

EDMONDS CITY COUNCIL APPROVED MINUTES

February 21, 2012

The Edmonds City Council meeting was called to order at 6:30 p.m. by Mayor Earling in the Council Chambers, 250 5th Avenue North, Edmonds.

ELECTED OFFICIALS PRESENT

Dave Earling, Mayor
Lora Petso, Council President Pro Tem
Frank Yamamoto, Councilmember
Joan Bloom, Councilmember
Michael Plunkett, Councilmember
Adrienne Fraley-Monillas, Councilmember

ELECTED OFFICIALS ABSENT

Strom Peterson, Council President
Diane Buckshnis, Councilmember

STAFF PRESENT

Al Compaan, Police Chief
Phil Williams, Public Works Director
Shawn Hunstock, Finance Director
Rob English, City Engineer
Sharon Cates, City Attorney
Sandy Chase, City Clerk
Jana Spellman, Senior Executive Council Asst.
Jeannie Dines, Recorder

1. CONVENE IN EXECUTIVE SESSION REGARDING POTENTIAL LITIGATION PER RCW 42.30.110(1)(i).

At 6:30 p.m., Mayor Earling announced that the City Council would convene in executive session regarding potential litigation per RCW 42.30.110(1)(i). He stated that the executive session was scheduled to last approximately 30 minutes and would be held in the Jury Meeting Room, located in the Public Safety Complex. No action was anticipated to occur as a result of meeting in executive session. Elected officials present at the executive session were: Mayor Earling, and Councilmembers Yamamoto, Plunkett, Fraley-Monillas, Petso and Bloom. Others present were Public Works Director Phil Williams, City Attorney Sharon Cates, City Engineer Rob English, Finance Director Shawn Hunstock and City Clerk Sandy Chase. The executive session concluded at 6:49 p.m.

Mayor Earling reconvened the regular City Council meeting at 7:00 p.m. and led the flag salute.

2. APPROVAL OF AGENDA

COUNCIL PRESIDENT PRO TEM PETSO MOVED, SECONDED BY COUNCILMEMBER PLUNKETT, TO ADD AN EXECUTIVE SESSION REGARDING LABOR NEGOTIATIONS PER RCW 42.30.140(4)(b) AT THE END OF THE MEETING. MOTION CARRIED UNANIMOUSLY.

COUNCILMEMBER FRALEY-MONILLAS MOVED, SECONDED BY COUNCIL PRESIDENT PRO TEM PETSO, TO APPROVE THE AGENDA IN CONTENT AND ORDER AS AMENDED. MOTION CARRIED UNANIMOUSLY.

3. APPROVAL OF CONSENT AGENDA ITEMS

Councilmember Bloom requested Item O be removed from the Consent Agenda.

COUNCIL PRESIDENT PRO TEM PETSO MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO APPROVE THE REMAINDER OF THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY. The agenda items approved are as follows:

- A. ROLL CALL**
- B. APPROVAL OF CITY COUNCIL MEETING MINUTES OF JANUARY 31, 2012.**
- C. APPROVAL OF CITY COUNCIL RETREAT MINUTES OF FEBRUARY 2 AND 3, 2012.**
- D. APPROVAL OF CITY COUNCIL MEETING MINUTES OF FEBRUARY 7, 2012.**
- E. APPROVAL OF CITY COUNCIL MEETING MINUTES OF FEBRUARY 14, 2012.**
- F. APPROVAL OF CLAIM CHECKS #130332 THROUGH #130495 DATED FEBRUARY 9, 2012 FOR \$335,303.14, AND CLAIM CHECKS #130496 THROUGH #130586 DATED FEBRUARY 15, 2012 FOR \$196,382.96. APPROVAL OF REPLACEMENT PAYROLL CHECKS #51192 AND #51193. APPROVAL OF PAYROLL DIRECT DEPOSIT AND CHECKS #51194 THROUGH #51217 FOR THE PERIOD FEBRUARY 1, 2012 THROUGH FEBRUARY 15, 2012 FOR \$619,031.55.**
- G. ACKNOWLEDGE RECEIPT OF CLAIMS FOR DAMAGES FROM JENNIFER DOLD (\$197.34), DANIELLE LOWE-ANGELO (UNDETERMINED), AND PRECISION EARTHWORKS (\$1,000,000.00).**
- H. APPROVAL OF LIST OF BUSINESSES APPLYING FOR RENEWAL OF THEIR LIQUOR LICENSES WITH THE WASHINGTON STATE LIQUOR CONTROL BOARD, JANUARY 2012.**
- I. AUTHORIZATION TO ADVERTISE A REQUEST FOR BIDS FOR CONSTRUCTION SERVICES FOR THE SR 99 INTERNATIONAL DISTRICT ENHANCEMENTS PROJECT.**
- J. REPORT ON FINAL CONSTRUCTION COSTS FOR 226TH ST. SW WALKWAY AND ACCEPTANCE OF PROJECT.**
- K. REPORT ON FINAL CONSTRUCTION COSTS FOR DAYTON ST. CURED IN PLACE PIPE (CIPP) STORM PIPE REHABILITATION PROJECT AND ACCEPTANCE OF THE PROJECT.**
- L. REPORT ON FINAL CONSTRUCTION COSTS FOR THE BNSF DOUBLE TRACK AND UNDERGROUND UTILITIES PROJECT AND ACCEPTANCE OF PROJECT.**
- M. REPORT ON FINAL CONSTRUCTION COSTS FOR THE MAIN STREET WATERMAIN PROJECT AND ACCEPTANCE OF PROJECT.**
- N. REPORT ON FINAL CONSTRUCTION COSTS FOR THE SHELL VALLEY EMERGENCY ACCESS ROAD PROJECT AND ACCEPTANCE OF PROJECT.**
- P. AUTHORIZATION FOR MAYOR TO SIGN A PROFESSIONAL SERVICES AGREEMENT WITH SAIC TO PROVIDE CONSULTING SERVICES FOR THE DAYTON STREET & SR104 DRAINAGE ALTERNATIVES STUDY.**
- R. AUTHORIZATION TO APPROVE EASEMENTS FOR THE SEWER LIFT STATION REHABILITATION PROJECT.**

- S. **AUTHORIZATION TO ADVERTISE A REQUEST FOR BIDS FOR CONSTRUCTION SERVICES FOR THE TALBOT ROAD/PERRINVILLE CREEK DRAINAGE IMPROVEMENTS.**
- T. **AUTHORIZATION TO ADVERTISE A REQUEST FOR BIDS FOR CONSTRUCTION SERVICES FOR THE 76TH AVENUE W WATERLINE INSTALLATION PROJECT.**
- U. **AUTHORIZATION TO ADVERTISE A REQUEST FOR BIDS FOR CONSTRUCTION SERVICES FOR THE 2012 WATERLINE REPLACEMENT PROJECT.**
- V. **CITY COUNCIL APPOINTMENT FOR CITIZENS' COMMISSION ON COMPENSATION OF ELECTED OFFICIALS.**
- W. **HUMAN RESOURCES TEMPORARY STAFFING PROPOSAL.**

ITEM O: AUTHORIZATION FOR ACCEPTANCE AND RECORDING OF A NEW SANITARY SEWER EASEMENT AND ABANDONMENT OF AN EXISTING SANITARY SEWER EASEMENT AT 620 SUNSET AVENUE.

Councilmember Bloom explained she had questions regarding the content and the process. With regard to content, she observed this is the release of an easement and the granting of an easement. It was her understanding the proposed house will be built on top of the sewer line. She asked staff to explain what that meant and why that was determined to be the best option. Public Works Director Phil Williams responded this item is the release of an existing sewer easement at 620 Sunset Avenue and reestablishment of a new easement on that lot. He provided the history, explaining there is a gravity sewer line that extends from the manhole on Caspers Street parallel to Sunset Avenue and through the backyards of approximately 5-7 properties. That line intersects another gravity line from the east which then flows to Sunset Avenue where it enters the City's right-of-way and into the gravity main. An easement for this section of gravity sewer line through the residential properties was recorded in 1950. Over the years the easement has been encroached on throughout its length by buildings and temporary and not-so-temporary structures built over it and adjacent to it. It would be very difficult to maintain the line from the surface.

This property is at the northern end, the second lot from Caspers. The owner of the property seeks to extensively remodel and add on to the house and build a 2-story garage. The property owner is not the only one who has built over the sewer line along its length but he is asking the City's permission to do so.

Mr. Williams acknowledged this typically would not be seen as a positive step but the City entered into discussions with the property owner as early as June 2007 when he initially inquired. The City's former Public Works Director had discussions with the property owner and responded in writing in December 2007 stating the concept was feasible and identifying the circumstances under which it would be possible. This included an elaborate sewer line design under the building. Subsequently that project was suspended for several years, likely due to the economy, and during the last 18 months the property owner has expressed interest in moving forward with the project.

Staff has negotiated a detailed design with the property owner to include a 30-inch ductal iron sleeve under the entire building into which a new section of sewer line, made of high density polyethylene, would be placed at a considerable depth below the structure. Two manholes would also be constructed, one replacing an existing manhole and one new manhole on the north side of the building to provide access. The property owner is also providing the City an easement along his driveway from Sunset to reach the rear of the property and the manhole with a vactor truck. This will all be done at the property owner's expense. For all those reasons, staff believes it is a reasonable compromise although Mr. Williams indicated it was not an ideal situation.

Councilmember Bloom clarified the property owner was paying for all of it and other than staff time, there were no other costs to the City. Mr. Williams agreed. Councilmember Bloom asked whether there would be any increased cost for maintenance as a result of the sewer line under a building. Mr. Williams answered no, maintenance responsibilities can be fulfilled via access to the two manholes.

Councilmember Plunkett observed this would be a benefit to the property owner. Mr. Williams answered yes; it will facilitate construction of the property owner's proposed project. Councilmember Plunkett pointed out the property owner is Mike Echelbarger; Mr. Echelbarger as well as the City will benefit from the sewer line. Mr. Williams explained the City receives a new section of sewer line, albeit it has a structure on top, but it is an upgrade to the quality of the sewer pipe.

Councilmember Fraley-Monillas asked whether this would set a precedent. Mr. Williams answered he did not believe so; this is not something the City would normally do and each request would be reviewed on a case-by-case basis. The City would need to determine that any project would be engineered in a manner that it would be long lasting and would not create maintenance issues; this proposal meets that standard. To that extent there is some limited precedent, that the City could not say no out-of-hand but would consider proposals on a case-by-case basis.

Councilmember Plunkett recused himself from this item. Although this is beneficial to the City, it is also beneficial to Mr. Echelbarger. Mr. Echelbarger contributed \$100 to his previous City Council campaign.

Council President Pro Tem Petso asked for confirmation that this was not setting a precedent. City Attorney Sharon Cates answered the circumstances of this case are unusual enough that it would not set a precedent for the future. Mr. Williams explained the current sewer line is in a very difficult place. Even before the remodel and the addition of the garage, the sewer line runs through this and several other backyards and it would be very difficult to access the line from the surface. If the sewer line needed to be replaced in the future, it would likely not be replaced in its current location but would be relocated to Sunset Avenue. That project is not on the City's CIP nor is it necessary at this time. It would be nearly impossible to build a sewer line in the current location through that area.

With regard to process, Councilmember Bloom referred to Section 20.70 which addresses utility easements, noting part of the process of a vacation of a utility easement is a public hearing. She asked the City Attorney to explain the difference between a release of a utility easement and vacation of an easement. Ms. Cates clarified ECC Chapter 20.70 references street vacation which includes vacation of public rights-of-way that are streets, alleys and public easements; rights-of-way that are used for travel and access to properties. If the City decides to vacate an easement or a portion of an easement or if property owners whose property align the right-of-way make application for a vacation, then the process in this chapter would be followed. A public hearing would be held to ensure other property owners with an interest in the easement have an opportunity to provide input before the City Council makes its decision.

Ms. Cates explained when Chapter 20.70.000, the purpose section, addresses vacation of streets, alleys and public easements, it is talking about public rights-of-way used for travel and access. Utility easements are different in that they are generally granted to the City by private property owners, a contractual arrangement between the City and the private property owner. When a determination is made that the City no longer needs the easement or has not used the easement for a number of years, the property owner can record an abandonment of easement with the County Auditor showing a sufficient period of non-use. In this agenda item, an easement is being replaced with another easement for the sake of clarity. The City and the private property owner have come to a contractual agreement to release the previous easement and grant a replacement easement.

Councilmember Bloom referred to Section 20.70.030, City easement rights for public utilities and services, and asked how vacation of a public utility was different from release of a public utility. Ms. Cates answered this section refers to vacation of a street or alley where there is a utility easement within the right-of-way and the City wishes to retain the utility easement.

Councilmember Bloom asked whether release of an easement is addressed in the City's code. Ms. Cates answered the code addresses the vacation of a public easement with regard to travel and access. She did not find anything in the code regarding the release of utility easements or other types of easements. That is appropriate as the City has procedures for dealing with contractual arrangements such as release of a utility easement. The Council could choose to add procedures for release of utility easements to the code.

Observing there is nothing in the code regarding release of a utility easement, Councilmember Bloom asked how a determination is made to bring it to Council. Ms. Cates answered because the powers of the City Council are to be exercised in the acquisition, abandonment and disposition of property, any time the City enters into an easement it would come before the City Council for approval.

Councilmember Bloom asked why it was necessary to have the release of an easement and the granting of an easement in the same document. Ms. Cates answered because the original easement was granted in 1950 and the release and grant of the new easement was from the same property owner, it was clearer to keep it in the same document. Mr. Williams stated that a 10-foot easement on the south property line was being added. That will allow for utility equipment access from Sunset Avenue on the owner's proposed driveway to the manhole on the south side of the property. That easement did not previously exist. It was felt the easiest way was to have the release and easement in one document.

Council President Pro Tem Petso clarified the reason the public easement in the code sections referenced by Councilmember Bloom did not apply to this situation was the title of that chapter was streets. Ms. Cates answered the title and context of that code section appears to relate to public easements of travel and access. Although the terminology is public easement, taken in the context, her reading of it was that it applied to travel and access easements and not utility easements.

COUNCILMEMBER BLOOM MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO APPROVE ITEM O. MOTION CARRIED (4-0). (Councilmember Plunkett did not participate in the vote).

4. AUDIENCE COMMENTS

Al Rutledge, Edmonds, asked about the \$600,000 over-budget expenditure on the Haines Wharf Park project. With regard to the change in the start time of City Council meetings, Mr. Rutledge suggested reviewing attendance at Council meetings over the past two years. He suggested holding one of the Council meetings each month at 2:00 p.m.

Roger Hertrich, Edmonds, reported he attended the February 15 Economic Development Commission (EDC) meeting where the majority of the meeting was regarding the University of Washington representatives discussing their study. Observing that there were several Planning Board Members present at the EDC meeting, he preferred that discussion occur at the Planning Board. He envisioned Planning Board Members would be forming opinions at the EDC meeting and may have already made up their mind by the time a public hearing was held at the Planning Board. He also observed the public did not have an opportunity to provide input during the discussion at the EDC meeting. Next, he referred to the aquatics study that did not consider the old Woodway High School site. It was his understanding that Marla Miller, Edmonds School District, was opposed to swimming pools. He suggested future discussions include the old Woodway High School as a site for a swimming pool.

5. DISCUSSION REGARDING CHANGE IN START TIME OF CITY COUNCIL MEETINGS.

Councilmember Fraley-Monillas explained her interest in considering a change in the start time of Council meetings was due to the late hour that Council meetings have been concluding which make it difficult to concentrate/focus. She summarized if Council meetings started earlier, they may conclude earlier.

Council President Pro Tem Petso commented starting Council meetings earlier and having executive sessions before the meeting would make it difficult for Councilmembers to attend meetings. Given the number of lengthy executive sessions the Council has had recently, she was concerned with holding a one hour executive session before a 6:00 p.m. meeting. She was uncertain whether a 5:00 p.m. executive session would be convenient for consultants who may attend executive sessions.

Councilmember Yamamoto supported changing the start time of Council meetings. He suggested audience comments also be scheduled at the beginning of Council meetings. Subsequent agenda items would then likely occur at an appropriate time for consultants to be present. He suggested the Council could try a 6:00 p.m. start time and change back to a 7:00 p.m. start time if it did not work well.

Councilmember Fraley-Monillas observed an earlier start time may be inconvenient for citizens who regularly attend meetings. She supported continuing to consider an earlier start time. If the intent is an earlier end to meetings, she commented the length of agendas could be reduced. However, reducing the agenda would also prolong the process. She summarized at 10:00, 11:00, or 12:00 p.m., Councilmembers are not at 100% after a 3-5 hour meeting.

Councilmember Bloom echoed Council President Pro Tem Petso's concern, finding it unreasonable to expect that Councilmembers would have time to have dinner before attending a 5:00 p.m. executive session. She preferred to retain the existing meeting start time. She also felt a 7:00 p.m. start time allowed citizens time to get home from work, have dinner, and attend the Council meeting; a 6:00 p.m. start time would make that more difficult for working citizens.

Council President Pro Tem Petso agreed with Councilmember Yamamoto that the Council could try a 6:00 p.m. start time.

6. REPORT ON CITY COUNCIL COMMITTEE MEETINGS OF FEBRUARY 13 AND 14, 2012.

Planning, Parks and Public Works Committee

Councilmember Fraley-Monillas reported most of the items discussed by the committee were approved on tonight's consent agenda. She highlighted the following:

- Discussion on urban farming – those involved in urban planning will make a presentation to the City Council and the Planning Board
- Authorization to advertise the SR99 International District Enhancement project
- Report on final construction costs for Dayton Street Cured in Place Pipe (CIPP) Storm Pipe Rehabilitation Project and acceptance of the project

Finance Committee

Councilmember Yamamoto reported staff provided a General Fund update and the committee discussed budgeting by priorities.

Public Safety & Personnel Committee

Councilmember Plunkett reported Mayor Earling made a presentation to the committee regarding the reorganization of the Human Resources Department which the committee endorsed and it was approved

on the consent agenda. The committee also interviewed five applicants for the Council appointed position on the Citizens' Commission on Compensation of Elected Officials and selected Brent Hunter.

7. MAYOR'S COMMENTS

Mayor Earling reported staff has been in contact with Mike Bailey, Finance Director, Redmond, regarding providing a presentation on budgeting by priorities. Mr. Bailey will speak to the Council at either a workshop or a Council meeting in March.

8. COUNCIL COMMENTS

Councilmember Fraley-Monillas reported a number of programs operate out of the old Woodway High School building including the home resource center for homeschooled children, the alternative high school, pre-vocational training for people with intellectual disabilities ages 15-18 and the vocational training program VOICE for people with intellectual disabilities ages 18-21. She assured all the buildings at the old Woodway High School site are utilized by Edmonds School District programs; the buildings are not vacant waiting for ball fields or a swimming pool.

9. CONVENE IN EXECUTIVE SESSION REGARDING LABOR NEGOTIATIONS PER RCW 42.30.140(4)(b).

At 7:41 p.m., Mayor Earling announced that the City Council would convene in executive session regarding potential litigation per RCW 42.30.140(4)(b). He stated that the executive session was scheduled to last approximately 30 minutes and would be held in the Jury Meeting Room, located in the Public Safety Complex. No action was anticipated to occur as a result of meeting in executive session. Elected officials present at the executive session were: Mayor Earling and Councilmembers Yamamoto, Plunkett, Fraley-Monillas, Petso and Bloom. Others present were City Attorney Sharon Cates, Police Chief Al Compaan, Human Resources Consultant Tara Adams, and City Clerk Sandy Chase.

At 8:20 p.m., City Clerk Sandy Chase announced in the Council Chambers that an additional 15 minutes would be needed in executive session. The executive session concluded at 8:31 p.m.

Mayor Earling reconvened the regular City Council meeting at 8:35 p.m. in the Council Chambers.

10. ADJOURN

With no further business, the Council meeting was adjourned at 8:35 p.m.