

EDMONDS CITY COUNCIL APPROVED MINUTES

May 8, 2012

The Edmonds City Council meeting was called to order at 6:01 p.m. by Mayor Earling in the Council Chambers, 250 5th Avenue North, Edmonds. The meeting was opened with the flag salute.

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
Diane Buckshnis, Councilmember

ELECTED OFFICIALS ABSENT

Strom Peterson, Council President

STAFF PRESENT

Jim Lawless, Assistant Police Chief
Stephen Clifton, Community Services/Economic
Development Director
Phil Williams, Public Works Director
Shawn Hunstock, Finance Director
Carrie Hite, Parks & Recreation Director
Rob English, City Engineer
Jeff Taraday, City Attorney
Linda Hynd, Deputy City Clerk
Jana Spellman, Senior Executive Council Asst.
Jeannie Dines, Recorder

1. APPROVAL OF AGENDA

COUNCIL PRESIDENT PRO TEM PETSO MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO ADD AN AGENDA ITEM AFTER AUDIENCE COMMENTS, TEMPORARY CONSTRUCTION EASEMENT. MOTION CARRIED UNANIMOUSLY.

COUNCILMEMBER YAMAMOTO MOVED, SECONDED BY COUNCIL PRESIDENT PRO TEM PETSO, TO APPROVE THE AGENDA AS AMENDED AND TO MOVE AUDIENCE COMMENTS BEFORE AGENDA ITEM 3. MOTION CARRIED UNANIMOUSLY.

2. APPROVAL OF CONSENT AGENDA ITEMS

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER YAMAMOTO, TO APPROVE THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY. The agenda item approved is as follows:

A. ROLL CALL

4. AUDIENCE COMMENTS

Al Rutledge, Edmonds, expressed concern that, 1) the Council workshop regarding Budgeting by Priorities was not televised and 2) Audience Comments was not originally scheduled on this agenda. He also requested a report regarding a City employee who was dismissed.

3. APPROVAL OF CHANGE ORDER FOR THE HAINES WHARF PARK & WALKWAY PROJECT.

Public Works Director Phil Williams explained this item is a proposed payment to Precision Earthworks. Precision Earthworks submitted a claim in October 2011 and it has taken 6 months to review the

voluminous documentation including hiring two experts to review and analyze the claim. The Council received their analysis in executive session regarding litigation last week. Following a review of Precision's documentation, a list of items has been identified that they are entitled to be paid for under the contract that totals \$101,173.00. He noted that amount is slightly different than the amount cited late last week of \$102,630.

Mr. Williams requested Council approval of a change order to Precision Earthworks which if they sign it, the City will pay that amount. This includes a new change order, a change order submitted a year ago that Precision did not sign, and some normal payments under the contract.

Councilmember Fraley-Monillas asked whether this was payment for agreed upon items that might have been paid previously if not for the situation that arose. Mr. Williams responded documentation was not provided for review as specified in the contract. Councilmember Fraley-Monillas summarized the City owes Precision this amount. Mr. Williams responded yes, it is owed under the contract.

Councilmember Buckshnis asked Mr. Williams to address the 6% interest paid during the delay. Mr. Williams answered the statute directs the interest rate that applies, in this case 12% per annum. Because it has been 6 months between when the claim was submitted and the City's response, time the City asked for to evaluate the \$951,924 claim, six months of interest or 6% will be paid on the amount.

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCIL PRESIDENT PRO TEM PETSO, TO APPROVE A CHANGE ORDER FOR THE HAINES WHARF PARK & WALKWAY PROJECT IN THE AMOUNT OF \$101,173.00. MOTION CARRIED UNANIMOUSLY.

3A. TEMPORARY CONSTRUCTION EASEMENT

Public Works Director Phil Williams referred to a handout provided to the Council with two photographs of the retaining wall, 1) looking along the axis of a small retaining wall located on the south side of the sidewalk on Main Street between 5th & 6th between Starbucks and the Glazed and Amazed storefronts, and 2) taken from the sidewalk. The retaining wall holds up the grade difference between the sidewalk and gravel parking lot. The project includes new sidewalks, streetlights, trees, tree wells, tree grates, mid-block crossing, bulbouts, etc. and would replace the retaining wall with something that reflects the character of the street. Another reason to replace the wall is the masonry CMU blocks are leaning toward the parking lot. The project includes working next to the wall to remove the sidewalk, adjust the grade, compact and install a new sidewalk against this CMU wall with a questionable foundation that is already leaning.

The owner of the property was asked to provide a temporary construction easement to build the new wall. The subcontractor working for the designer on right-of-way issues approached who was thought to be the owner. The previous owners are deceased and did not clearly transfer title to the property; the past several months have been spent determining from whom to obtain a temporary construction easement. That has now been determined. He described the formula used to determine the amount to be paid for a temporary construction easement: assessed value of the entire parcel divided by the square footage of the property, multiplied by the square footage needed for the easement and multiplied by 10% (the Washington State Department of Transportation's standard for a temporary construction easement) which totaled \$1340. That amount was offered to the property owner which they declined. The property owner's request was \$2500, a difference of \$1160. Under the City's policy, he only has authority to pay \$1000 more than the calculated amount. He requested Council approval because this project is on an accelerated schedule in order to go to bid in the first ten days of June.

Councilmember Yamamoto asked if staff was dealing with Mr. Gardner. Mr. Williams answered a subcontractor to the design firm has talked to Mr. Gardner who represents the property owner.

Councilmember Bloom inquired how a fair amount for a construction easement is determined. Mr. Williams explained a per square foot amount is determined via the assessed value and the square footage of the property. The per square foot price is multiplied by the number of square feet needed for the temporary easement, multiplied by 10% (the Washington State Department of Transportation's standard for a temporary construction easement) which totaled \$1340. He acknowledged the amount determined by the formula may differ from the amount a property owner wants to pay and a decision is made whether to meet their price.

Although there is a sizable difference between the formula amount and the amount the property owner requested, Mr. Williams explained if a temporary construction easement is not granted by the property owner and the wall must be constructed from the other side, the cost and the time will be more than \$1160.

Councilmember Bloom asked whether the new retaining wall would be higher. Mr. Williams answered the wall is not necessarily higher. The concrete extends approximately 18 inches above the sidewalk and will be topped with an attractive power-coated fence fabric to keep pedestrians from falling over the wall and to screen the gravel parking lot from view on the sidewalk.

Councilmember Bloom asked whether the trees on the parking lot side would remain. Mr. Williams answered those were not the City's trees. If they are damaged to the extent they die, they would need to be replaced. The intent is to leave the trees in place.

COUNCILMEMBER YAMAMOTO MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO APPROVE PAYMENT FOR THE TEMPORARY CONSTRUCTION EASEMENT. MOTION CARRIED UNANIMOUSLY.

5. MAYOR'S COMMENTS

Mayor Earling reported there was a fabulous turnout for the Strategic Plan Open House last week, over 70 people attended. Terrific feedback was provided, many surveys were completed and surveys are available online.

Mayor Earling relayed he has announced a hiring freeze for the remainder of the year. After consultation with the City's directors, this was an action that needed to be taken.

6. COUNCIL COMMENTS

Councilmember Buckshnis thanked everyone who helped and everyone who purchased plants at the Floretum Garden Club's May 5 plant sale.

Councilmember Yamamoto thanked the 35-40 people who attended the first Metropolitan Parks District meeting and provided a great cross-section of opinions and ideas.

Council President Pro Tem Petso asked about mayoral veto of Council ordinances and whether the Council can override the veto. City Attorney Jeff Taraday responded the Council has the ability to override a mayoral veto by reconsidering the same ordinance. If the ordinance passes with a majority plus one (five votes), the veto is considered overridden. Council President Pro Tem Petso asked if there was a timeline to reconsider the ordinance or if it could simply be scheduled on a Council agenda. Mr. Taraday answered there was no statutory timeline.

Councilmember Fraley-Monillas reported on the Saturday Market, remarking it was great to have the market back and see all the fresh fruits, vegetables and flowers. She encouraged the public, particularly

those around small children, to get a pertussis (whooping cough) vaccination as the outbreak is being epidemic in Washington. A Seattle high school was closed today because of the outbreak.

7. **ADJOURN TO CITY COUNCIL COMMITTEE MEETINGS**

With no further business, the Council meeting was adjourned to committee meetings at 6:24 p.m.