
CITY OF SEDRO-WOOLLEY

Regular Meeting of the City Council
January 23, 2008 – 7:00 P.M. – Community Center

The Meeting was called to order at 7:00 P.M.

Mayor Anderson noted audience members Commissioner Sharon Dillon and School Superintendent Mark Venn.

ROLL CALL: Mayor Mike Anderson, Councilmembers: Ted Meamber, Tony Splane, Louis Requa, Pat Colgan, Hugh Galbraith, Rick Lemley and Dennis London. Staff: Clerk/Treasurer Nelson, City Attorney/Supervisor Berg, Planner Moore, Police Chief Wood and Fire Chief Klinger.

Consent Calendar

- Minutes from Previous Meeting (Including January 2, 2008 Worksession)
- Finance
 - Claim Vouchers #62362 to #62437 for \$250,055.42
 - Claim Vouchers #62438 to #62518 for \$148,568.41
 - Payroll Warrants #41689 to #41782 for \$221,016.17
 - Payroll Warrants #41783 to #41878 for \$165,158.57
- Planning Commission Member Appointment – Patrick Huggins
Resolution No. 763-08
- Out of State Training – Change Request – Police Department
- Final Acceptance – Borseth Sewer Project as constructed by Aaction
Excavating Co.
- On-Call Professional Services Agreement – Garrison Engineering (*revised*)
- Construction Phase Professional Services Agreement – Geotest Services, Inc.
- Interlocal Agreement – Skagit County & City of Sedro-Woolley for Ballot
Drop Box

Councilmember London moved to pass the consent calendar. Seconded by Councilmember Meamber. Motion carried (7-0).

Mayor Anderson reported on an agreement between Skagit County and the City of Sedro-Woolley for a ballot drop box. The box has been installed in the vicinity of the Post Office. The City has also placed an additional box for City utility payments.

Special Presentation – Sedro-Woolley School District Levy

Mark Venn – Sedro-Woolley School District Superintendent gave a power point presentation on the upcoming Levy. Venn addressed the positive results with the mandatory testing as well as the High School graduation rate which is one of the highest

in the area. He also addressed the levy process, the differences between a levy and bond, noting the levy being sought is a 2-year replacement levy and exemptions for senior citizens. Venn then answered questions from the Council.

Public Comment

No Public Comment received.

UNFINISHED BUSINESS

City Hall Update

City Attorney/Supervisor Berg provided an update on the progress of City Hall. He also reviewed and requested approval for Change Order 4, a contract for movers, authorization to award the phone system bid and the FF&E request through KCDA.

Councilmember Meamber moved to authorize the Mayor to sign Change Order 4 increasing the contract amount by \$52,384.86. Councilmember Lemley seconded. Motion carried (7-0).

Councilmember Galbraith moved to authorize the Mayor to select a moving company and execute an agreement in a form approved by the City Attorney for moving services in an amount not to exceed \$7,500.00. Seconded by Councilmember London. Motion carried (7-0).

Councilmember Meamber moved to award the bid for the new phone system to Dimensional Communications and authorize the Mayor to negotiate expanded City-wide services and sign the contract with Dimensional Communications. Councilmember Splane seconded. Motion carried (7-0).

Councilmember London moved to allow the Mayor to enter into a contract with Interior Development East through KCDA in the amount of \$90,315.82, excluding sales tax. Seconded by Councilmember Meamber. Motion carried (7-0).

Berg also addressed the high density storage and AV equipment for the Council Chambers.

Interlocal – Solid Waste

A lengthy discussion ensued regarding the proposed Interlocal – Solid Waste agreement.

Councilmember Requa moved to table discussion on the Solid Waste Interlocal. Councilmember Galbraith seconded. Motion carried (7-0).

A full transcription of the discussion is attached as *Attachment A*.

Ordinance – Clarification of the RCW 35A Adoption Ordinance

City Attorney/Supervisor Berg reviewed background information regarding the request to clarify the intent of Ordinance No. 1582.07. He noted there was a potential ambiguity within the ordinance in terms of the form of government the City intended to adopt by becoming a code city. The proposed ordinance would clarify the intent of the previous ordinance.

Councilmember Galbraith moved to adopt Ordinance No. 1600-08 An Ordinance Amending Ordinance No. 1582-07 to Clarify a Potential Ambiguity Regarding the Intention to be Governed by RCW 35A. Seconded by Councilmember Meamber. Motion carried (7-0).

Ordinance – Zero Side Setbacks in R-15 Zone

Councilmember Requa requested himself due to a conflict of interest and left the Council bench.

City Attorney/Supervisor Berg reviewed the background information regarding the proposed ordinance. He noted Council had voted on the new code language on October 10, 2007 but it was not presented in the proper Ordinance format. He noted this would correct the error.

Councilmember London moved to adopt Ordinance No. 1601-08 An Ordinance Amending SWMC 17.16 to Create a New Section Permitting Zero Side Setbacks. Councilmember Splane seconded. Motion carried (6-0-1 Councilmember Requa requested).

Councilmember Requa returned to the Council bench.

NEW BUSINESS

Ordinance – Proposed Amendment to SWMC 2.90.050 – Open Record Public Hearings

Planner Moore reviewed the proposed amendment to SWMC 2.90.050 – Open record public hearings. He noted the ordinance would establish time lines for projects to keep them moving in an orderly fashion.

Councilmember Lemley moved to adopt Ordinance No. 1602-08 An Ordinance Amending SWMC 2.90.050 Regarding a 120 Day Time Limit for Applicants to Submit Required Revised Application Materials. Seconded by Councilmember Galbraith.

Council discussion was held regarding a method for exceptions. Motion carried (7-0).

Ordinance – Proposed Amendment to SWMC 15.40-040 – Streets and Sidewalks – Classifications

Planner Moore reviewed the proposed amendment to SWMC 15.40.040 – Streets and Sidewalks – Classification. Moore noted the amendment will allow the use of private streets in zero side setback developments in the R-15 zone. The Planning Commission has reviewed the proposal and recommended approval.

Discussion ensued to include notations on front of plats or deeds for notification to future owners and requirement of signage for notification.

Councilmember Galbraith moved to adopt Ordinance No. 1603-08 An Ordinance Amending SWMC 15.40.040 Regarding Private Streets in the R-15 Zone for Zero Side Setback Developments. Seconded by Councilmember Colgan. Motion carried (6-0, Councilmember Requa abstained).

Ordinance – Annexation of Four (4) Parcels of City-Owned Property

Planner Moore reviewed the proposed ordinance for annexing four (4) parcels of city-owned property. The property locations are: 10476 South Third St. (Fire Department Training Facility; 10251 South Third St. (property adjacent to and west of the wastewater treatment facility); unassigned address (property adjacent to and east of the wastewater treatment facility) and unassigned address (property adjacent to the City Cemetery and Wicker Road.

Councilmember Lemley moved to adopt Ordinance No. 1604-08 An Ordinance to Annex into the City of Sedro-Woolley, City Owned Properties Including: The Fire Department Training Facility, Two Properties Adjacent to the Wastewater Treatment Facility and a Section of the City Cemetery. Councilmember Splane seconded. Motion carried (7-0).

BNSF Right-of-Way

City Attorney/Supervisor Berg provided an update of the results of a letter written by Mayor Anderson to BNSF via Staubach Company requesting to begin the process of allowing the City to potentially acquire some of their right-of-way. This project began as a result of the planned sewer project. Berg noted that interest has been received and the next step in the process would be to obtain an appraisal in order to enter negotiations. BNSF is interested in selling in a rail bank fashion which will require further research. No action is necessary at this time.

Discussion ensued regarding other potential buyers, reversionary provisions and Downtown Revitalization Committee plans.

New Parks Department Building Design

City Attorney/Supervisor Berg reviewed the submitted floor plan and building views for the new office building for the Sedro-Woolley Parks Department. Berg noted the Police Storage/Evidence building had gone out to bid. Based on information received from several contractors an addendum has been sent combining both the Parks and Police building within the same bid as a cost savings manner. Berg reviewed the recommended floor plan and some of the details for the Parks building. He noted the bid opening for both buildings will be February 1, 2008.

Some discussion was held regarding moving towards implementing a recreation aspect to the Parks Department. The need was expressed for adult recreational activities in addition to youth activities.

Ordinance – Leasehold Excise Tax

Clerk/Treasurer Nelson reviewed the proposed ordinance on Leasehold Excise Tax and reviewed the current process. The ordinance would not increase the rate paid by the leaseholder but simply allows the City to receive its local share.

Councilmember Galbraith moved to approve Ordinance No. 1605-08 An Ordinance of the City of Sedro-Woolley, Washington Imposing a Leasehold Excise Tax to Obtain the Local Share of Existing Taxes Collected by the State and Skagit County and Providing for Other Matters Properly Related Thereto. Councilmember Splane seconded. Motion carried (7-0).

COMMITTEE REPORTS AND REPORTS FROM OFFICERS

Clerk/Treasurer Nelson – reported the Finance Department is busy closing out the books for 2007 and will be working on assembling the final budget for 2008 for Council.

City Attorney/Supervisor Berg – announced the addition of Bill Chambers as the City's IT Administrator.

Mayor Anderson – pointed out reports left for Council by Engineer Freiburger who is not in attendance tonight.

Fire Chief Klinger – noted the upcoming live fire training at the Sewer Treatment Plant on flashover training.

Police Chief Wood – noted they are moving over the next couple of days into their newly remodeled area and are looking forward to the City Hall project being completed.

Councilmember London – thanked staff for the repair of the hole on the road he lives in and reported a downed cable at the west end of the High School Parking lot.

Councilmember Lemley – gave kudos to the Fire Department crew regarding their inspections.

Councilmember Galbraith – spoke of a recent speeding incident on Dukes Hill and commended the Police department for being in the right place at the right time. He also questioned the status of the old Rite Aid building.

Councilmember Colgan – questioned the status of the Northwest Hardwood property.

Councilmember Requa – requested to be noted his abstention from Claim Voucher #62420 – Skagit Surveyors & Engineers. He also commented on the private street issue and notations on the face of plats.

Councilmember Splane – noted the work of WSDOT's installation of pedestrian sign on Highway 20 and 9.

Councilmember Lemley moved to adjourn. Seconded by Councilmember Galbraith. Motion carried (7-0).

The meeting adjourned at 9:15 P.M.

Attachment A

Transcript of Solid Waste Discussion

Mayor Anderson: OK at this time we'll go to item number 8 which is the interlocal agreement second reading – Solid Waste and I guess this would be Eron.

Attorney Berg: This comes back to you for a second reading after our last meeting, you had a couple of concerns, I forwarded a letter to, well, I mailed a letter that the Mayor had written following up on your concerns to Skagit County. Actually I think I e-mailed it to them and I didn't actually receive a written response but were fortunate to have Commissioner Dillon here and I think some of her staff to assist in maybe responding to some of the concerns. The only thing I wanted to say about this is you may have seen the editorial in Sunday's paper and there are a couple of things that I think merit being said at the onset of the conversation. The first is that the Skagit Valley Herald seemed to link this interlocal agreement with a proposed project that's currently under permit review in the City of Sedro-Woolley. That's the Deluxe project. There is no linkage. Skagit County attorney has been very clear at the outset. I've been very clear at the outset. These are unrelated. The interlocal is a longstanding issue about governance. The project is just plain not linked. I think it would be inappropriate for that linkage to have been made. The second thing is the Herald seemed to kind of take exception that the City of Sedro-Woolley was taking some time and thinking about this contract. I guess I'd say a couple things about that. One, they seem to suggest that you shouldn't object to the idea of a veto because it's mandated in state law. I've yet to find any evidence that that's a factually accurate statement and I don't think that's what the County's attorney would say. It may be the best policy but I don't believe that's what the law says. Secondly, it suggested that the veto would only be exercised in the event the Solid Waste governing board acted illegally and that's an illogical statement. Because an illegal action is an unenforceable action just at the outset. The veto would only really be able to be utilized in the event the Solid Waste system governing board acted in a way that jeopardized the long term fiscal stability of the system. And in principal I don't think that's an objectionable thing. The concern that was discussed at the last meeting that we really haven't had any response to is that the combination of that coupled with the fact that the agreement eliminates the Solid Waste system governing boards capacity to budget effectively means that the scenario might look something like this: You have a staff driven budget, staff decides they want to have 24/7 operation at the

transfer station, which I don't think they would, it's just for the sake of painting the concern, so that's in the budget, so the Solid Waste system governing board then gets the budget and their only choice is up or down vote. They can't say well were going to reduce staffing to maintain the hours. So they vote it down. Well, not having a budget is obviously going to jeopardize a long term viability so then you got the veto trigger. You know the concern we discussed is one of functionality. It's not really about anything other than insuring that the system that gets built really works. So I'm not sure the Herald fully appreciated that and I thought that might be useful for that purpose. So I don't have anything else to add because I didn't have any additional information on this and I think there maybe a number of questions. I'm hoping you'll be able to hear directly from the County on those and then the last comment I would make is this is a deliberative body. At this point and time, Burlington has approved it, Anacortes has approved it, Mount Vernon hasn't heard it and I don't believe any of the other four communities have approved it yet. I don't think there is a huge rush. I think it's important to get it right and I think that's possible.

Mayor Anderson: At this time I'd like to welcome Sharon or the County staff to come up and speak and answers to questions.

Commissioner Dillon: Hi, I'm Sharon Dillon, Skagit County Commissioner, but also a resident of the City of Sedro-Woolley, 1116 Fidalgo St. As many of you know this is very close to my heart. I've been fighting for this for three years of the Cities having a more viable role in our Solid Waste system and Eron is right. This has nothing to do with anything but I want the cities to have more say in how we do solid waste. I've been working on this, I wanted to bring it forward and move it forward. I think we need to be a team in this. The cities contribute over 50 percent of the solid waste in Skagit County. They need to have more of a say. With this governance body and with the proposal that was made by the City of Mount Vernon the Skagit County Commissioners would sit on the this board as well and so any decisions that were made will be made with a cohesive governance with everyone sitting at the table. Everyone being there, the cities, the county, you'd have a, you'd be able to talk with each other, be able to work it out, be able to move it forward and go forward. I know there is a little bit of disagreement from our attorneys and yours on the, what the governance of the, from the state level that the county does have, should have and would have and could have the final say in what is Solid Waste. We believe from our attorney that we do have the overall jurisdiction over Solid Waste. We no matter who has it, whether it's private or

whether it's public the county does have and will be responsible for anything that happens on any solid waste facility in Skagit County and that's why we believe that we need that veto power just to satisfy the states. I don't believe, I personally do not believe that we would ever use it, because that is what the board is for. The board is for, to sit there and talk about and resolve all the issues that would be brought forward. And it, we should be able to work it out, that's the way that I envision it to be. I know I'm asking for trust, I know that the County in the past has probably not been the very best people to trust out there. I'll be the first one to admit it but I'm new, my fellow Commissioners have said that they are willing to work on this, they're willing to be pro-active, they're willing to listen to what the cities have to say and they're willing to make this system work for the good of the whole. And I think, I'm asking for your trust, I'm asking that you enter into this with some new vision and that we can put together a solid waste system that is the best for the whole county. My vision and I've said this many, many times when I was on the Council, when I was the Mayor that my vision for Skagit County waste is not one drop goes to a landfill. That's what I envision to see. If that is a conglomeration of private and public or if it's all public or if it's all private, that's a decision that WE as leaders have to make and that's why I would like to see this governance go forward because I think that's what we're tasked with is to make sure that the solid waste doesn't leave this county, that it's recycled or it's composted or whatever methods are out there but I think that's good stewardship of Skagit County waste and I think that's, that's what I want to see move forward with, so, questions? Jim Voetberg is here who is our Public Works Director/Engineer who is over the Solid Waste Department in our jurisdiction. So either one of us will be glad to answer any questions that you have.

Councilmember Meamber: I would just like to make a statement that I'm very glad along with the Mayor after reading these letters that you went ahead and come up with something for us to look at and you are including everyone. We have a few road blocks here in Sedro-Woolley but I'm really happy that you've taken the initiative Ms. Commissioner to move ahead on this and get something going and not wait till 2013. Thank you.

Commissioner Dillon: Thanks Ted.

Councilmember Splane: Now the question I have is on the liability for clean up costs for old landfills. For example if some other town has a big mess in an old garbage dump why the other cities would wind up theoretically having to pay to clean it up.

Commissioner Dillon: And I don't think they would, right now they're looking at Marches Point which needs to be cleaned up and as you know, I think you know anyway, people are being asked whether they took garbage to that particular site. Anyone that has deposited Solid Waste to that site would be liable for any of the clean up. And I don't believe that it will all be lumped into one lump sum. We have, in Sedro-Woolley we have our Bassett hill site, that I'm not sure that anyone else is going to want to pay for that clean up if somehow it bubbles or does whatever it's supposed to do. So, I don't think that the City of Sedro-Woolley will be asked to pay for any clean up that they have not contributed to the dumping of it.

Attorney Berg: Well, Sharon, Section 2.5 is what captures that and what it specifically does is rolls into the system cost which becomes the tipping fee that everybody pays. All municipal liability for disposal clean up costs anywhere in Skagit County or in any of the City's that are parties to the agreement. So, I think it says exactly that, that so

Commissioner Dillon: So, so

Attorney Berg: So Whitmarsh for example will be cleaned up and the tab will be born by the County and then passed on to everybody as a system cost, so the residents of Sedro-Woolley would be paying for that via their tipping fee and vice versa, if Bassett needed a clean up then you know

Commissioner Dillon: Then everybody would be

Attorney Berg: I think that is, I believe that was the intent and I think that's what the contract says.

Commissioner Dillon: And you could be right. I forget that part of it.

Mayor Anderson: Was that in the original.

Commissioner Dillon: Yes

Mayor Anderson: Agreement too?

Commissioner Dillon: Yes, as far as I know it was

Attorney Berg: No, no, it's not in the original interlocal. That's a new add to

Mayor Anderson: Cause I know that's a concern of mine too. I've talked to some past Mayors, Spud and we did ours, Bassett and Riverfront and it sounds to me like we did it right. We spent a lot of money, I don't think Anacortes did anything on theirs out there at Whitmarsh and I'm kind of wondering why we would want to get into an agreement where we have to start paying for their clean ups when we spent our money. Now if there's a way where we can maybe eliminate that liability were we're not going to have to pay for something, it would make it easier for me to

Commissioner Dillon: Well I think the object of this was if were in it for one thing were in it for everything instead of splitting certain things out and I think that's the way it was so.

Mayor Anderson: You could be into millions of dollars cleaning up, there's dozens of landfills out there that need cleaning up in this County.

Councilmember Requa: Sharon, since I talked to you on the phone the other day I went and got a copy of the Skagit County Comprehensive Solid Waste Management and I've gone through this thing and I've also went through the agreement that's in place today and it's raised more questions than I have answers for and some of the answers that I've received so far pose more questions, basically. Now this issue on landfills, in our business whenever we turn in an application for a division of land and we get a staff report back from your staff and there's, and the water requirement for that, for supplying those lots happens to be a well, there's a map in your office that shows all of the identified old landfills and the staff on the staff report will come back to us and say OK this proposal is within 1000 feet of one of these old landfills. And we have to have you put a note on the face of that say short plat that the buyer needs to beware that the well that they're putting down is within 1000 feet of landfill, that landfill has not been addressed as far as whether it's a hazard to that source of water and on that map there's somewhere around twenty or so of them landfills in the rural Skagit County area. No like at the end of Pipeline Road, at the end of Pinelli Road there's a lot of them out there. And one of the things that I see in the new agreement is this add on for these clean ups if DOE or the EPA's would say lets do it or you have to clean them up and that's a considerable number of those landfills out there and that concerns me from the standpoint are the Cities going to be strapped with cleaning landfills that were the County's responsibility under the Solid Waste Management Plan. You know the way it's written in here.

Commissioner Dillon: Uh- Huh

Councilmember Requa: It says in here that this plan is if those landfills are deemed to be a hazard, they will have to be cleaned up and they were County landfills. Granted maybe some cities brought garbage to those landfills but it's the cities responsibility. That's one thing that concerns me, the other thing that concerns me is, I'm trying to figure out where the County, where you stand on privatization. Because under the current plan, what I see under the current plan is a much more predictable process for privatization to take place because they only have to deal with you. Because in the plan here it says that you shall negotiate with a private entity and if its deemed acceptable and fills the bill to protect the publics health, welfare and safety then you shall negotiate with them and come up with a plan to allow them.

Commissioner Dillon: Um-huh

Councilmember Requa: And you've already done that with Waste Management and you've already done that with other recyclable people. I'm trying to understand that if we enter into an agreement that's being proposed here that brings in all the other cities that will have the ability to have to negate what one other City wants to do, really concerns me, and like I said earlier I have a lot of questions that I haven't got answers to and I'm not ready to adopt this until we at least have a work shop and we can at least sit down and say OK here's the questions what if this takes place and if its under the old agreement am I wrong about the predictability of the old agreement or am I right? I don't have the answers to this, it's very confusing to say the least when you go through 267 pages of this thing and a couple of these agreements that go with it and then try to figure out well, why would we want to enter into an agreement that puts more controls on what we would want to do here in the City.

Commissioner Dillon: And I guess that the questions that you're going to have to come up with yourself. If you, and I'll be real just real blunt here, if you, if that's, if you feel that in 2013 the City of Sedro-Woolley is going to go off and do their own thing than that's fine. You know, that's your decision to do. When I started this we did feasibility on it and the only way to keep our costs down was to be united and to have all the solid waste going to one place at one time. I mean that was made very clear. You deal in volume, if you don't deal in volume your price goes up and that's where a lot of this started is that I wanted to make sure that the City's had their say and that the County could not say yea or nay all by themselves. That this was a

process that the whole county enter into because it was a whole county problem and that's where this whole thing started.

Attorney Berg: And correct me if I'm wrong, this agreement doesn't supersede or change the Solid Waste Comp Plan

Commissioner Dillon: No

Attorney Berg: What it does do is require before the Comp Plan is adopted or amended that it be reviewed by the new board just in an advisory capacity, basically it's like the Planning Commission.

Commissioner Dillon: Right, right, right now the County Comp Plan is the only Comp Plan that is adopted by anyone. And the City of Sedro-Woolley actually adopted it with the change, if you'll look back. We have a change, ours is not that plan.

Attorney Berg: Well, were just sticking with our past course. We got to change.

Commissioner Dillon: You might want to read the change that we put in there. So.

Councilmember Requa: What's in the plan today that Skagit County Comprehensive Solid Waste Management Plan, what it says in the resolution if we adopted this new plan, if all the cities did this and went forward then there would be conflicts with that plan

Commissioner Dillon: No

Councilmember Requa: with the plan that's in place, with the management plan. I know that there's at least a couple in there that would be conflicts.

Commissioner Dillon: I guess I'm not seeing it because that stands by itself.

Jim Voetberg: One of the reasons why I'd like to see this governance board created as soon as possible because one of the first issues that needs to be addressed is the Comp Plan. There is a revised comp plan in place but staff has not brought it to the board for consideration because we'd like to have the new governance board adopt this plan and it addresses some of those conflicts that you mentioned. So again there is some urgency to get this board because there are some very critical issues that need to be addressed for solid waste. The comp plan is one, the long term viability of the existing facility is one, if a company comes in and wants to provide service. We would like to see this board in place

so that they can make a determination on whether the community wants to do this or not.

Councilmember Requa: When you say the long-term viability of the system are you talking about the County's Solid Waste transfer station.

Jim Voetberg: Yes, yes there are some decisions that have to be made on it's, right now it's inefficient and there are some issues with it. Some direction needs to be made by this future governance board on what's going to happen with this facility. Do we upgrade it, do we not. But these are the very questions that this new governance board, we want to bring forward and let them make the decision, give us directions on this.

Councilmember Requa: Are there plans to, once this were, if it were to be ratified by all the City's are there plans then to go forward with upgrading that.

Jim Voetberg: Once the governance board is in place then we will bring this issue to the governance board. We will, we have some studies done, we have some plans done, I'd like to bring the new board on a field trip to look at our facility as well as a well, more modern facility so that they can see what, where we are today and what is a well run operating facility and walk them thorough the process and this governance board will give us directions.

Councilmember Requa: See this, this is another part of the unanswered questions that really bothers me about this process because statistically and historically it's been proven that privatization can do this process of solid waste management better than anybody else. And the statistics that have come out that show what's being done right here in the Pacific Northwest let alone across the country compared to what your office has said it's going to cost to upgrade Ovenell it's proof in the pudding. And if your saying that we need to hurry up and ratify this thing so that you can show us, Sedro-Woolley, what you're going to do to upgrade Ovenell and you have the veto power plus you have a higher percentage we don't have any say in whether you upgrade that or not. Our percentage is so low,

Jim Voetberg: I guess I look at this as a community, not just one City whether it's Sedro-Woolley, Anacortes, Mount Vernon, that this is really a community wide issue and the governance board has to put on their community hat not just a City hat because yes there can be decision that might help a particular City but this is really for the community. It can't be just for residents of Sedro-Woolley or the residents of Mount Vernon. This is really a community wide issue

and that's why we want the community, each city and the Commissioners all to have a say and a voice in it, because these are critical and long term issues and they are important for everybody.

Councilmember Requa: Well when you look at our voting power under this agreement we don't really have that much of a say compared to what the existing agreement already offers us.

Jim Voetberg: With the existing one you have zero. So

Commissioner Dillon: Yeah, pretty much.

Jim Voetberg: But its, this is a forum for each community to weigh in and privatization there should be a good discussion on privatization and whether that should be the route and it shouldn't be just the Commissioners making that decision it should be the towns and the cities who will be affected to have their voice put in.

Councilmember Requa: Well then correct me if I'm wrong about this, under the current agreement, if a private entity wants to come into Burlington or Mount Vernon or Anacortes or any of the cities and do a private solid waste handling process, clean and dirty, both of them not just recycle, under the current agreement they can go, they go to that entity, they first get their clearance through the building permit process and the SEPA process, then they go to you and you have to negotiate with them according to that existing agreement and if they fit the bill for everything that's in this Solid Waste Management Plan you have to approve it and if you don't and its arbitrary and capricious it goes to Superior Court. It says right in that agreement that they have that right to do that. You go to the new agreement they don't have the right and three or two of the larger City's or one of the other City's says "no we don't want that to happen in Burlington" and the County has even the highest percentage of all and they say "no we don't want this to happen" because we want our own taj mahl out at Ovenell. Then it's a done deal, it doesn't happen. So why would we enter into a new agreement that doesn't have that flexibility and Sharon, I understand what you're trying to do but there's some bugs in this thing that need to be worked out.

Commissioner Dillon: But what you don't understand is that, this is where this whole thing started. This whole thing started with a private company wanting to come in and take a part away, part of the garbage, part of the solid waste system away. And the City's said NO. If you do this you're taking a third of our solid waste away. Taking a third of the solid waste away will raise tipping fees for the City's till 2013.

That's where this whole thing started is the County said we want to do this, it's our right to do this, we have the right to say that you're going to do this and you will adhere to this, it's where it all started

Councilmember Requa: Um-huh

Commissioner Dillon: is because one entity said they will do this and the other seven were not asked one bit about their opinion or asked is this what you want to do. Is this not what you want to do. What do you want to do.

Councilmember Requa: Is this for recyclables only.

Commissioner Dillon: No, NO. It was not recyclables only.

Councilmember Requa: When did that happen.

Commissioner Dillon: 2003, 2002

Attorney Berg: Your talking Cimmeron

Commissioner Dillon: Cimmeron

Attorney Berg: It was the Cimmeron thing.

Commissioner Dillon: They were taking garbage, they were taking everything.

Attorney Berg: That was 03

Commissioner Dillon: They were taking a third of the garbage well solid waste. Sorry, Leo.

Councilmember Requa: and tipping fees were going to go up

Commissioner Dillon: If you take the third of the waste stream out and we still had an obligation as the City's and County to pay our debt service and to pay whatever we were going to pay at the transfer station, yeah, they were going to go up. There's no way you can take a third of the garbage away and everything else stay status quo over here. You still have all the debt, you have all the expenses, you have all the things you have to do and its not going to up, that's just economics. And that's why this whole thing started and that's why I want the City's to have a say. I do not want one entity to control everything that happens in Skagit County, I think that's wrong. And you're wrong when you say the City has a majority because

we don't, the County, if the City's are all together than you guys have the most. So if you band together, you out vote us.

Councilmember Requa: I was talking about one entity alone. You look at the percentage.

Commissioner Dillon: Then you have to talk a good talk. Which is right, to me if an entity out there has a proposal that is a very good viable proposal then the other entity's need to listen and they need to be part of it and they need to take that into consideration. I mean as I said earlier my goal is to have zero going to any landfill and if that has to do with private or public you know, great, I think it's wonderful.

Councilmember Requa: Does the new agreement have the same caveat in it that's in the current agreement about arbitrary and capricious.

Attorney Berg: Is that language actually in the existing interlocal or is that in the Comp Plan?

Councilmember Requa: No, it's in the, it's in the, that document is part of this plan, it's in here.

Attorney Berg: Ok, so the Comp Plan isn't changed by the new interlocal, other than, your correct the solid waste system governing board does have the final say on I think site designation and approving system operator agreements.

Councilmember Requa: Yes

Attorney Berg: And so, no there's no language in the current agreement that says if it's denied, I think the way it's viewed is that's a propriety function and you know I don't want to speak for Will and by the way Will Honea would be here but he was at a flood meeting in Seattle all day so he was probably stuck in traffic still, but I think what he would tell you is that's a propriety function as opposed to a vested right type function and that if you add language like that then you're unnecessarily opening up the government to litigation over something that they don't have to litigate over. It's different than a land use permit. But no, to answer you question it's not in this draft. As I read it, the Solid Waste System Governing Board by majority vote could say no and that would be the end of the line for a proposal.

Councilmember Requa: Well, just on the two issues of the landfill clean up and the

privatization concerns I have, I would like to see us table this to a work shop so we can get some of these questions out on the table and answered.

Councilmember Galbraith: Make a motion. I'll second it.

Councilmember Requa: I so move.

Councilmember Galbraith: Second.

Mayor Anderson: So who seconded it.

Councilmember Lemley: Hugh

Mayor Anderson: OK I guess we got a motion by Councilman Requa, second by Councilman Galbraith to table discussion on Solid Waste Interlocal. Any more discussion.

Councilmember London: Is there, do we know why Mount Vernon hasn't looked at this yet.

Attorney Berg: It just hasn't made it to their agenda. It'll be on their next agenda.

Jim Voetberg: I think it's tonight.

Attorney Berg: Oh, is it tonight.

Jim Voetberg: I think they have it on their agenda.

Attorney Berg: They had taken it to a committee and so there's no

Requa: Have any other cities other than Anacortes and Burlington addressed it yet.

Commissioner Dillon: Concrete is doing it on their first meeting in February. Lyman and Hamilton (undecipherable)

Councilmember Requa: You know if they wanted to participate in our work shop, could we do that, if they had questions about it, I mean we could get together with the other towns that haven't done this

Mayor Anderson: The next work shop what the fourth

Attorney Berg: Well it's February 5th but you know you're not going to be there that night.

Mayor Anderson: I won't be

Councilmember Requa: I don't know if that appropriate to do something like that.

Attorney Berg: It may be better just to do it at your next regular meeting and we just build an agenda that sets aside a little more time if your amenable to that. That would be February 13th.

Councilmember Splane: Well I'd like the liability issue clarified on old abandoned

Attorney Berg: and that's what I was going to ask you is what would you like to know in more detail and I guess one question that I, you know that I'm interested in from the County is, well the question for the County that wasn't answered but I kind of got a sense is the County, is this take it or leave it, is this all there is or is there still room to talk because you know the response I got from Will was essentially there it is and yet the elected bodies never had a chance to look at it before there it was and so if this is all there is that changes the complexity of our future conversation if there's still room for negotiation then that's, it'll be a, you know you don't have to answer right now, but I think it's important for the City Council to know is it an up or down vote or do they actually get to negotiate the terms of this agreement?

Jim Voetberg: Well the difficulty is with eight different towns and cities if we already have two that passed it, Mount Vernon indicated to me today that they would pass it, Concrete I believe is going to pass it, LaConner, I think one of my staff's talked to them, they're in favor of it so you'll have some approve it then if somebody else wants to change it then you have to go clear back to the beginning

Attorney Berg: No

Jim Voetberg: to do it so you, from my point of view you know, it's very difficult to get eight communities to agree to one thing you've got eight of the highest elected officials, you've got eight attorneys, forty plus Councilmembers, to get something everybody wants, I joked with somebody we could argue a week over whether we should put the page number in the center or on the right hand side, we could go back and fourth and

Attorney Berg: We'll yield the footers to the County, we're more interested

Councilmember Galbraith: It means take it or leave it

Jim Voetberg: So the short answer is I don't know what would happen if Sedro-Woolley would not pass it, whether it would be a desire to try to start back from square one, at the same time there are some very critical issues that need to be addressed and if they can't be addressed soon then I would have to go to the Board of Commissioners for direction but I'd rather see this new governance board provide that direction. It's not a clear answer but it's closer to an up and down. I don't mean to sound real pushy or offensive but you can understand the difficulty to try to get so many different bodies to agree to one complex issue.

Attorney Berg: That's true, although we've actually had just last year we had an interlocal I think on radio frequency sharing and also on law enforcement that we approved twice because we approved it and Burlington wanted to modify something so we approved it a second time after they modified it so it's, you know that is the way it works because somebody has to go first and somebody has to go last unless everybody signs it then you don't have a deal. So

Mayor Anderson: I just want to state I think this has been a very healthy discussion. I think this is how City democracy works and I'm glad that you guys have taken this serious. You've brought up something that I didn't even, you know, that's why we have this two reading rule, the last time it wasn't the liability issue of other landfills that I even spotted or thought about and then it's been discussed the last couple of weeks and to me that's a real sticking point. So let's have a vote. All those in favor to table it say aye. Aye OK Tabled to the next council meeting. The next official council meeting.

Attorney Berg: I'm still is there anything you want

Councilmember Colgan: I'd like for you to find out how many landfills are in the County that do need to be cleaned up at this time that you know of.

Attorney Berg: Because that's going to be both

Councilmember Galbraith: If you're going to do that it should go a little further than that, we should know if we dumped there.

Councilmember London: I think the County's whole intent in this is to spread the cost rather than go through a bunch of litigation to try to figure out who the heck dumped the garbage there. That's kind of the sense I got from Will when I talked to him and that's the reason they structured it the way they did with the exception of Marches Point or wherever you said that landfill was where they can identify whose liable for that.

Attorney Berg: That one would not be an exception, and yeah, he said one for all and all for one. OK you'd like to know how many landfills there are in Skagit County.

Councilmember Requa: Well there is a map.

Attorney Berg: Does that include the municipal landfills or just the County

Mayor Anderson: Yeah, all in the County

Attorney Berg: Ok well that's easy to get

Mayor Anderson: And which ones maybe been contained

Attorney Berg: Is there something else you'd like to have that would help your discussion.

Councilmember Galbraith: Which ones of those landfills would be considered a problem. They know some of them are. They already know.

Councilmember Splane: Probably the ones that have already properly contained and what not.

Councilmember Requa: I have a list I can provide you.

Attorney Berg: OK, and some of those are probably be beyond my capacity to answer but

Councilmember London: The issues of privatization is really strong issue with me and how that applies under this governance board versus the old agreement. Much like Louie its something that we see as the quickest move in the direction in creating recycle rather than landfill or just solid waste going to landfills and that's something that we all have a responsibility to address and privatization may be the quickest way to get that done and I would not like to see anything in this agreement that would impede that possibility, or that option I should say.

Councilmember Requa: There's another and maybe Will could be at this worksession, you know for instance the County has already granted Waste Management and others to do strictly recycling curbside or whatever it may be construction recycling under the old plan, when you start adding into the so called dirty garbage the garbage bag and recycle from that I'm trying to figure out why that's different.

Councilmember London: Does that not also impact the tipping fee.

Councilmember Requa: Well, its got to be held to a landfill, yeah.

Attorney Berg: Well it does impact the tipping fee, you know the County has made that point in the past and I think the comment from the County before Commissioner Dillon was there was that they kind of look the other way on the diversion from the MSW stream recycling because recycling is obviously a good thing. Is that accurate.

Commissioner Dillon: That was one Commissioner's point of view, yes.

Attorney Berg: OK well there you go.

Councilmember London: But still when you think of the overall tonnage that takes away from the tonnage

Attorney Berg: That's exactly

Councilmember London: and tipping that has to be divided, we're already doing it.

Attorney Berg: Now remember, and I know you tabled this and here we are still talking about it but the whole idea of a system operator agreement is that you capture the system costs and you know, I sort of remember the Cimmeron thing but I wasn't as directly involved in it then, it seemed to me what got missed there was an appropriate system fee that allowed for the diverted County waste stream to still generate revenue to the system that didn't result in a tipping fee increase overall. You know that's all part, it really is just economics and it's not that complicated. But it's also not impossible to figure out how to do it. So, alright, I've got that you'd like to understand the affect of the proposal on potential privatization, essentially efforts to accelerate diversion and recycling, anything else that we might be able to get for you, you want to invite Will Honea if he's willing to talk to you directly.

Councilmember Requa: Yeah

Attorney Berg: I think that would be useful because I can really answer some of the questions that I know he would be able to answer.

Mayor Anderson: I think when you go to Kauai next week you should lay on the beach and think about all these things. OK let's go to item number nine.

END