

**EDMONDS CITY COUNCIL SPECIAL
VIRTUAL ONLINE MEETING
APPROVED MINUTES
March 22, 2020**

ELECTED OFFICIALS PRESENT

Mike Nelson, Mayor
Adrienne Fraley-Monillas, Council President
Kristiana Johnson, Councilmember
Luke Distelhorst, Councilmember
Diane Buckshnis, Councilmember
Vivian Olson, Councilmember
Susan Paine, Councilmember
Laura Johnson, Councilmember

STAFF PRESENT

Jeff Taraday, City Attorney
Scott Passey, City Clerk

1. CALL TO ORDER/ROLL CALL

The Special Edmonds City Council virtual online meeting was called to order at 2:00 p.m. by Mayor Nelson. The meeting was opened with the flag salute.

City Clerk Scott Passey called the roll. All elected officials were present, participating remotely.

2. EMERGENCY BUSINESS

Mayor Nelson introduced the emergency agenda item, An Ordinance of the City of Edmonds, Washington, Amending Chapter 6.60 of the Edmonds City Code, entitled “Disaster Preparation and Coordination,” to Enhance the City’s Ability to Act Swiftly to Protect the Public Health, Safety, and Welfare in Response to Emergencies and Civil Emergencies, which was originally scheduled on the March 24th agenda. He explained the ordinance would provide additional powers for the mayor during an emergency as well as update the master code which hasn’t been updated in 22 years.

City Attorney Jeff Taraday explained the March 24, 2020 Council packet as well as the email Mayor Nelson sent Councilmembers earlier today contains a draft ordinance amending Chapter 6.60 of the Edmonds City Code. The City has had an ordinance in place regarding disaster planning and disaster response for some time but it has not been updated for a long time. In reviewing the ordinance, it became apparent there were certain types of authority that were not expressly called out in the ordinance that should exist in order for the Mayor to respond as swiftly as possible to address whatever emergency situations may occur, either presently or in the weeks to come. The ordinance is prepared in a traditional underlined/strikeout format where the new language is shown in underline and language to be removed is shown in strikethrough. Language that is neither underlined or strikethrough is existing code proposed to remain.

Mr. Taraday explained the biggest changes are found in Section 6.6.090 and 6.6.100; both are new sections. These sections give the Mayor the authority to issue emergency orders on a range of subjects

that are consistent with the type of mayoral authority that other mayors have. In reviewing code sections from the cities of Seattle and Everett, it was realized the Mayor of Edmonds had never been given the same types of mayoral authority that those other local cities have. Given what is currently occurring in the world, it was felt it was an important time to visit that topic to ensure the City is adequately protected from whatever foreseeable/unforeseeable things might be around the corner. He offered to review the ordinance section by section or to respond to questions.

Councilmember Buckshnis asked the relationship between the proposed Stay at Home Order Mayor Nelson distributed and the code section the Council is considering. Mr. Taraday answered it was his understanding that Mayor Nelson wanted the Council to have a preview of an order that illustrates the need for the change to the ordinance. The proposed Stay at Home Order is an example of an order for which there is not expressed authority in the code today. Other cities are considering similar orders; Everett's order was not mandatory. While the Council is not expected to take action on the proposed order today, assuming the Council adopts the ordinance in the special meeting packet, his understanding is Mayor Nelson intends to issue a Stay at Home Order very similar to the one he circulated today. Pursuant to the ordinance under consideration today, the Council would have an opportunity at the March 24th meeting to modify, ratify or cancel the order. That would occur at the March 24th meeting.

Councilmember Buckshnis clarified the Council was being asked today to authorize the Mayor to move forward and then could look at the order in more detail on March 24th. Mr. Taraday clarified the Council was being asked to approve the ordinance in the packet that adopts the revisions to Chapter 6.60 which would then give Mayor express authority to issue orders like the one contained in the packet.

Mayor Nelson said the Stay at Home Order was a draft or example, to illustrate the need for the Mayor to be able to react quickly to an emergency, authority the Mayor does not currently have. The authority is temporary and whatever order is issued, it would have to go in front of the Council as soon as practicable. For example, if he issued an order today, it would go before the Council on Tuesday night.

Council President Fraley-Monillas asked if he had determined how the information would be disseminated to the public. Mayor Nelson advised it would be published on social media, shared with the news media, etc.; he was open to any and all suggestions for disseminating the information.

With regard to distribution of information, Councilmember Distelhorst requested it be available in multiple languages. Mayor Nelson said he would do his best although there may be a delay in language translations due to current capabilities.

If an emergency order is issued, Councilmember Paine recommended the Council be provided an outline of a communication plan for the entire community and neighboring jurisdictions as well as the Health District, School Districts, Port Authority, etc. She was comfortable with the proposed changes.

Councilmember K. Johnson expressed concern with Subsection 6.60.090.E that requires the discontinuance of the sale, distribution, or giving away of gasoline or other liquid, flammable or combustible products in any container (other than a gasoline tank properly fixed to a motor vehicle). She relayed she has a vehicle that she needs for transportation that is out of gas. She has a container that could be filled at a gas station, but with this requirement, even AAA would be unable to bring her gasoline. Mr. Taraday responded while the ordinance gives the Mayor the authority to issue an order that speaks to the conditions mentioned in subsection E related to gasoline, it was not his understanding that Mayor Nelson was currently considering an order along those lines. That type of order would be necessary if there was a condition of civil unrest where people were potentially using gasoline as a weapon. Since that condition is not currently foreseeable, he did not anticipate Mayor Nelson would do that anytime in the near future and hopefully not at all.

Councilmember K. Johnson relayed her understanding these powers would need to be implemented individually. Mr. Taraday agreed, explaining the types of powers in Section 090 are a category of order-making power that the Council is giving the Mayor on a temporary basis. Subsection M, "Such other orders as are imminently necessary for the protection of life and property." is a catchall. The Mayor can issue whatever limited scope order is necessary; not every order issued by the Mayor would touch on all the subjects outlined in Section 090.

Councilmember Distelhorst referred to Subsections C and D, assuming those were tailored toward a civil emergency and that those subsections were not necessarily about alcohol but the control of intoxicants. Mr. Taraday answered a Mayor might issue an order related to Subsections C and D in a condition of civil unrest where it was felt alcohol may contribute to further civil unrest. Now that there is another legal intoxicant in the State of Washington, whether that intoxicant contributes to civil unrest could be debated. Councilmember Distelhorst said he may propose an amendment to that subsection to provide further clarity regarding intoxicants in general instead of just alcohol. Mr. Taraday said it may be appropriate to make further amendments. For example, the ordinance references the "disaster coordinator;" the person in the City with the closest title is the "safety and disaster coordinator."

Main Motion

COUNCIL PRESIDENT FRALEY-MONILLAS MOVED, SECONDED BY COUNCILMEMBER L. JOHNSON, TO APPROVE ORDINANCE NO. 4177, AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING CHAPTER 6.60 OF THE EDMONDS CITY CODE, ENTITLED "DISASTER PREPARATION AND COORDINATION," TO ENHANCE THE CITY'S ABILITY TO ACT SWIFTLY TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE IN RESPONSE TO EMERGENCIES AND CIVIL EMERGENCIES.

Councilmember Olson relayed her understanding this was prompted because social distancing is not being observed throughout the community and people are meeting in groups close together. She asked how much communication was being done to ensure the public was aware that that was a critical component of avoiding mandated stay at home orders.

Council President Fraley-Monillas raised a point of order, pointing out the ordinance is related to emergency powers, not specifically the stay at home order.

Councilmember Olson expressed her appreciation to Mayor Nelson and the City team for their efforts. She expressed support for the motion to give Mayor Nelson emergency powers because of the need for the Mayor to make those decisions. She urged that the minimum necessary to protect the community be done at all times. She acknowledged Mayor Nelson had more information about those minimum needs. She wanted everyone to be healthy but recognized more restrictions led to more hardships for people.

Amendment #1

COUNCILMEMBER DISTELHORST MOVED, SECONDED BY COUNCIL PRESIDENT FRALEY-MONILLAS, TO AMEND THE MOTION BY CHANGING "DISASTER COORDINATOR" THROUGHOUT THE ORDINANCE TO "SAFETY AND DISASTER COORDINATOR."

Councilmember Distelhorst explained the amendment would align the title with the person who has that role in the City.

Action on Amendment #1

AMENDMENT CARRIED UNANIMOUSLY.

Amendment #2

COUNCILMEMBER DISTELHORST MOVED, SECONDED BY COUNCIL PRESIDENT FRALEY-MONILLAS, TO AMEND SECTION 6.60.090.C TO READ, “AN ORDER REQUIRING THE CLOSURE OF ANY OR ALL BARS, TAVERNS, LIQUOR STORES AND OTHER BUSINESS ESTABLISHMENTS WHERE ~~ALCOHOLIC BEVERAGES~~ ITEMS SUBJECT TO CONTROL BY THE WASHINGTON STATE LIQUOR AND CANNABIS BOARD ARE SOLD OR OTHERWISE DISPENSED; PROVIDED THAT...”

Councilmember Olson said if the purpose of this section was agitation and social unrest, she asked if the nature of cannabis would fall into the category of inflaming people or would it be calming.

Councilmember L. Johnson observed that a number of people use cannabis for medicinal purposes, specifically anxiety, which may be useful now. She was concerned with adding this language without further understanding about the reason.

Councilmember Paine asked if there would be an ability to differentiate between alcohol and cannabis establishments if the Mayor issued an order that included the provisions in Sections C and D. Mr. Taraday answered because the ordinance creates authorization for orders and not orders themselves, to the extent that the Mayor felt circumstances warranted an order that would ban the sale of alcohol but did not feel it was necessary to ban the sale of cannabis, the Mayor could tailor his order accordingly.

Council President Fraley-Monillas commented there are two different types of dispensaries, medical and recreational. State law allows medical dispensaries to remain open. Her concern with excluding cannabis is drivers can be ticketed if they are under the influence of marijuana. She supported giving the Mayor the power to require the closure of non-medical marijuana establishments if he wished.

Councilmember L. Johnson suggested looking into medical versus recreational marijuana, recalling there were changes made to ensure updated information. Additionally, if this language were added, she wanted cannabis and alcohol addressed in separate sections to avoid giving the impression that they were viewed as the same. She also was concerned that by reducing access to a product someone is using for anxiety, they would turn to something stronger.

Councilmember Olson said she will vote against the amendment unless there was some evidence that cannabis was an agitation. She wanted to be on record as not promoting any additional limitations on people than the emergency warranted. She did not feel cannabis needed to be prohibited if it was not against the law and its prohibition did not help control an emergency situation which is the purpose of the ordinance.

Councilmember Paine agreed with Councilmember Olson’s comments, noting there was not enough information at this time to add cannabis establishments, either medical or recreational.

Councilmember Buckshnis agreed there was not enough information and there was plenty of time to do more research. She remarked on the emptiness of the alcohol shelves at Fred Meyer, noting people were no longer using it for pleasure. She agreed some people used cannabis for anxiety and these were anxious times. She would not support the amendment at this time.

Councilmember Distelhorst clarified this was about the broad authority, it was not applicable to what the Mayor was currently considering. Driving under the influence applies to both alcohol and marijuana. The intent of the amendment would be to address any intoxicants related to the legal definition. Including the amendment did not mean the Mayor would be implementing those measures, only creating the power for the Mayor to do so should a situation warrant it.

Councilmember Olson said the laws related to driving under the influence of any substance would continue to be enforced regardless of whatever emergency order is in place. She did not support authorizing the Mayor or anyone else to take actions that were not in the context of the needs of the emergency order.

Council President Fraley-Monillas reiterated this only gives the Mayor the ability, it does not enact it. All the items in 090 are not necessarily things that will be implemented unless there is a higher level of dispute among citizens. She was okay with including or omitting the language.

Councilmember L. Johnson suggested the Council revisit this amendment on Tuesday after Councilmembers have more time to research and think about it.

Action on Amendment #2

COUNCILMEMBER DISTELHORST WITHDREW THE AMENDMENT WITH THE INTENT THAT IT WOULD BE DISCUSSED ON TUESDAY IF POSSIBLE.

Amendment #3

COUNCILMEMBER DISTELHORST MOVED, SECONDED BY COUNCILMEMBER L. JOHNSON, TO AMEND SECTION 6.60.090.J TO READ, “AN ORDER DIRECTING THE USE OF ALL PUBLIC AND PRIVATE HEALTH, MEDICAL, AND CONVALESCENT FACILITIES AND EQUIPMENT TO PROVIDE EMERGENCY HEALTH AND MEDICAL CARE FOR INJURED OR SICK PERSONS;”

Councilmember L. Johnson asked if this would address the need for equipment for a flood of injured or sick persons. Mr. Taraday said it would depend on when the emergency was declared; as soon as an emergency is declared, the authority in 090 would be available to the Mayor. He asked Councilmember L. Johnson’s if her scenario was giving the Mayor the authority to act in advance of a projected emergency. Councilmember L. Johnson answered increasing numbers are expected; she asked if this gave the authority to procure equipment and supplies before the patients were there. Mr. Taraday answered all the powers are available to the Mayor upon the declaration of an emergency which has already happened. This allows the Mayor to be proactive in meeting the needs of the emergency.

Councilmember Paine suggested this was addressed in Section 6.60.050.A related to obtaining vital supplies, equipment, and other requirements necessary for the protection of life and property and to bind the city for the fair value thereof...

Action on Amendment #3

AMENDMENT CARRIED UNANIMOUSLY.

Councilmember Distelhorst pointed out a scrivener’s error in Section 6.60.110: “of” in the third line should be changed to “on.”

Mr. Taraday referred to Section 6.60.035.C and asked if the Mayor wanted to serve as the chair of the emergency management committee which was how meetings have been operating. Mayor Nelson agreed with that change.

Amendment #4

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER OLSON, TO AMEND THE THIRD LINE OF 6.60.035.C TO READ, “THE MAYOR ~~DISASTER COORDINATOR~~ SHALL SERVE AS CHAIR OF THE COMMITTEE.

Councilmember Olson asked if the disaster coordinator would be the co-chair. Mr. Taraday deferred to Mayor Nelson who has had more interaction with the Safety and Disaster Coordinator. Although he has

attended the meetings Mr. Taraday said he is not necessarily in the loop about what occurs outside the meetings. Mayor Nelson said in practice and policy there would not be co-chairs.

Restated Amendment #4

COUNCILMEMBER BUCKSHNIS RESTATED THE AMENDMENT:

AMEND THE THIRD LINE OF 6.60.035.C TO READ, “THE MAYOR DISASTER COORDINATOR SHALL SERVE AS CHAIR OF THE COMMITTEE AND REMOVE “THE EMERGENCY OPERATIONS PLAN MAY ALSO DESIGNATE THE ESCA DIRECTOR AS A CO-CHAIR OF THE COMMITTEE.”

Councilmember Paine asked if the ESCA (emergency services coordinating agency) is a required function of the City. Mr. Taraday said although there is statutory reference to the ESCA in Chapter 38.52 RCW he was not clear with regard to the extent to which it was being used now and would need to research whether it was required. This ordinance puts into effect city-level emergency-level management protocol and whether the ESCA played a significant role or not, removing that as a co-chair would not violate state law.

Councilmember Olson asked if the ESCA was even an existing organization anymore. Mr. Taraday answered he was not aware.

Councilmember Distelhorst suggested retaining that sentence and revisiting it at Tuesday’s meeting.

Mr. Taraday said that sentence simply provides permission for the ESCA plan to designate the ESCA director as a co-chair. He was unaware whether the current plan did that or not. He did not see any harm in retaining that sentence.

Councilmember Buckshnis agreed the amendment would remain as originally stated.

Action on Amendment #4 AS ORIGINALLY STATED ABOVE
MOTION CARRIED UNANIMOUSLY.

Action on Main Motion
MAIN MOTION AS AMENDED CARRIED UNANIMOUSLY.

Mayor Nelson apologized for the short notice for the meeting and commended Councilmembers for disseminating information in a short timeframe. He said the current circumstances warrant this rapid response. He relayed his plan to issue a Stay at Home to Protect the Public Health Order later today. He will share the details as soon as humanly possible. The order will be effective this evening. This ordinance allows the Mayor to act quickly in the current and any further disasters, the emergency powers are temporary and must be ratified by the Council as soon as practicable. The order he plans to issue later today will come before the Council at the March 24th Council meeting for ratification.

Councilmember K. Johnson thanked Mayor Nelson for his efforts.

Councilmember Buckshnis announced the dog park and Marina Beach have been closed due to record summer crowds. People can still walk their dogs in other parks. The public needs to have a healthy fear, but not panic as panic does not help one’s immune system. She noted many people have been through disasters and/or emergencies. She urged the public to be calm, reach out to one another and to be conscientious of the virus and the possibility of contracting it. She said Mayor Nelson was doing the right thing.

Councilmember Olson echoed Councilmember Buckshnis’ comments – stay calm and stay distant.

Council President Fraley-Monillas reminded 80% of the people who contract COVID-19 do not know they have it. One out of every 3 people is carrying the coronavirus but may not be symptomatic which is the concern with people congregating. She relayed when driving on Sunset Avenue today, there were no parking spaces and people were sitting on the grass in groups and the same was occurring on beaches. She commended Mayor Nelson's action to help people stay safe.

Councilmember Paine echoed the previous comments, noting there is not enough understanding due to the lack of access to testing from the time the virus arrived in the greater Puget Sound community as well as other information that is lacking. She urged caution and being nice to the people who are serving the community.

Councilmember Distelhorst thanked Mayor Nelson for his leadership, thanked Councilmembers, the City Attorney and the City Clerk for taking steps to hold virtual meetings and continue to do the essential work. He appreciated everyone's flexibility to ensure the right decisions are being made to protect the public safety. He echoed other Councilmembers' comments about planning and preparing and encouraging people to act in the best interest of safety, not only their own but the safety of everyone they are interacting with.

Councilmember L. Johnson expressed appreciation for the urgency given this matter. She recalled reading "If we view ourselves as besieged victims who need to go into hiding then we cultivate fear and hoarding. If we view ourselves as a community working hard to protect the most vulnerable among us, then we will cultivate courage and helping." She encouraged the public to understand that the Council and Mayor were doing this not only for themselves but for the benefit of the greater community. She appreciated the work everyone was doing on this.

Councilmember K. Johnson echoed Councilmembers' comments.

12. ADJOURN

With no further business, the Council meeting was adjourned at 2:57 p.m.