Schmidt, and Land Use Attorney Phil Olbrechts arrived at 7:12 PM.

Mayor Johnson stated that this is a special meeting so we cannot have any additions to the agenda, but she would like to move Agenda item #12 up to the first item we discuss because I think it will be real quick. Also, there have not been any committee meetings in the last week so there shouldn't be any reports, and I have nothing to report.

Planner Rashid said she has a staff report and took the stadium. Planner Rashid said that she knows that all of us, everyone in this room probably, and the entire Planning Commission, has been very invested in the Zoning Code which is on your docket for discussion. I just want to make sure that you understood the gravity of the decision you are going to be making. Normally, you are used to making decisions, especially with land use, that can be changed if you see that there are issues or problems, and that is kind of the case with this one too but I wanted you to realize that, with the proposed changes to the Zoning Code, two issues come up that will have a very lasting effect on the shape that Buckley will take as a community. The two issues that I think will be almost impossible to change, short of using eminent domain which we know how much citizens love eminent domain, are the setting up of lot sizes and lot configurations and also the setting aside of open space. This being the case, I want you to look at the lots sizes that you are creating, really see if you can live with those, and also take a look at the open space that you set aside and see if you can live with that. It was Will Rogers that said that "the good Lord is making more people, but he ain't making no more land." Once the land is gone in Buckley, once it is all developed, we're going to be stuck with what it is developed at. If that is huge lots then people will subdivide it, that can happen, but if it is small lots, it's rare that somebody is going to purchase three tiny lots in a row, bulldoze them all and make one house. So, I want you to keep that in mind as you look at this and you consider your zoning changes. Good luck!

**MAIN AGENDA**

**Bid Award: WWTP Phase IIE Construction:** City Administrator Schmidt stated that the low bidder is Prospect Construction with a bid of \$ 1,163,512.48, which is actually about \$ 95,000 less than the low bid that the Council rejected because of the ambiguities in the bid specifications, and it is actually \$ 135,000 less than Prospect's previous bid. We are recommending that the Council award the bid for Phase IIE construction to Prospect for that amount. City Administrator Schmidt said to keep in mind, as I stated in the memo, in order to keep the cash flow going, award of that will require us to go ahead and begin to exercise the Public Works Trust Fund Loan in order to assist in payment of

this phase. **Council member Weigelt moved to approve the bid award for the WWTP Phase IIE construction to Prospect Construction in the amount of \$1,163,512.48. Council member Twardoski seconded the motion. Motion carried.**

Mayor Johnson asked are we going to do zoning or storm management.

City Admin Schmidt stated that the attorney is not here yet, but the engineer is not here yet for the Comp Plan, and she thought it was second on the agenda so she isn't planning on being here until about 7:30, so it is entirely up to the Council what you'd like to cover first. They are probably both going to entail discussion, so some of that discussion could go on between the Council before they get here. Attorney Olbrechts and I worked until 4 PM this afternoon and I've given the Council his latest comments on the Zoning Code; he had twelve more changes that he encouraged be made, which are part of the packet in front of you. The other thing in front of you, in reference to the Zoning Code, Council member Boyle Barrett had asked that I hand out a copy of an example PUD regulation, and we also have a template or example of a developer agreement ordinance. Those are two things that she asked that you take a look at as well, so that is part of your packet. At this time, the Mayor gave Council members a few minutes to read over the recommendations. Mayor Johnson said we are going to do just discussion this evening. City Administrator Schmidt said that the reason we did this is because we had no idea what changes the Council is going to make, and in order to adopt an ordinance we have to have a clean copy with all the changes in it for adopting, and there is no way that could happen tonight. That is why it is strictly for discussion this evening, both agenda items.

Attorney Olbrechts arrived 7:12 PM.

**Council Discussion: Title 19 – Zoning Code Update:** City Administrator Schmidt said most of the changes are just minor stuff that the Attorney has gone over, indiscrepancies in the code and small word changes. Attorney Olbrechts said he will just try to go over the significant issues.

**Senior Housing/Low Income Housing:** One that isn't written in here but it was something that was discussed in e-mails back and forth was the senior housing and some breaks for that. First of all, changing it from senior housing to low income senior housing wouldn't affect anybody who was in a lot that was 2,000 square feet, or whatever they got. They are grandfathered in and that change doesn't affect their rights to expand their home or do anything else with the home. Once you are grandfathered in on a lot no matter what size it is you can keep on doing things to that lot, as long as you meet the setback requirements for the zoning district. So, it is not going to affect anybody's mother who already has a home on a small lot. City Administrator Schmidt and I were talking about it and we were thinking that is what the Council wanted was the low income, and that's why that was put in there. Maybe that is not the case, but I will tell you what the consequences are. We discussed at the last meeting I was here about how do you ensure that someone sticks to being a low income housing or senior housing or whatever. As we discussed, if it is a rental situation like an apartment complex, usually what you do is you have covenants put on the property or in the C&Rs and it says these

units will be rented at X dollars and that guarantees that you are going to keep it at that low level. When it comes to single family dwelling units, you can put a covenant on the property but people don't usually do that. It's kind of hard to sell a house that has that kind of covenant on it. But you can still kind of control the situation where someone will go to the City Administrator or the Planning Director and say they propose to build a 1,000 square foot house here, and in this part of the City these homes are going for this amount of money, and that is low income. That is good enough for the City because in general then that is the price it is going to for into the future, or at least as prices rise it will stay at kind of the low income bracket. When you are dealing with senior housing though, if someone just comes up to you and says that my grandfather is going to live in this house once I build it, that person can move after a year and you have this house that is on a lower lot. Do you actually want to put a covenant on the property that says that only people over 55 can live in this single family home. I guess the problem we are having is how you would enforce something like that, beyond just a promise from the developer that the people living in this apartment complex are going to be seniors. If it's two years later they could all leave and then you've got a problem on your hands. I suppose you could put a covenant on there, but that's probably not going to be very attractive to developers to have a home that says only seniors can live here. Council member McNally said that was his idea to separate the two, senior and low income, and I believe what the committee was trying to say was that we didn't want to put the term low income housing on all senior housing. Mayor Johnson said she was under the impression that low income senior housing was one of the few things that you could not really zone for, but you could allow because of the HUD requirements. Attorney Olbrechts said yes, you can give breaks to them. The only reason this issue comes up is because in your zoning code you are saying that they get smaller lot sizes if they are senior housing. City Administrator Schmidt said they get a lot higher densities. Attorney Olbrechts said that is what we are talking about here, do you want to limit it and make it as broad as all senior housing, and how are you going to enforce that in perpetuity, or do you just want to say that it's low income based on the value of the home initially, so you have something that stays in place. As far as HUD goes, you can have in your fee resolution that you give breaks to low income senior housing. City Administrator Schmidt said one of the things that he and Attorney Olbrechts talked about too was creating two definitions, one for a 55 and older retirement community and then low income senior housing, and the City could give the density break to the low income senior housing because you can help the poor and the infirm under the State statutes, and then again you have a separate category for the 55 and older. Attorney Olbrechts said really you don't even need to have that in your code because anybody can come in under multi-family or whatever and create a community for seniors 55 and over. They put that in their covenants but the City does not have to mandate that, they just choose to do that. You already have assisted living facilities allowed in a lot of your districts and of course multi-family, which would include any senior multi-family retirement apartments or things like that. So, you can already do those HUD projects without it being mentioned in the code because it is allowed under different types of categories. Council member Reed stated that one of the things that we talked about at the committee level was the differentiation between senior and low income. In creating that definition, does it have to be low income seniors or can it be seniors/low income? Attorney Olbrechts asked by

senior/low income do you mean people who qualify for both categories. Council member Reed said right, so perhaps someone under the age of 55, but for whatever reason on the lower income, would qualify for this housing. Attorney Olbrechts asked is this for the purpose of density breaks? Council member Reed stated yes. Attorney Olbrechts said yes, you can do that. You can create a separate category for seniors as long as you treat them more favorably than multi-family, and you can also do it for low income persons as well. Those are valid, separate categories and you can do either/or if you'd like.

**Environmentally Sensitive Districts (ES):** Attorney Olbrechts said that the other big issue is your environmentally sensitive area districts (ES districts). I don't think that would hold up. Under constitutional due process law a developer has to be able to look at your code and see what they could or could not build here. They have to have some idea as to what they can do. And in the ES districts they would have absolutely no idea what they could do. If someone wanted to build a subdivision in your ES district they wouldn't know what the setbacks are or what the building heights are, nothing. Unfortunately this late in the process it's hard to all of a sudden come up with a whole new zoning district with specific standards, but maybe as an interim measure what you could do is, say this is your R20000 district, half acre lots essentially, and adopt that as an interim measure and then send it back to the Planning Commission to come up with something more specific. Or just go with your ES for now and decide to fix it later. It's been in your code this long so you can keep going with it, but you'd run into a lot of problems though if somebody came in and said I want to develop this. And, I do understand that most of this is public property. City Administrator Schmidt said all of it is public property. Attorney Olbrechts said if any of them sell it or if they wanted to become a private developer it becomes an issue, so I don't know how much of an emergency situation this is but like I said, if you have an R20000 district you could, as an interim measure, adopt it for there and come up with something more specific later or even come up with a whole new district, that would be fine. City Administrator Schmidt said this has been in our code since 1991, or even before that, but it is up to Attorney Olbrechts to decide as far as a recommendation to the City, but we can probably go ahead and leave it like it is. Planner Rashid is preparing a rezone right now, and before we move forward with that rezone we can send this back to the Planning Commission to develop a separate zoning designation with performance standards to bring to the Council for consideration in conjunction with the rezone. It is something you can think about to tie it all together

**Vesting in Old Regulations:** Attorney Olbrechts said that the next topic is something that is legal but he is wondering if you really want that in your code. In most of your zoning districts there is a sentence at the beginning that if the lot was created before the adoption of the subdivision code, which I think was 1969 or 1970 or somewhere around there, then the zoning laws in effect when the lot was created apply, not the current ones. In other words, if you had a lot that was created in 1937 you would apply the zoning code standards from back then. If there were no height limits for example then someone could build a building as tall as they wanted in the middle of a single family zone. That is really unusual. Basically what you are doing is permanently vesting them in these ancient regulations. The current vesting laws under State law, if you were to delete these

sentences, the way it would work currently is that the State subdivision statutes provide that you are vested for a period of five years to the extent that you have disclosed uses. In other words, if you show your setbacks on your plat application, then you are vested to the City setback laws for five years from the date that your subdivision is approved, and after five years you have to comply with whatever the new regulations are. Through a quirk in State law, if it is a short plat, you are vested permanently in what you show on your application, but it is only what you show in your application. So, I just wanted to point that out because it is very unusual and you might find yourself in a pretty surprising situation if someone is building something that is completely out of character for the neighborhood because they were relying on the 1950s zoning code, and you certainly don't need to have that in your code.

**Pre-existing Lot Section 17.36.070:** Attorney Olbrechts said another issue is you have a pre-existing lot section, 17.36.070 that deals with lots that were legal when they were created and now are not legal anymore. Your code simply says that you are allowed to build on those non-conforming lots as long as you don't violate the current zoning regulations. It is a little incomplete because it tells you what you can do with lots that were created before your subdivision code was adopted, but it doesn't identify what you can't do with lots that were created after your subdivision code was adopted but are now illegal because they are too small or something. I threw in a section from the City of Edmonds which is more standard. It basically says that if the lot was legal when it was created then you can still build on it as long as you conform to the zoning code. I think it is a little more direct that way.

**Subsection C, Paragraph 11 – Railroad Lots:** Attorney Olbrechts stated just for your consideration, and maybe we shouldn't bring up these big new issues now, is Subsection C, in Paragraph 11. It's a paragraph that you find in a lot of codes in this State, which is lot combination, where basically if you have two tiny lots that are both non-conforming, you own both of them and they are next to each other, they are deemed combined in order to get a lot that is large enough to comply with your current zoning regulations. That is designed to deal with these old railroad plats where we have these tiny little rectangle lots that are all lined up. Technically, and this is the skinny house situation where people are tearing down homes in order to expose these three little railroad lots and they put a little skinny house on each one because under constitutional due process law you have a right to build on these little lots, and this is a way of stopping that. You say okay, you tear this house down but if those three little lots underneath don't equal one valid lot then they are all going to be combined, and you still only get to put one there. There are still some complications with this thing, but I think it is a best solution. Dealing with those old lots is really complicated, and unfortunately the Attorney General's office has decided if the lots were created before 1937 you don't have to recognize them, they are not valid, but of course if one lot is developed and there are two around that haven't been, that gets to be kind of a mess. They also say before 1972 there are different standards that apply to these old lots and if they don't comply with those old standards you also don't have to recognize them, but some counties (King) try to address all those different situations and it gets real complicated. This is kind of the simple and basic way to do it

**Use Matrix:** Attorney Olbrechts said that the rest of the changes he had are I think for the most part trying to make your definitions go in line with your use matrix. And there are a few redundancies in your use matrix that were taken out. That is not a big deal. Council member Reed said he has a question on the use matrix regarding caretaker housing. I know the committee had an idea of what it meant. Are you suggesting that we might want to further define what it is? Attorney Olbrechts said he thinks City Administrator Schmidt found what it meant. City Administrator Schmidt said it is listed differently in our code. Under the use matrix it's caretaker housing, but under the definition it is dwelling caretaker, and so we just need to make sure that we change the matrix to conform to the definition.

City Administrator Schmidt asked if Attorney Olbrechts' changes are acceptable to the Council, and if so we can incorporate those changes. Council member Ramsey asked if we need to discuss if we are going to do the interim measures in the ES zone. City Administrator Schmidt said that would be something that before we get to the final adoption you need to let us know what your wishes are. Whether you want to leave the sensitive area in there for now or whether you want us to adopt some interim measure and we can work on that. Attorney Olbrechts said there is a process in State zoning laws where you can adopt a change to your code right away without any prior public hearings or anything else, but you have to hold a hearing within sixty days and then you send it to your Planning Commission and they come up with a permanent recommendation, and then you adopt it on a permanent basis. That is what I had in mind here. As an interim measure you decide on an R20000 designation if you like that and it goes into effect immediately or five days after publication, and you hold a public hearing after that and then send it to the Planning Commission. That way at least you have something in place in case in the off chance someone actually did want to build something there in the next six months you'd be covered. Council member Ramsey asked should we vote on that right now to change it, or is it open for discussion? **Council member Reed moved to modify our current proposed ES zone to reflect the R20000 zone regulations and limitation on an interim basis until we've reviewed them. Council member Weigelt seconded the motion.** Land Use Attorney Olbrechts stated that it has to be done by a written ordinance. City Administrator Schmidt said that the Council does not need a motion on this. This is a consensus basically because we have to prepare the ordinance. So, it sounds like we have head nods that we want to convert that to R20000. Attorney Olbrechts said we will put together the ordinance and bring it back. Council member Weigelt stated his idea would be to say that there are twelve items here and give staff input on any we don't want to do. I think if the Attorney is recommending it, it is probably a pretty good idea, so unless anybody has a good idea as to why we wouldn't want to do any of these, staff should do these. City Administrator Schmidt said that is good enough. Council member Boyle Barrett stated in number 10 in the vesting standards, does it only apply if they own more than one non-conforming lot? Attorney Olbrechts said yes, it is two adjoining lots and they have to be the owner of both. City Administrator Schmidt said if they own two 3,000 square foot lots and they were adjoining and they tore a building down, those would have to be combined and considered one lot in the R6000 zone. Council member Boyle Barrett asked if it only applies if they are tearing something down. Attorney Olbrechts said no, the language

says it is deemed combined whenever it is in single ownership. So, once you adopt this regulation, if you do, then from that point forward if there are any lots in the City that are owned in common, that are next to each other, they are deemed combined at that point. City Administrator Schmidt said there are a lot of those in town. Council member Boyle Barrett said that might not make some people very happy. Council member Mark McNally asked if we would have to go to a public hearing to make a change like that, because that would affect quite a few people in town. Attorney Olbrechts said it is not critical at this time, it is just that often you will see it with non-conforming lot provisions and I thought you might want to take a look at it, but you can certainly live without it, it is not important. Council member Boyle Barrett said maybe that is something we want to take a look at later down the road, versus just giving our head nod to change that. City Administrator Schmidt asked if he should just take that one section out of the recommendation, just that one paragraph that refers to the lot combinations. Council agreed. Council member McNally said he would like to have some discussion on PRDs and PUDs before we authorize them to put all that in the code as well, because I think it is fairly close to our clustering ordinance all ready. City Administrator Schmidt asked why we don't get a consensus of the Council that you are in favor of everything except one and two. Council said, and 12 is the developer agreement. Attorney Olbrechts stated that he didn't discuss those because it was his understanding that we were going to do everything else first. Council agreed.

**At this time Mayor Johnson asked the Council if they were ready to go into the overall discussion on Title 19 and asked each Council member to comment.**

**Council Member Montgomery:** Council member Montgomery said he has been involved in this process for a long time, nearly two years on the Planning Commission and then seven months on the Council. In as much time as I've invested in this, and as important as I know this is, there are some things that need to change for me to be able to be okay with moving forward on this. The first item is open space. This is something the Planning Commission talked about extensively while I was on it, and I personally feel that with 10% active open space I made a pretty big concession to go down that low, so to have that cut in half is just not acceptable to me. The most lasting legacy we can leave on this City as a Council is parks and open space. The second issue is lot area coverage. Our code right now calls for huge homes on small lots. If anyone has driven over to Elk Meadows in Enumclaw and looked at that, that is the kind of development that this code is going to allow and I don't think that is either what the people of this community asked to get from us, nor does it provide any modicum of affordability to the average wage earner here in Buckley. Not only that, but I think that by having homes that large from the get go you really tied our hands and limited our ability to offer incentives to developers. We just said, here you go, you can have it, and all we have left to offer as incentives are density bonuses, but not everything has to be a density bonus. We can greatly reduce those lot coverages and then say if you want to participate in the Master Builders Association Build Green Program then we will give you a little bit larger lot coverage or a little bit larger floor area ratio. A lot of people in this town are worried about losing their view of the mountain, so one of the things that is touched on in the code is trying to get more ramblers. Well, any developer will tell you that is a very

market driven thing. If we reduce the lot area coverage for the dwelling unit itself, and then offer the incentive of a larger building envelope, we can make it more economical and more feasible for a developer to provide more ramblers and more ranch-style homes and preserve some of those view corridors that are so important to people in this town. The next issue I have is with town homes. I think six attached units is way too many for Buckley, certainly in the R8000. In the R6000, something like that may be appropriate, but I'm not even sure it should be included in the R8000. Cottage housing I think is a great idea, but my main concern is that you can have cottage housing developments 300 feet away from each other, and that seems too close to me. I would also like to be able to offer an incentive of narrower streets on our minor arterials and our collector streets to developers who participate in the residential cluster option as part of the sustainable low impact development aspect. I think we can incorporate open ditches and greenway corridors which I know most of the Council is not familiar with because the Park Plan has not been brought to the full Council. Basically what we are trying to do with greenway corridors is create a separate but adjacent, non-motorized, pedestrian access along all of our major routes to keep good pedestrian connectivity and to make a more interesting pedestrian environment, preserve wildlife corridors and really reduce the amount of automobile/pedestrian interaction, and make it a safer environment for our kids. I think the stormwater plan, the zoning code and the park plan are three pieces of this puzzle, and it is the nature of the beast that we are forced to look at them individually but each one of these things has an impact on the other, and if we can try to look at this a little more holistically, and bring it together, we can really create an amenity that will enhance the quality of life here and hopefully bring a lot more to this community.

**Council Member Ramsey:** Council member Ramsey said one of her main concerns is something that Council member Montgomery hit on and that is the view of the mountain. When we passed the development at the end of Collins on the right hand side, we said ramblers only and they were built, but they did block the view because they ended up building the dirt up higher and of course then you have your really steep pitched houses. So, I would like to see it somewhere in the code, and I don't know where it would go, but something to where they have to dig deeper, lower the roof pitch, something to allow that mountain view. That is one of my issues, as well as the 90% of the second floor, which I think is too high; it feels too close to a box. I would like to see it 70%.

**Council Member Boyle Barrett:** Council member Boyle Barrett stated that she asked for the PRD and the developer agreements to be provided. I would like you to consider the fact that when you look at how developer agreements work and PRDs work, that they actually give the Council more control over what is built. My concern with the larger developments is that they are going to be taking up a substantial portion of the buildable lands that we have existing within the City limits. Our zoning regulations are good. Obviously we all want to see a few changes to what we have here. Council member Ramsey is about the scenic views. When we approved that development up there, we asked them to limit some of them to ramblers, and what we didn't ask them to do was limit the height of the buildings because none of us thought of it. When we said Rambler, and we had people in the audience saying they wanted their view protected when they were talking about their existing homes, we were thinking in our heads not new

construction ramblers that are 20 feet tall, we were thinking ramblers that would have 12 and 14 foot peaks. City Administrator Schmidt said he just wants to caution the Council that the reason that those ramblers went in was because it was voluntary. It was a standard sub-division and there was nothing the City could do to regulate those heights. They could have technically built those homes 30 feet tall and blocked everybody's views. We talked about that but we missed asking them to keep it to a certain height, and we really wouldn't have had any enforcement authority. That is the problem with the code with a 30 foot maximum height, you cannot really control them unless you have a mechanism to do that. Council member Boyle Barrett stated she thinks if you were using a developer agreement, or a PRD, and you had lots that you wanted view protection on, isn't that something you could negotiate in those agreements. City Administrator Schmidt said to be honest he has never worked with a PRD, but it sounds to him like the PRD or the PUD gives the Council a lot of flexibility. City Attorney Olbrechts stated the same with the developer agreement, but you used the term "negotiate" which is important because that means voluntary on the part of the developer, that they are willing to agree to that. And, if you have the carrot, and you give them more density or whatever, if they have enough incentive they can agree to a lower height, but without something like that it is hard to limit those heights. In another city he was working in they had a 30 or 40 foot height limit and the fire department came in and said we can't serve buildings that are that tall for this subdivision because we don't have the ladder trucks for it. So, the city conditioned the subdivision on a lower height and the court threw it out and said since the city had a 30 or 40 foot height requirement it was stuck with that and it could not lower it. So, I think absent something like a development agreement where a developer voluntarily agrees to it, it pretty hard to go below that height you set in your code. City Administrator Schmidt said that he thinks the other thing the PUD does is it gives the Council the flexibility to deal with each development on a case by case basis, where it is in the City, how it's going to fit into the community and what you negotiate for that area. City Attorney Olbrechts said yes, but if you want to deal with height in a PUD you probably have to have something that specifically addresses height in the there, a paragraph saying you can lower the height for view protection. You just need to make sure it is in there and then you can control it. City Administrator Schmidt said he knows that the Council is at odds over all the different requirements of the residential cluster, and you refine that down to where you have these set performance standards that everybody has to meet. But in a PUD it is broad; you can look at each one individually as to how it fits. Council member Boyle Barrett said at any rate we ended up with homes down there that weren't what we envisioned, and the reason that I'm pushing the developer agreement or the PRDs is because it puts some of that control back in our hands to negotiate with developers for what we truly want and what we envision. I do believe that developers and builders poke holes in your code to do what they want to do, so it is just a tool that would give us some more control. Council member Montgomery mentioned town homes and having six may be too many. I know that we saw some good examples of what town homes can look like. I don't really think that six is too many, maybe in the 6,000 but I don't think in the 8,000. I think that it is important that we have the ability to offer town homes, cottage housing and cluster housing. I think that they go towards providing homes that are more affordable. I do think that the size lots that we've chosen, that we are setting ourselves up for the potential to have a lot of \$350,000 to

\$450,000 homes built. If our incentives to build cluster housing, cottage housing and town homes are not strong enough, or if the developer or builder is not getting something out of it, they are not going to build them. Financially, they are going to do it however they make the most money, and I don't think that our regs are written quite right yet. Investco provided us comments for the public hearing and I think that the points that were laid out there are something that we should discuss. I think some of them aren't just coming from a builder's standpoint, but more of a suggestion that this doesn't make a lot of sense in what you are developing, so I would like to see us go through those and look at them. Council member Boyle Barrett said that in the cottage housing we talked about reducing setbacks, and I just want to remind you that when we allow clustering, cottage housing and town homes, that it is a very small percentage of what is going to be built in a development. I know the one large development we're looking at is about 230 homes, but a very small percentage of that would be any of those items, and I think that there are requirements that we can stipulate. If we are going to reduce the setback we can require the fire retardant walls to help negate the fire risk.

**Council Member McNally:** Council member McNally said I hear the term "developer incentives" and I just don't understand it. The developers are going to make more money than I will ever imagine having in my life, and for developer incentives I've heard the developers turn around and say "well it's not going to pay us to come in and build to your standards or to your code unless you give us all these incentives" and I disagree with that one hundred percent. I think any developer that comes into this City, or any other city, is going to turn around and make the money and walk away. When we look at affordable housing, we talk about cottage housing, carriage housing and everything else. It is all market driven, whatever it is. Another problem I have with this code is that the Planning Commission worked on it for two years with the City Planners, and so I understand that there was a lot of trial and tribulation that went on between all that, and a lot of things got lost here and there, but I still think that there have been some very dedicated individuals on the Planning Commission that have gone through that for the whole time, and Council member Montgomery being one of them, and I don't believe that their opinions have actually made it all the way to the City Council. They have some good points and they have some bad points, and they have some points that the committee either agrees with or disagrees with, and the committee I felt was basically a mediator between our Planning Commission and our City Administrator. Now at a couple Council Meetings ago we stated that Council would like to go with staff's recommendation. With staff's recommendation, I have gone through, along with the other members of Building & Zoning, and since we were given this task in March, April 4<sup>th</sup> was our first revision that came out from the Administrator on the recommendations. Since the beginning of June, I have personally looked over every revision that has passed my desk, and that is over 1,700 pages, and I don't have time for all of it. As the committee was actually going through it, we made all of our suggestions and we asked the City Planner to take it to staff and have those added. Well, with the 1,700 pages, each time she came back we had new revisions. We didn't actually stop and go back and look at what we had asked for and recommended to make sure that those changes got implemented. We took it for granted because the packets came and the revisions came, and we have all this paperwork sitting in front of us, so we just assumed that those recommendations had been corrected

with the new revision, but we did not go back and look. We didn't go back to look until we brought it to Council and said what do you think. Time was critical for us to turn around and actually go back and re-read everything. We didn't have time. We moved on to the next section. Once it came to the Council workshop, all the work that the committee did I felt just disappeared. One of my biggest pet peeves is the 5' setbacks, and when we stated that clustering is only a small percentage, yes, we might reduce the fire life safety to a very small percent in Buckley, but if it is anywhere I don't want it because one person is somebody's relative or somebody's family and I don't think it is fair that we turn around and say well, it is just a small percentage. That bothers me. I've been doing this for 36 years and I've seen a lot of people that have been hurt in a fire, and I think that the purpose on our very first page 19.04.010 is a very powerful statement and if everyone would look at it. Everyone has got their own pet peeves and mine, just from the highlighted section on, it states "to lessen traffic congestion and accidents, to secure safety from fires, to provide adequate light and air, and to prevent over crowding of the land", and I believe the public has told us over and over that we don't necessarily want to over crowd the land, and the more we allow clustering and everything else to go through, and our side setbacks to drop down to 5 feet, I don't care how small of a percentage it is, staff has basically recommended that if we go to the 5 foot setbacks then certain conditions are met. Not only just non-combustible siding and roofing, but that sprinkler systems be installed in that cottage housing also, and it is unfortunate that staff made that recommendation a long time ago, it's gone through the committee and the committee agreed with it and everything else, and on the final draft I was very upset to find that it is still in there. As a committee we thought that had been eliminated. When it hit me, I actually asked the Mayor if I could meet with her, and I expressed to her my concerns about this 5 foot setback and she said they were gone, they had been eliminated. She said she would read the packet tonight and then get back to me. Well she was surprised to see that they are still here in our zoning. Well, I got to thinking when we say staff, what do we mean. Mayor Johnson interrupted Council member McNally at this time and stated that we are not here to bash staff or other Council members or committee members. We are here to discuss what is in the Zoning Code. We are all supposed to review, and you were the first one to find it. As soon as I saw where you were talking, I e-mailed you that it is 5 feet on one side of the building, and I pointed out to you that it was an average and what was missing was the fact that you should have no two 5 foot sections butting up against each other, so it gives you a 7.5 foot setback. And I also told you that I personally don't like it. So, the conversation tonight is to deal with what is in the Plan. And, you talked about how many pages, 1700? And when you go through cutting and pasting and adding and subtracting, some things get deleted whether intentionally or accidentally. It happens because unfortunately we are dealing with human beings as staff. So, I will not tolerate anymore bashing of staff for the rest of the meeting. We are here to discuss what is in Title 19. Thank you. A short discussion ensued regarding setbacks and possible contradictions in the code. City Administrator Schmidt stated that sometimes in the zoning code, and we may even have that clause in there, it says that if you run into a contradiction in the code that the more restrictive applies. City Attorney Olbrechts said he is not so sure there is a contradiction there because you have another portion in your code that says you can have more than one building on a lot. So what the building separations would apply to are the buildings on the same lot, and then in

addition to that they have to be 10 feet from the property lines. City Administrator Schmidt said yes, so you would to have 20 feet between structures. I know that storage sheds, under our accessory use provisions require a 10 foot setback, and that is for a firewall protection. Council member McNally said that the other thing is, as far as the lot coverage and everything else, looking in the code there are places in here where we can actually go down to a 4,050 square foot lot. Everybody on the Council has stated that we don't want these smaller lot sizes and I haven't heard anybody from the Planning Commission asking for those, or any of the public that has asked for that, so I personally would like to see the square footage changed back to what all of staff recommends, and by staff I mean the Police Department, the Fire Department, the Planning Division, and anybody else I forgot, back to 5,000. Council member Boyle Barrett said isn't that only allowed where they are receiving credits for open space, etc. Council member McNally said it is all tied together unfortunately. City Administrator Schmidt said that only a percentage of the lots can be at that, based on their density bonuses. Council member Boyle Barrett asked for clarification. When you say that you don't want the smaller lot sizes, if those are provided as density bonuses do you not want the density bonuses? Council member McNally said density bonuses he thinks are a good thing, but to go to that small of a lot, no. I think we can go with density bonuses and things like that but not drop it that small, to 4,050 feet. Council member Montgomery said that the Planning Commission has recommended 4,500. Council member McNally said but here in the code it's dropped down to 4,050, and I know that another staff member has a real problem with that small of a lot and has said that there are a few in town that are 4,500 and it's amazing even how much a 4,500 foot lot looks like, how small it actually is, and 4,000 is just unacceptable for me. Mayor Johnson stated that she thinks the best example of a 4,000 square foot lot are the lots on the corner of Mason & Cedar. Planner Rashid said that she actually did an inventory of all the lots, and there is only one lot in the entire city that is built under 4,500 feet, and there are only 7 or 8 lots, including that one, that are built at or under 4,560 square feet. Council member McNally stated that the committee had recommended that we go nothing less than 4,500, but it still shows up in the code so I would like to see that gone.

**Council Member Weigelt:** Council member Weigelt stated that he thinks we are very close. Even though it doesn't seem like it, I think we are, and we have to figure out how we're going to wrap it up. I think we are lot closer than some of the statements would make it seem. I think building green is important, and I think open space is important. I think space between the houses is important, but I think there may be exceptions for cottage housing. In some of the plans that Investco showed of cottage housing the distance between houses is somewhat smaller, but you also have smaller houses, and it looked to me like there was a way to do that, so it might be that in certain areas you would allow closer density, but in general you would want to have wider spaces between the houses. Maybe narrower streets might be an option, and again that is saving materials and it cuts down on costs. A view of the mountain is an issue and I think there is always the balance between the rights of the property owner, because who owns the property may want to develop it, and then the rights of the people around that property. I am not exactly sure what we can do there, but I think Neilson Meadows was a good example, at least an attempt to get the builder to cooperate in keeping the outline of the houses

somewhat lower so others wouldn't lose their views. I think Investco had some good points and I would hope that if this goes back to committee, or however we do this, that we would consider a couple of them. One was regarding rain gardens. Cottage housing allows the use of rain gardens and open space should be permitted. There have been a couple of articles in local papers about the use of rain barrels off of the gutters catching rain and how that is actually illegal because the State of Washington owns that water coming off of the houses. One city went to the State and got an approval, kind of a certification, to allow people to catch the rain off of their houses in rain barrels. Developers are doing it, but it is actually illegal, so if it goes back to committee we might want to address that. City Administrator Schmidt said that the new legislature should get that changed. Council member Weigelt said further that 75% of units shall abut common space, and originally it said that of the cottage housing all of them would abut, and if you looked at some of the pictures it looked like all of them were on the open space except for a couple down on one end, and that seemed very reasonable. Maybe not every one of them has to face the open space because you might be able to place a couple of units in a way that they wouldn't abut it. Regarding the signage in a large development, I could see where you would have multiple entries and you might want to allow for an additional sign at the various entrances. On the other hand, we've talked about how people don't like the Copperwinds where they have built fences because it seems real segregated or isolated. I think there was a feeling by a lot of the Council members that we wanted to have more of an open, flowing, transparent feel to developments so you don't feel like you're going into sort of a gated community or segregated area, but where the City sort of flows from one section to the other without you noticing. Signage might take things in the opposite direction because you would know you were going into another area because of the signage, but that is something worth looking at. Do you want to allow signage at the development so people know they are entering it, or do you want it to be more blended. I'm not sure how well you can blend it if you have older housing right up against brand new housing. Again, I think that the Planning Commission did a whole lot of work on this, and I think that staff has done a lot of work on this, and I think Council members have done a lot of work on this. So, again I think we are real close. I think maybe if we go back and tweak it a little bit we can keep this from getting really stalled out badly, and I think we can keep it moving forward. We just have to figure out how to do that. I do appreciate all the hard work that has gone into it.

**Council member Reed:** Council member Reed stated that one of the things he sent around earlier was a proposal specifically regarding cottage housing; he sent that out for everyone to think about. One of the things my proposal had was significantly smaller lot requirements for cottage housing, keeping in mind that we already have a definition of a cottage house between 800 and 1,200 square feet, so that is significantly smaller than some of the homes being built today. To me it would not make sense to put a cottage house on a 6,000 square foot lot. One of the things that we want as a city I think is a way to get additional active open space in a development and as we've been told, and I think everybody knows from personal experience, there is no free lunch. You have to pay for it somehow, and if we want to try to avoid the big box house filling up most of the lot we need to come up with some options. As I stated earlier, I am not married to the percentages or minimum/maximum lot sizes that I proposed, but I needed to put

something down as a reference. In the proposal I put out, the minimum lot size I would have gone down to is about 2,500 square feet for a 1,200 square foot house. Now is that a house I would have purchased with a young, growing family, no. Now that my kids are grown would I consider a home like that, yes. I think there is a place for all of these developments. I understand the comment that was made earlier, I think it was Council member Montgomery saying if we do a cottage housing development he would like it further than 300 feet apart, and I think if I recall correctly that 300 foot number is roughly what we have as a city block in Buckley. Again, it was really an arbitrary number, and that is the one thing I had the most difficult time with, in all of this they are all arbitrary. Do you want a 6,000 square foot lot, or do you want a 10,000 square foot lot, or do you want a 1,000 square foot lot? It is just a wild guess and you kind of have to compare it to what we've done, and what are some options for going down the road. Basically you can put anything down there as there is not a right answer, and my coming from a technical background is going to have a problem with not having right answers. I think most of what I see in the Plan, it looks like I could live with it. I have mixed feelings on the PRD and PUD development standards and developer agreements, and it is the same problem that we have had for years because you have people coming in and saying we want everybody treated the same, but we want flexibility. You can't have both. If you treat everybody the same then you're going to have to have more rigid rules and regs. And, if you go with developer agreements that gives you a lot of flexibility and a lot of direct input, but no two developments will necessarily look similar as far as your design standards go. The other thing I think I mentioned at the last Council meeting was in regards to residence clustering, and maybe taking a similar approach to what I've proposed with the cottage housing in that we set up specific criteria for what we maybe used for the clustering and we say okay, we will give you clustering bonuses but we then look at percentages and do we want to say there is a certain open space requirement and do we want to maybe say if you do that in view corridors we want to have a height limitation on a certain percentage, or say a certain percentage needs to be this kind of housing. Maybe that is something we need to come back to after a re-look at our building and zoning.

**Council Member Twardoski:** Council member Twardoski said she hopes everybody in the community appreciates all the hashing everybody's been doing over all of this. I think it is very exciting, but it is scary. We've got a big responsibility and I think everybody here realizes it. I think things are going to work out perfectly for the betterment of Buckley because people can't work this hard and not have things turn out good. We do have to trust each other and we are not doing that. We're scared and we're not trusting, but we've got to trust a little bit more. This is important and we are going to make mistakes; everybody makes mistakes when they're making big decisions. We can do that as long as they are minor; we can't have great big mistakes. We have to be real careful about that, which we are doing. But, we do have to come to a conclusion pretty soon. We have to put this thing to rest. We have to trust. We've hashed over it as much as we possibly can and we've got to come to a conclusion.

**Mayor Johnson:** Mayor Johnson said she thinks Council member Weigelt said it best. We're taking notes here, and we're pretty close. I think we are a lot closer than we

realize. It seems that lot size is a big issue, and setbacks are an issue. Whether or not we have the PUD I personally think cottage housing is pretty close, but you're right, I think we will have better control with a PUD. The first time we discussed PUDs back in the 80s this room and the room next to us was packed; people were adamant that they didn't want it. Now it has just become an expected part of development. The really sad thing is that in five years this document isn't going to look anything like it looks today because it is a moving target. I think we're spending a lot of time on this, and I think it is important, but I think we need to remember that a perfect document isn't out there. We are all going to have to give and take a little bit. I don't like 5 foot setbacks and I don't like 7.5 foot averages. I don't even like 10 foot setbacks, but then I am sitting on an acre lot with a 1,600 square foot house, so that is the kind of setbacks I like. We don't have a lot of time left; August 11 is our drop dead date. We can discuss this a little bit more. I am not sure if staff has enough recommendations yet, or if we've debated enough over do we want 4,000 square foot lots, is that okay for cottage but not residential cluster. Is 70% ratio on the second floor too much, or too little? I think we need to decide amongst ourselves and then move forward with this because on August 11<sup>th</sup> we are stuck with what is on the books. So, what is the Council's pleasure?

**Open discussion ensued at this point.**

Council member Boyle Barrett asked City Attorney Olbrechts if he had any comments on the PRD or the developer agreements.

City Attorney Olbrechts stated on the PUD the problem I had, and this came from Port Townsend I think, they allowed commercial use in residential zoning districts and in multi-family and single family districts, and it didn't really elaborate on how much you could have. A developer could use this PRD ordinance as an excuse to put up a bunch of multi-family buildings in your single family zoning district, which is maybe something that you don't want to do. And allowing commercial in the middle of a residential district is a problem as well. If that is not something the Council wants we could easily just take those out. PUD ordinances usually don't allow for a change in use that is allowed by the zoning district, and that is easy to excise from the Port Townsend ordinance. It is one of those things where you take it now and you consider whether or not you want to allow it later. On the development agreement I would just add a criteria that says that you can't increase adverse affects on adjoining property as a result of waivers that you grant, otherwise it could qualify as a spot zone. Also, I would require that the development approval be adopted by ordinance because it is considered rezoning and has to go to City Council. Mayor Johnson asked what is the Council's pleasure at this point.

Council member Weigelt asked about the date of August 11<sup>th</sup>. City Administrator Schmidt said that the sewer plant is substantially complete right now, and between the 5<sup>th</sup> and the 10<sup>th</sup> the engineers are going to give us a letter saying that the plant is complete and the capacity is there. At that point, at either the meeting on the 12<sup>th</sup> or the meeting on the 26<sup>th</sup>, it depends on how much we can delay it, the Council is going to have to accept that project as being complete. Once you've accepted that project as being complete the

capacity is there and we have to allow applications to come in. Council member Weigelt said he is wondering if there would be time for it to go back to committee for one last shot at it, where staff can address all of the issues that were brought up and if they can get a consensus, great, but if you can't then have the committee chair come back, even absent a consensus, with a recommendation as to what we do. City Administrator Schmidt said it depends on how much it changes. If it changes from where it is quite a bit we have to have a subsequent hearing as well. Council member McNally said he doesn't think we will have to have a subsequent hearing if we make the changes that staff has recommended. I agree with the Mayor; I think that we are fairly close. There are a few things, side setbacks and open space and lot area coverage. Mayor Johnson said those are huge items, but overall in a document like this there are not that many. Council member Reed asked for a show of hands of Council members that could support a plan that allowed single family housing lots of 4,000 square feet or smaller; that would include cottage housing and carriage housing, any single family lot. City Administrator Schmidt said to keep in mind that the cottage housing, and I don't think that the Council is aware of that, with the cottage housing you take the number of dwelling units allowed within that zone, so at 6,000 square foot lots you have 7.2 or 7.4 lots per acre; under the cottage housing regulations you have a multiplier I believe of 1.6, so if you are allowed 7.4 you multiply that times 1.6 and that is how many cottage units you are allowed, and that actually brings you down to a lot smaller I believe than 4,000 square feet. Under the current code right now I think it is 3,750. Council member Montgomery said he also looked at cottage housing, and while it is a form of single family residential it is in a different category to me than the 6,000 square foot lots that are allowed in the 6,000 square foot zone. City Administrator Schmidt said 3,750 is allowed in this draft for cottage housing. Mayor Johnson said that part of the reason for cottage housing is to cluster the houses closer together and provide more open space for the rest of the property. City Administrator Schmidt said and for affordability. Council member Montgomery said I can live with lot sizes that small for that application. Council member Reed said so for cottage housing we are okay with that, and for residential clustering there is no reason we couldn't come down to 4,000 or 4,500. So, what is the minimum lot size for residential clustering, 4500? City Administrator Schmidt said that is what is in there now. 4,050 is where you go with your green belt, your LID or your rambler. That's where those density bonuses are. If you want to keep it at 4,500 then you just eliminated all your density bonuses. Council member Boyle Barrett said you are not going to get any cluster housing because it won't be cost effective for them to build cluster housing. Council member Reed said he is not arguing one way or the other. Council member Weigelt stated what I heard you say was for cluster housing the current is 3,750 and it sounds like everybody is okay with that for cluster housing. Everyone said no, that is cottage housing. Council member Weigelt corrected that to cottage housing and said then for cluster housing we are okay with 4,500. Council member Montgomery said that is in exchange for an open space set aside. City Administrator Schmidt said for your streetscapes and that sort of stuff, those are performance standards that they have to adhere to. You get your density bonuses for your master green belt and your low impact development, and then your percentage of ranch. Council member Reed said so with the bonuses it goes down to what. City Administrator Schmidt said 4,050 I believe. I think you get 4% per each, or something like that. Council member McNally said his point

was he doesn't know of anybody from staff or the public or the Council that ever agreed to that. City Administrator Schmidt said it doesn't matter about agreement, the City Council asked me for what I thought needed to be recommended as far as complying with the Comp Plan, and that is just there as a recommendation. You Council members have to figure out what you want. Council member Reed said we've already decided to allow the homes to be clustered on the property at 4,500 now, and we also talked about building green and some other items, so the only way to get that is either start at 4,500 and go backwards and say okay these are our bonuses that will get you down to 4,500, but then at some point it becomes no cost savings to the developer to go in and do these additional regs and make sure they're building green and doing these other functions, which is going to take some time. I think ultimately a developer will recoup that investment because I don't think that green belt home is going to be as inexpensive as standard building. As someone purchasing it I am going to be paying more up front knowing that it is going to be a more cost effective house and it may also be better for the environment because there were a certain number of recycled materials put into it and a variety of things that might have happened. Council member Montgomery said he thinks we are stuck in this mode of thought where every incentive has to be a density bonus, and we have other tools. We can for instance, as far as the Master Green Builders Association rebuilt program goes, say if you opt to do this then we are going to bump you up to the top of the priority list as far as processing your application. You know every day that goes by costs the developer money, so we have a fairly short window in which to approve an application anyway, but that would be an incentive. We can play with the building envelope and the floor area ratio. We can bring it down low and then offer incentives in that area for a little bit larger home, or things like that. Again that flies in the face of energy efficiency, which is a lot of what the green built program is about. Or part of what it is about flies in the face of affordability, but those are some tools we can use. We can also offer reduced street widths as I mentioned before on collector streets and minor arterials. We have 18 feet of parking on streets that people aren't going to live on. Developments are going to be laid out with collector streets and minor arterials because there aren't going to be anymore driveways coming out onto them, so why have parking on both sides of the street that nobody lives on. It is just going to cost the taxpayers more to maintain, so if we can offer that as an incentive. A developer could care less how many houses they get in a development. It is all about how much money they're going to make at the end of it. If we can look at it along those lines we have more incentives to offer than just density. Council member McNally said he still disagrees with developer incentives. They are going to make a ton of money when they come in and develop. I don't care what kind of house or what size lot, they are going to come in and make their money and then walk away. Let's stick to the plan that says basically life safety and no over crowding, everything it states in 19.04.2, I think that's what we need to stick by. Council member Montgomery said he thinks what he is getting at is more how we can not be prescriptive necessarily, but offer the developer some flexibility to do what they need to do. And when I say incentives, it is incentives to do things that the City would like for them to do, things that meet the goals of and intent of the Comprehensive Plan and the public visioning process. If we can use incentives other than density bonuses to achieve that, then I think we are much better off. Council member Boyle Barrett said one of the comments by Investco on cluster housing was about the variety of lot sizes. Council

member Reed asked with density bonuses, what are we saying the minimum square foot lot should be in the City of Buckley? Council member Montgomery said he would like to stick with the Planning Commission's recommendation of 4,500 square foot lots in exchange for 10% active open space set aside, and explore other alternatives for pursuing the sustainable, low impact development and built green program. Also I touched earlier on incentives for ramblers to protect the view corridors. Cottage housing in my mind is a different animal all together as are town homes for that matter, and I think a 3,750 square foot lot for a cottage house between 800 and 1,200 square feet is okay, especially given the purpose of having those. I know that Investco made some comments about what provisions they would need in order to make town homes work in our code, and as I said before I think six is just too many for me personally. Mayor Johnson asked is six a figure you can live with. Council member Montgomery said he would not vote no on the plan because there were six attached units. Mayor Johnson said that this whole thing is going to be a bunch of compromises. Council member Montgomery said there are things he is willing to compromise on and there are things he is not willing to compromise on. Council member McNally said speaking on town homes, he knows it came in at six, the Planning Commission recommended six he believes, and the committee went down to two, and I disagreed with six units also. I thought it should be two. I know that certain staff said that is no more than a duplex, but Investco does have two unit town homes and they also have duplexes, and they are actually two different building types, and there are different codes for each of them. So I would agree with Council member Montgomery; I don't agree with six town homes. We could compromise and say four. Council member Boyle Barrett said her opinion is that if we cut off the means of affordable housing, they won't be built, and then we are not going to have anything. We're going to have three hundred and fifty \$450,000 homes, a whole bunch of them, and no open space and no amenities, and for me trying to provide affordable housing in a mix of development is really important. Mayor Johnson said what she is surprised Council didn't discuss is zero lot lines. Council member McNally said talking to the Police Department he understands that the Police Department feels that if we put these up, that is going to put a tremendous stress on the Police Department and also on the Fire Department because of the amount of people that you are going to get in. If you build another Copperwynd or Elk Heights or something like that, the impact to the Police and Fire Departments is not near as great. I think we can try to do the best we can for affordable housing, but if we allow all this affordable housing to come in there is going to be a great impact on the Fire Department and the Police Department. I don't think that we've geared up for that for as soon as the development starts, and I think that we need to do that before we start building because I guarantee that their call volume will double or triple, where with Elk Heights or Copperwynd there were a few more, maybe. Mayor Johnson said basically what you are saying is that we need more of a mix of housing, and not just the affordable housing, we need the whole spectrum. I think that is what we are all saying. Council member Boyle Barrett stated that we all have to remember that we are tasked with looking at the big picture. That isn't just now or two years from now or five years from now, it's the big picture, and our guiding document is the Comprehensive Plan, and our Comprehensive Plan lays out that we are supposed to provide for parks and open space and that we are supposed to provide for affordable housing and a wide range of housing styles. So, our goal is not to build another Copperwynd or Elk Heights, it is to provide a mix. Fire

service and police service are always going to lag behind development, especially in a small city. You are not going to have the money right away to hire the people that you need to protect the community, but it is the way it works. As the fees come in from building the homes and the property taxes start to roll in, then we start to have the money to hire additional staff in the departments where we will essentially be desperate for it at that point. Affordable housing is really a relative term. When I say affordable housing, and I'm talking about cottage housing and town homes in these new developments, it's probably going to be in excess of \$200,000, and that is just a ballpark figure plucked out of my head. It isn't necessarily going to cater to people who require more service than someone who buys a \$200,000 home in town. I don't think it is going to create the problems that I would associate with low income housing, where people tend to have more problems that require more services. I just want everybody to keep in mind that this zoning plan is not just for the Investco property, it is for the whole town and it needs to be planned right, and we need to be looking at the overall big picture.

Mayor Johnson stated that it is just a few minutes before 9 PM, and we still have one very detailed subject to cover, the stormwater plan, so what I need to know is where does the Council want to go from here? Council member Reed said he thinks we still have basically three questions to answer. One, I think if I could just get a nod of heads we are already there, and that is the absolute minimum lot size for single family residential. The others are percentage of active open space from a development, and is relationship back to the lot size an alternative, or bonuses for additional building green, or additional open active space. One other thing I think we should probably make a decision on is the minimum setback in any zone. If we can answer those four questions hopefully within the next few minutes then I don't have a problem going on with the stormwater. Mayor Johnson said you said residential lot size for the regular residential housing is 6,000 square feet. Council member Reed said that zoned is 6,000 and we are currently talking with residential clustering of allowing down to 4,500. Mayor Johnson asked if that is acceptable to other members of the Council and Council agreed. Council member Montgomery said he believes the current code says that 40% of lots can be developed at 4,500 square feet. Council member Reed asked then do we want to have any density bonuses on top of that, or do we want to keep the minimum lot size at 4,500. Council member McNally said minimum lot size at 4,500. Council member Montgomery said that is what he would like to see. Council member Reed said so the consensus (5 to 2) is 4,500. Council member Ramsey said she is on the fence. Mayor Johnson said then it is 4 to 3. Mayor Johnson said it is more of a consensus but it looks like something the Council can live with. Council member Reed said then we need to find an alternative incentive program for open space and green built and any other things that we were originally going to give density bonuses for. Council member Reed asked on the minimum setback on all lots, do we have anywhere that we have under 7 foot setbacks on a property, and tell me how that comes about. City Administrator Schmidt said he thinks it got lost. It actually came from the Planning Commission and it went through Council and it is in the ACR zone, and it's in the NMU zone. It has nothing to do with residential clusters or cottages. In there the setbacks are at 5 and 10, but the way that it says a developer could actually go in, and it is up to the applicant where that 5 and 10 is, so they could actually build a house here and a house here and let the two 5s be together and let

the 10s be on the other end. But if you look at our R8000 we've had the 8 and 12 for a long time. What it says is there shall always be a 20 foot separation between structures, and that is all that has to be added. We need to go into the NMU and the HDR and put that provision in there so regardless of what the applicant chooses and which side, that they maintain that separation of 15 feet. Council member Reed asked if that works for you. Council member McNally asked the Chief if that would work for him and his staff and he said yes, he thinks that is in line with what they discussed. City Administrator Schmidt said to keep in mind, for both the Fire Department and the Council's benefit, that still is a 5 foot setback on one lot on one end, so if they want to put a fence up or if they want a hedge row up, then you are going to be limited by that 5 foot on that one end of the building. Mayor Johnson said but there are things that you can do like Council member McNally mentioned earlier, the non-combustible siding. I had asked about window placement, facing front and back, but the Chief said you still need access to the roof. I'm not a fire fighter, but when you have three other sides why would you pick the narrow side? Chief Predmore explained why. A short discussion ensued regarding sprinkler systems in homes. City Administrator Schmidt said he would encourage the Council to go with a wider setback because all that is going to do is confuse and complicate the code for us to administer as far as making sure that there is hardy board siding on there on every house that is built in that zone. It would be easier if you just say minimum setback of 6 or 7 foot on this side, always maintaining a minimum of 17 foot separation between buildings, or whatever you want it to be. It would be a lot easier for us to administer if you did that. Council member McNally said I can certainly live with that. If I do nothing else for the citizens of Buckley, if I can get that passed to where we don't have 5 foot setbacks, I've done my job. City Administrator Schmidt said in any residential areas your smallest setback is 8 foot now, and in your residential clusters it's 7. Except for that one provision in the cottage housing, we probably need to come up with some wording changes in there so that 10 foot only applies to accessory structures or something like that. Council member Boyle Barrett said so you are going to change them for HD and MNU. City Administrator Schmidt said to make it a flat 7 foot. Council member Reed said only ones that have setbacks smaller than 10 feet; everybody else has 10 feet or larger. Council member Boyle Barrett said she understands that, but we've had the 8 and 12; weren't they flexible to either side of the building. City Administrator Schmidt said only in the old residential zone and we still have that, it is in the R8,000 and in the R6,000, and it is an 8 foot flat. Mayor Johnson said the reason we had it staggered is so people could actually have one side where they could either park an RV or at least get stuff to the back yard. City Administrator Schmidt said it wasn't for fire access, it was for RV parking. Council member Montgomery said he has a question with regard to setbacks and cottage housing. If cottage homes were developed as single story only, with that restriction put on them, would a 5 foot setback be acceptable? Council member Boyle Barrett said that the builders are not going to build them if they are single story. Council member McNally said if they are a single story, yes it is probably acceptable. Council member Reed said it is less important if you only have a single story, but you still may have a situation where you need roof access for a fire fight. More discussion ensued. At 9:08 PM Mayor Johnson said we need to wrap this up for tonight. Council member Reed said he has one last thing and that would be active open space, and we have requirements for open space currently. Council member Montgomery said that he

had made several proposals to the Planning Commission about open space set aside in general that would encompass sensitive areas and parks and other amenities. It just became a little too much, so we decided on a 10% active open space set aside. Council member Reed said that one of the things as far as active and inactive, and this is something we've talked about in Parks repeatedly, is we know that someone is developing a section of land and they will probably be required to deal with water retention, and they may have to deal with sensitive areas, wetlands basically in Buckley, and did we want to credit that for any reason as part of the open space requirement. Generally, I think the answer was no in committee, they are already required to do that. To build a house, they can't build it in the swamp and they have to do something with water run off. But, keeping in mind that we are saying here are some build out options that reduces your lot size, and in return for that we want some open space. We even talked about the open space crediting some of the wetlands and water retention, and (correct me if I'm wrong because this is just off the top of my head) I think we said one third credit. Council member Montgomery said where we are at right now is 10% active open space set aside. We recognize the value of these sensitive areas that cannot be built on and we would like to have some incentive for added value for stormwater retention ponds that are likely going to have to be implemented anyway, and what we would like to do is tie that into parks and the rest of the community and allow for passive recreational opportunities such as bird watching, educational opportunities, interpretive sites, and things of that nature, and tie that all together into one park plan using a greenway corridor. So, essentially the proposal for the Park Plan is to have this active open space set aside but to have this corridor that if the developer put a trail around that sensitive area, that corridor would encompass that trail and part of the wetland, or sensitive areas. Mayor Johnson said again, the lateness of the hour and I have a recommendation that before we leave tonight we do not adjourn this meeting, we recess it so we can have staff come back with recommendations that we have brought forward and continue this discussion because I think we are close. City Administrator Schmidt stated that we will have to schedule a special meeting for next week, which we can, we will just have to reschedule one of the committee meetings one of the nights and then schedule a special meeting. I doubt if we are going to get through the stormwater topic completely tonight. Mayor Johnson said it has been good discussion but she thinks it would behoove us to recess this portion of it for tonight. City Administrator Schmidt said why don't we have bullet points so instead of changing the actual code we could come back with bullet points for you to actually vote on.

**At 9:16 PM Mayor Johnson recessed the meeting for a 5 minute break.**

**Mayor Johnson reconvened the Council meeting at 9:26 PM.**

**Council Discussion: Comprehensive Stormwater Management Plan**

Mayor Johnson asked where we want to go with this storm drain. We have the engineer here so do you want to start out with the response to Marvin. City Administrator Schmidt said you have three different sheets in front of you, and Council member Weigelt has the original comments from Marvin. So that you wouldn't have to look through the entire manual, I copied every page in the manual that Marvin had comments on, except for

some of the large map pages. All of the previous comments are referenced on these pages. Marvin made a couple of comments about water resource area number 10, the upper built watershed plan, and I gave you excerpts from each of those plans in these documents. I gave you copies of discussions of Spiketon Creek, which is what the Department of Ecology considers it to be from several of their studies. I pulled those excerpts out so you could see that, so you can see that there is a direct conflict, and there is still a controversial designation to that and we do have a fight with the State still on our hands and that is why it was listed like that. Then preliminarily there are some recommended changes in here to cover some of those topics of language. One of the things that he talked about was the rate sheet and Nancy and I had the time to go through it in a little more detail. It talked about a 3% inflation adjustment and Marvin made a comment about how it should be more based on wage and benefits. If you look at that table closely, it's 5% for wages and benefits. They already had it up higher in anticipation of that, so that is already there. Now is it the 5.8% that it is this year. Do we want to maybe look at that and adjust it by a percentage point, or half a percentage possibly? Gray & Osborne has the spreadsheets and they are looking at making some minor changes. The growth rate anticipated is 4.8%. If you look at our Water Comprehensive Plan and our Comprehensive Plan, everything is going by 4.4% and not 4.8%, so we are trying to make that consistent with everything else. We didn't touch any of the capital projects, that is entirely up to the Council to decide. You decided what the projects were and what the storm design was and that is going to dictate what the cost is, so we didn't touch that. The recommended changes are in there and Marvin talked about some of the language in there being flat, and he contradicts the topography as being flat. If you go to the Upper Puyallup Watershed Plan they call it relatively level. I don't know what the difference between relatively level and flat is, there is probably a small difference, so I am recommending that you change flat to relatively level to match the Upper Puyallup Watershed Plan. As you go through here you can see some other things. I think probably the most controversial one is and always has been the discussion of Spiketon Creek. If you remember, the original discussion on Spiketon Creek was a little more detailed but one of the committee members had a problem with it and so in order to get something out of committee and to the Council we tried to come up with a little generic language that kind of talked about the history of it but didn't really list facts because those facts were being disputed on all sides. Now it is being disputed once again so I am not really sure what to do with that from the Council's standpoint, so my recommendation is to hand that section off to Marvin and have him write it, and come back to the City Council with a draft for you to consider. If you are satisfied with the draft that he comes up with you can insert it into the manual. Council member Montgomery asked Marvin if he would be willing to take that on. Marvin said yes, he will give the Council a rough draft. You guys can work on it, but it will have the facts in it and I think that this has to be a fact-driven document. Marvin said he has a real problem with the generalities. City Administrator Schmidt said that was probably the most controversial one, or the actual projects themselves, or the cost of those projects. But like I said, that is driven by the storm event that you guys want to see. I know Marvin made some comments about how we should look at comparisons between costs per basin, but you can't do that because it is driven by the project itself. Some of the projects require 2,000 foot of 36" pipe and in order to put that 36" pipe in you have to

tear up the streets and you have to restore it all after it's over with, and that is going to drive the actual cost which is going to dictate the per acre price of improvements. I don't think you can compare one to the other. I think you are going to have to look at each project individually and maybe Nancy can clarify that somewhat or add to that, but it is something that I think is going to be driven by the project. Everything else is minor changes. Marvin made a comment about a transfer to the storm improvements on River Avenue for the Skate Park and Youth Center. It wasn't \$150,000, it was \$60,000, and it was done in 2005 for the 2006 budget, and that was to extend the pipe from the Post Office to the Youth Center to make those improvements because we were doing the street widening, and the curb, gutter and sidewalk, and the storm had to go in there at the same time. I don't know about the other one, it was done in 1998 when Gray & Osborne was involved in that project. Marvin stated that Gray & Osborne surveyed it and they set a benchmark. They had a Gray & Osborne truck and they set a benchmark on my culvert. City Administrator Schmidt said we just need to research and get the history on that project and figure out what the cost is and then we can include it in there. I'm just saying I don't have that information without doing significant research, so we can go back and look at it. But the other one has been added as a recommended change. I think the other thing that Marvin has questioned is the rain events that happened leading up to the FEMA declaration, or the Federal declaration of the rain events, back in November of 2006. Our records are taken directly out of the sewer plant. We record rainfall amounts daily down there and we have years' worth of history. If Marvin had a 6.5 inch rain and we had a 5.5 inch rain down at the sewer plant that is entirely possible, but all of the numbers that are in the storm plan and the draft come from the sewer plant and the recordings that were taken during those dates. It is up to the Council what you want to put in there. If you want to put Marvin's numbers in there that is fine, but we have a baseline established for those at the sewer plant and I have a spreadsheet that shows all of those numbers for 2006. Council member Montgomery asked as far as the rain events go could we insert some language in here that just talks about where we got that data? City Administrator Schmidt said that is a good idea. A short discussion ensued regarding how to amend the language to reflect that the recordings came from the waste water treatment plan. Council member Weigelt suggested that we could also put in some language saying that a local resident measured similar readings, and actually put those readings in there. We could also put in a couple of pictures and make a reference to them showing the scope of that event. Marvin wanted more pictures added as well. City Administrator Schmidt he knows some of the minor stuff in there as it refers to the urban growth area. The City never had an urban growth area, we were never approved for one, but I think the discussion that Gray & Osborne took over the potential future land use was the discussion right out of the land use element of our Comprehensive Plan, but it was concerning the future urban growth area not the urban growth area. Any reference in here to the UGA, I just put in the word future because that basically correlates to a fact within the Comp Plan. Mayor Johnson said that is all area that we had talked about annexing before the growth management board said no. City Administrator Schmidt said we had actually submitted that to the county.

Mayor Johnson asked if there was anything else. City Administrator Schmidt said you can see what all of the changes are and most of them are minor, except for the larger

points that I pointed out. Mayor Johnson asked what is the Council's pleasure? Council member Weigelt asked if we have the same deadline on this one. City Administrator Schmidt said the biggest deadline driving this one is the Council's adoption of the new general facility charge. This plan establishes the capital improvement projects that form the basis of the fee calculation. Council member Weigelt asked should we do it at the continued meeting and asked Marvin if he could have a draft by next week because we are going to have another meeting and it would be good to have that draft of the Spiketon language. Marvin asked the Council to clarify what they want, and explained how he understands it. He said he would write the whole thing up and put in there what is anecdotal and what isn't. City Administrator Schmidt says that the heading says it is flooding in the Spiketon Ditch area and its impact on Spiketon Ditch. That is the category we need you to write. Marvin said okay, he will write something and talk about it because a lot of these things are really vague. City Administrator Schmidt said two of the other things that Marvin made mention of in his comments were the references to the barrier down stream on Spiketon Ditch. If you read the language in the Plan close enough you'll see that there isn't a discrepancy. What the engineers have said in the very first statement is that the barrier is on the far side of 165, and that is exactly where it is. In the back of the book where they refer to it again they say it is a mile upstream of the confluence of Spiketon Ditch with the creek, and if you take water resource inventory 10's map and scale it off that is about what it is; it is a mile upstream of the confluence. I read seventeen chapters of the Upper Puyallup Watershed Plan today and no where in there does it refer to the barrier, and no where in there does it mention Spiketon Creek. It does show where the passage of pink salmon are and where the passage of Chinook salmon are. They go up South Prairie Creek, and it has Spiketon Ditch on there, and it shows that there is nothing up stream between there and 165. If you take the scale that is on the map and scale that off it is about a mile. Marvin said that the map he has talks about an obstruction and I haven't looked at it in a long time, but it was something to the effect of about a thousand feet upstream. A short discussion about this issue continued.

Mayor Johnson asked if we have any thing else to discuss.

Council member Boyle Barrett asked what are we going to do with the rest of the comments that Marvin made? We picked what we believe to be the highlights. Mayor Johnson said if we're going to discuss this next week then you have an opportunity to go over the information that City Administrator Schmidt gave us and then we can take it from there. Council member Boyle Barrett said her concern is that there are a lot of comments that he made, and you addressed what you consider to be the big ones. City Administrator Schmidt said that some of Marvin's comments were his opinion, not necessarily that there was something wrong with the text, like on the priority of the projects, or the amount of the projects, or what lead the Council to their decision with twenty-one projects to begin with and how did you get down to thirteen. Those are comments that the Council is going to have to address to Marvin. Those aren't comments that I can address to the Council. We're looking at it from a technical standpoint based on what we see needs to be changed based on his comments. Some of it is policy and you are going to have to address that. Council member Reed said kind of like the discussion of do we address our stormwater projects based on how much land we are

going to be able to drain, or resolve water issues versus dollar projects, but even so that is a policy decision from our standpoint. City Administrator Schmidt said he thinks there is some fear from the public and I understand that fear is if it is listed as a capital project, and it's one through ten, then that's how the Council is going to do those projects and that is not how it happens. If you look at the Six Year Transportation Plan, we have twenty-eight projects, and we skip all over that thing. We do what there is funding available to do. Council member Weigelt said there was a general effort to prioritize it, but it was a very general effort, and that is also how we cut down the list of projects. We realized when we looked at the twenty-one projects that there was no way we were ever going to get funding for that, but we cut it down to an amount that we thought we might actually get the funding for. I agree with City Administrator Schmidt that as we move forward we are going to have to focus on whatever the top priority is and what we can get funding for. Marvin had some ideas about some things we could do that are lower in cost and I know that as committee members we will be looking at that. If there are things that you have suggested that are going to get us more bang for the buck we'll look at those. Just because they're not high on the priority list, or maybe they're not even on the list, we are not going to disregard that. Mayor Johnson said also when opportunity presents itself, like the connection from Rainier School to the new sewer plant and the fact that we are going to be digging a deep ditch and we can throw other things in the ditch. We'll be looking at the McNeely area next spring when we put that new sewer line in. You bet there is going to be storm drainage in that hole too. City Administrator Schmidt said sometimes the limit is on the grant itself, or the loan is going to dictate what projects we're able to get. There might be a grant for \$250,000 from the Department of Ecology and if that is what we get, we can't very well try to get a \$1M project done even if that is number one. We would have to jump to #6 that is a \$300,000 project because we can get \$250,000 in grant money and we can put \$50,000 with it and get that done. Council member Reed said the other thing is the fact that part of our connection fees and rate fees are based on the dollar amount of our capital projects, so if we had 21 projects on there then theoretically it could double the amount that we would have to be charging for rate fees. City Administrator Schmidt said the bottom line is if you don't have the money to pay the loan then you are not going to get the loan, you are not even going to apply for it. Anytime you get a loan you have to have the revenue to support that loan debt repayment otherwise you are not going to get the loan approved. Marvin said that the only reason he pushed the Elk Meadows ditch so hard is because I think it has the potential to create some of the things that Council member Montgomery is talking about, and do them at a real inexpensive price. Long before this stormwater plan came up, back when Hiller West was Planner, I talked to Hiller about getting back into Elk Meadows and building ponds, and I think if we have a ditch there we can actually go to some of these outfits and some of these people can create some storage areas that will slow the water down coming through there. Not only do we do that but we benefit the wildlife that is getting screwed out of the City. Every time we build one of these housing developments, they get pushed out, and we happen to really like the wildlife and we think it contributes to Buckley's character. When we talk about 4,500 square foot lots, I am not impressed. I really want to see something done on the Elk Meadows thing because I think it just has potential to put a feather in all our caps. Council member Montgomery said he would like to add that Marvin makes a lot of really good points. I found it kind of interesting after listening to

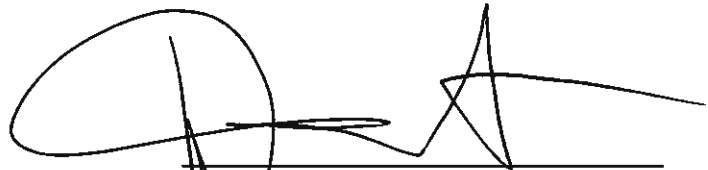
Marvin's presentation the other night that he and I kind of approached the same topic from different directions and arrived at the same conclusion. I don't know if you will remember on the 10<sup>th</sup> of June at that Council meeting I had prepared 4 or 5 pages about why I like ditches as opposed to pipes in the ground. I don't necessarily want to read the whole thing right now out loud, but I would very much like the Council to consider many of the things I have said, and if you don't have a copy I can certainly make sure that some get to you. There are opportunities to create amenities and enhance the quality of life in this town and at the same time deal with an issue that is a really hot button issue, and if we can make the conveyance of storm water a resource as opposed to a waste product, and do it more cost effectively, I think we are doing the City a great service. We're doing the taxpayers a great service and quite possibly we are contributing to the economic base by providing more recreational opportunities, and the list goes on. I think there is a lot of opportunity there and I know that we had talked about this in committee and one of our big roadblocks will be right of way, not having enough, and I know this might be a little more clear if we had the Park Plan here but I really believe that on our collector streets and our minor arterials if you look at our stormwater maps and compare that with our trails and safe routes maps, they are not just to convey cars, they are to convey people and convey stormwater. They are there to provide a lot of different services and if we can eliminate the parking on those roads and allow for engineered ditches there instead that meet the slope requirements and put a trail next to that, essentially what you would be mimicking is a trail next to a stream and you've got trees there providing habitat for birds and you've got wildlife corridors. There is a lot of potential and I would love to see Gray & Osborne come back to us with a model of what that might look like as far as cost. It is not going to work for every scenario by any means. There are areas in this town where we are going to have to pipe water but I think there is a lot of undeveloped land where I think we don't have to pipe water, and anytime we can do that I think we are better off. City Administrator Schmidt said before you go to that extent I would encourage you to go to the Department of Ecology website and look under TMDL assessments. Look at the assessments under the White River and South Prairie Creek and read all of the reports and see what they have said about the City of Buckley, and Spiketon Creek and our stormwater drainage, and our duck ponds and how it contributes to fecal coliform, and temperatures, and everything that is totally counter to the TMDL. When you see everything that Ecology has in there you are going to see, and I am not against Marvin's idea, that you are going to have a battle on your hands to develop that, and we are going to have to fight the State to do it. Because they are trying to protect the salmon, they're saying what we are doing out here is counter to what they're trying to do. If you look at some of the excerpts that I gave you, and all of those comments in there, it says that currently the Pierce County district is conducting a monitoring program that will locate contamination sources and guide remedial work or point to further source identification. Wildlife contributions were not quantified explicitly in the TMDL study; however, it is possible the smaller duck ponds discharging into Spiketon Creek could elevate bacterial concentrations in these smaller streams. The district's monitoring may provide information to answer this question. So they are searching all these things out. They are talking about roadway drainage and open ditches affecting temperature and fecal coliform and things like that. Those are things to just keep in mind when you look at that. Not only are we going to be fighting them over the Spiketon Creek issue and Elk

Meadows, and the natural waters, but we are going to have to fight them over this too. Council member Reed said there is also a remediation for that as well, and it means that we don't get to do the simple duck pond because now we know we have outflow of this water that needs to be treated, and it can be biologically treated, it doesn't have to be run through a plant. I've used Disney World in Florida as an example for years who does tertiary treatment of their sewage with water lilies and water plants. There are locations that have created wetlands specifically for tertiary treatment of sewage with plants, and I'm thinking of several locations in California and I think there is one in Oregon. So, I think it is still doable but we are going to have to keep that in mind. City Administrator Schmidt said it is not going to be simple ditches. It is going to have to be something that is very creative and it is not going to be able to be discharged into South Prairie Creek or the White River unless there is stringent sampling and monitoring. Council member Montgomery said that is where we are headed with our stormwater regardless. City Administrator Schmidt said not in our open ditches; that is the whole key in piping into a central detention facility because it gives us better control over treatment in one location.

Mayor Johnson asked if we are going to adjourn and have a special meeting or is she recessing this until next Tuesday. City Administrator Schmidt said there is not a public hearing so we are just going to reschedule another public workshop to continue the agenda item discussions. Council rescheduled a meeting for August 5<sup>th</sup> at 7 PM..

**With nothing further the meeting was adjourned at 10:12 PM.**

  
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Mayor

  
\_\_\_\_\_  
City Administrator