

POULSBO CITY COUNCIL MEETING OF OCTOBER 19, 2016

MINUTES

PRESENT: Mayor Erickson; Councilmembers Henry, Lord, McGinty, Musgrove, Nystul, Stern, Thomas.

Staff: Finance Director Booher, City Clerk Fernandez, Director of Engineering Kasiniak, Human Resources Director Kingery, City Prosecutor/Risk Manager Foster, Public Works Superintendent Lund, IT Manager Stenstrom.

MAJOR BUSINESS ITEMS

- * * * Minutes of October 5, 2016, Council Meeting
- * * * Payable Disbursements for September 2016
- * * * Council Confirmation of Police Chief
- * * * Ordinance No. 2016-15, Drug Related Loitering
- * * * Ordinance No. 2016-16, Unauthorized Camping
- * * * Ordinance No. 2016-17, 3rd Quarter 2016 Budget Amendments
- * * * Street Maintenance Project Update

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Erickson called the meeting to order in the Council Chambers at 7:00 PM and led the Pledge of Allegiance.

2. AGENDA APPROVAL

Motion: Move to approve the agenda as presented.

Action: Approve, **Moved by** Stern, **Seconded by** McGinty.
Motion carried.

3. COMMENTS FROM CITIZENS

Missy Sue spoke against the Port of Poulsbo's ballot measure in the upcoming election.

4. MAYOR'S REPORT AND COUNCIL COMMENTS

Mayor Erickson announced the 5th Annual Daffodil Day on November 5 at 9am. She also acknowledged the Police Department attending tonight's meeting and their concerns they discussed at a meeting yesterday regarding the budget.

Councilmember Musgrove commended Olympic College for the functions and seminars they have been providing to the citizens of Poulsbo.

5. CONSENT AGENDA

Motion: Move to approve Consent Agenda items a through b.

The items listed are:

- a.** Council Meeting Minutes for October 5, 2016
- b.** Payable Disbursements for September 2016

Action: Approve, **Moved by** McGinty, **Seconded by** Henry.
Motion carried.

6. BUSINESS AGENDA

a. Council Confirmation of Police Chief

Human Resources Manager Kingery presented the agenda summary, noting the Mayor is pleased to appoint Dan Schoonmaker as Poulsbo's Chief of Police. She reviewed his resume, as well as the City's recruitment and background check processes.

Councilmember Stern commended Public Safety Director Delaney for the fantastic job he has done in the interim.

Mayor Erickson thanked the Poulsbo Police Department for being flexible and understanding during this process. She thanked Councilmembers Stern and McGinty and all the other individuals who were part of the interview process, along with WASPC who ran the process. She also thanked Human Resources Manager Kingery who orchestrated all the pieces.

Councilmember Lord expressed her gratitude for such a transparent and thorough process. It gives her great confidence that we have done our due diligence and have picked a qualified person who will serve the City well. She values the Police Department and wants to make sure they are comfortable with this. It sounds like this will be a positive step for the Police Department.

Motion: Move to authorize Mayor Erickson to appoint Daniel Schoonmaker as Police Chief.

Action: Approve, **Moved by** Musgrove, **Seconded by** Lord.
Motion carried.

b. Ordinance No. 2016-15, Drug Related Loitering

City Prosecutor/Risk Manager Foster presented the agenda summary, noting anecdotal evidence, including reports and concerns expressed by members of the public and law enforcement, suggests a recent increase in loitering related to drug activity, particularly in public areas of the City. This activity appears to correlate to other criminal activity occurring in the City, such as burglaries, as well as diminished feelings of safety for members of the public, and increased rates of substance abuse. If enacted, this ordinance would prohibit such loitering, resulting in increased safety and welfare for residents and visitors in Poulsbo.

Councilmember Stern noted the Public Safety/Legal Committee was involved in the drafting of this during the last two months, and asked detailed questions to make sure this was fair and met legalities. The committee recommends adoption of the ordinance.

Councilmember Lord asked if this is hinging on a witness to the drug activity or hinging on being annoyed by somebody loitering. Prosecuting Attorney/Risk Manager Foster said there is often regular folks who are known to law enforcement or members of the community that are engaged in drug activity as defined in the ordinance. There is currently a prohibition of drug paraphernalia and there is a prohibition on possession of controlled substances, but there is no prohibition for using narcotics or controlled substances. This is a tool for law enforcement to engage and discourage this type of activity occurring within the City of Poulsbo, particularly in our public spaces. We have had complaints regarding people not feeling safe going to their cars in public parking lots due to people who are likely engaged in criminal activity.

In response to Councilmember Lord, Prosecuting Attorney/Risk Manager Foster said the legal definition in the ordinance is "to stand about or proceed with many stops." There are certain circumstances that are outlined in the ordinance that may be considered engaging in drug activity. This has passed constitutional muster, because it is prohibiting not just vagrancy or loitering, it is prohibiting a specific conduct that could be illegal activity. It is similar to prostitution ordinances.

In response to Councilmember Lord, Prosecuting Attorney/Risk Manager Foster said what we are seeking to do is to not crack down on people who are merely homeless. What has arisen is that we have people in our City who are causing harm or potential harm to the citizens of our City. We have had reports of children in a stroller in the park having someone walk up to them and blow cigarette smoke in their face, reports of burglaries, reports of being concerned about being able to go to waterfront park and the parking lots. Law enforcement has not had any tool with teeth in it to investigate these reports. The City does not have a prohibition on loitering for drug-related activity. We are the only authority in the county who does not have this ordinance.

Councilmember Nystul noted the email received from Mr. Troy Barber regarding the ordinances. Mayor Erickson said that Mr. Barber attended the Public Safety/Legal Committee, and his concerns were addressed and he was satisfied. Councilmember Stern said he invited Mr. Barber to attend the committee meeting. He heard out our City Prosecutor, and after asking some questions, he indicated he was satisfied. The Committee was careful to ask about if we would avoid the trap of profiling or other generalized responses. After inquiring and getting clarification, they were satisfied. This is very specific and narrow.

Councilmember Thomas had a point of clarification. When he was looking over the proposed ordinance, he thinks a lot of people don't understand using marijuana in public places is illegal. It appears that it is covered in the ordinance. The wording says possessing marijuana in a manner not authorized by the state statutes or in amounts that exceed those set forth in the statute. It is important that people need to know that it is going to include marijuana. Prosecuting Attorney/Risk Manager Foster added if it is in violation of the uniform controlled substance act, then it would include marijuana. The target of this is not people who are possessing marijuana; what we are seeing is an increase in opiate-based addictions, which is heroin. That is what we are trying to target with this ordinance.

Councilmember Musgrove asked if somebody calls and reports that somebody is bothering them or they feel uncomfortable, that the police cannot investigate a complaint or see if a person is doing an illegal activity? Prosecuting Attorney/Risk Manager Foster said they can investigate it, the problem is there is nothing currently in the existing PMC that would allow the officers to move them along, to prohibit them from being in a parking lot, from engaging in the activity that they are engaging in, unless there was probable cause to substantiate a search where narcotics or controlled substances would be found.

In response to Councilmember Musgrove, Prosecuting Attorney/Risk Manager Foster said smoking marijuana in a public space is a separate offense, it doesn't have to be listed in this ordinance. These ordinances were adopted early in the 1980s when we saw drug activity occurring on the street corners in a lot of cities, crack/cocaine deals. There was a need to keep people from just hanging out and doing hand-to-hand transactions. Officers did not have reasonable suspicion to do anything about it, because they were not witnessing the activity/transaction. That is when these ordinances came about. That is what we are seeing happening in our parking lots, people hanging out to utilize drugs, heroin primarily. That is the purpose of this ordinance. This would give law enforcement the probable cause to investigate further. This would not change any of the constitutional protections that are in place for law enforcement investigation.

In response to Councilmember Musgrove, Prosecuting Attorney/Risk Manager Foster said a gross misdemeanor has a penalty of a maximum of 364 days in jail and \$5,000

fine, and a misdemeanor would be up to 90 days in jail and \$1,000 fine. Councilmember Stern said a 364-day period of threatened incarceration or other observation assures a longer period for help, assistance, and intervention than a 90-day period. These are intended not to criminalize, but to intercede if possible.

Motion: Move to approve Ordinance No. 2016-15 of the City of Poulsbo, Washington, an ordinance of the City of Poulsbo, Washington amending chapter 9.20 of the Poulsbo Municipal Code by adding a new section 9.20.140 prohibiting drug related activity loitering; prescribing penalties; providing for severability and establishing an effective date.

Action: Approve, **Moved by** Henry, **Seconded by** McGinty.
Motion carried.

c. Ordinance No. 2016-16, Unauthorized Camping

City Prosecutor/Risk Manager Foster said this is part of the package to provide treatment as well as balance the need to protect public safety and health. This ordinance would prohibit unauthorized camping in a public place. We don't currently have an ordinance prohibiting unauthorized camping and storage of personal property in city-owned parking lots, right-of-ways, and sidewalks. This is a result of complaints and reports to law enforcement that we have been receiving over the past few months regarding an increase in criminal activity and the homeless population in the City of Poulsbo. The key to this ordinance is that we are not criminalizing homeless, drug addicts, or people in need of mental health treatment. She noted law enforcement will not be able to enforce the penalty provision of this ordinance unless there are available shelter options for those who are homeless and in need of services, and they refuse to take advantage of those accommodations. That is the first step we are taking to make sure we are not simply criminalizing homelessness. The next step is for those who are first time offenders (those who refuse to utilize available services or accommodations), once they are referred to the City Prosecutor, the City Prosecutor will not be filing charges but instead will get a notice of the ordinance, a non-criminal notice of the violation, and a list/pamphlet of available resources for homelessness/housing, drug/alcohol addiction, and mental health treatment.

In response to Councilmember Lord, Prosecuting Attorney/Risk Manager Foster said the City has included community organization vouchers for local hotels and motels that are close enough to get there on foot. We won't be providing transportation. Individuals would have to be searched before riding in a police vehicle, which could result in turning something that was intended to be helpful into a criminal charge. The City also does not want to assume the liability and cost of having that transport.

In response to Councilmember Lord, Mayor Erickson said we have three people that work for West Sound Treatment Center and Kitsap Mental Health. They are located here. Those folks will go with first responders to deal with people who are in crisis or

have mental health concerns. Those folks can contact these people and let them know about the services and help them. It doesn't have to be the police officers. We have Fishline, and she is reaching out to Kitsap Rescue Mission to assist. There are services that are beginning to come into Poulsbo to give this level of support.

In response to Councilmember Lord, Prosecuting Attorney/Risk Manager Foster said when a first-time offender receives a citation, it will have a court date that they would have to appear. When they appear at court, instead of charging them with the offense, she would provide them a copy of the non-criminal notice, the ordinance, and the pamphlet of services. At that point, because we have a domestic violence advocate and the behavioral health specialist regularly in court on Wednesdays, there is someone there to help them get to the resources and make the connection with services.

Councilmember Stern recalled three years ago at budget time when the Council was presented with the needles that were gathered up. There is an ongoing problem in the United States. What has changed here recently is homeless encampments in the County have been cleaned out, and there has been a noticeable influx of homelessness and petty crimes. This is an attempt to begin to address for the community a more organized response that doesn't push the problem down the road to become someone else's problem. This is not addressing people sleeping. This takes a specific add on. It is meant to assist those folks who will be assisted.

Councilmember Musgrove thanked the City Prosecutor, the Mayor, the Public Safety/Legal Committee Members, and the law enforcement officers for taking a first step to try to fix problems and not pushing them down the road.

Councilmember Nystul noted it says it is illegal to camp in the park, but they only enforce the illegal camping by going through the checklist of alternatives, and questioned if that is correct? Prosecuting Attorney/Risk Manager Foster said in public spaces, yes that is correct.

Mayor Erickson said she has been working on this mental health piece for two years. Writing the grant to get the 1/10th of 1 percent money and getting the mental health specialist, and now having three. The City of Poulsbo is providing mental health services for all the municipal courts in the whole county outside of Port Orchard. We are now having mental health specialists working with the first responders. We convened an affordable housing task force over a year ago in order to start to address these problems. Homelessness is not a crime, not doing anything about it is a problem. We have a responsibility to do something. That means we must make people responsible for their behavior. We create the services and offer them the services. It is crueler to leave them in the situation they are in. We need to be able to provide them services to get out of those situations. On the other hand, if they refuse to take the

services, we need a way to encourage them to move forward in a different pathway. It is kind of a tough love approach.

Councilmember Thomas said if they want to go to a City park and lay out and take a nap, that is fine. This is not an intrusive ordinance that will take away the enjoyment of City parks and public spaces.

Motion: Move to approve Ordinance No. 2016-16 of the City of Poulsbo, Washington, amending Title 9 of the Poulsbo Municipal Code by the addition of a new chapter 9.90, entitled "unauthorized camping" to establish provisions relating to unauthorized camping in or upon city owned property and other public places; setting forth penalties; providing for severability and establishing an effective date.

Action: Approve, **Moved by** Lord, **Seconded by** McGinty.
Motion carried.

d. Ordinance No. 2016-17, 3rd Quarter Budget Amendments

Finance Director Booher presented the agenda summary, noting the amendment covers the budget amendments for the 3rd Quarter of 2016 that were approved by Council during July, August, and September. Exhibit A includes these amendments and summarizes the revised budget by fund.

At 7:53pm, Mayor Erickson opened the public hearing, and receiving no comments, closed the public hearing.

Motion: Move to adopt Ordinance 2016-17, an ordinance for the City of Poulsbo, Washington, amending the 2016 budget adopted by Ordinance No 2015-21 to revise the revenues and appropriations from certain funds and approving an ordinance summary for publication.

Action: Approve, **Moved by** Nystul, **Seconded by** McGinty.
Motion carried.

e. Street Maintenance Project Update

John Piccone, Sealaska, presented the pavement condition survey results. Presentation highlights included:

- Benefits of a pavement management plan
- Benefit of pavement preventative maintenance (as opposed to repair or replacement)
- Developing a pavement management plan
- Pavement condition survey method
- Review of the reconnaissance survey
- Detailed survey

- Three categories of poor
- Preservation method combinations/costs
- Estimated cost summary based on method assumptions
- Define acceptable LOS and evaluate best method to achieve it

Recommendations:

- Define acceptable LOS and evaluate best method to achieve it
- Evaluate funding strategies
- Address failed roads
- Conduct maintenance now to extent possible.
- Survey results: Good, 5.9 miles (13%); Fair, 10.5 miles (24%); Poor, 15.1 miles (35%); Failed, 12.1 miles (28%)

In response to Councilmember McGinty's question on what some of the criteria are for defining level of service (LOS), Mr. Piccone said some criteria is safety and how much friction is on the road. Other LOS are aesthetics and ride quality, for example some agencies do not like chip seal.

Mr. Piccone said level of service needs to be defined at the same time as developing a funding strategy.

Mayor Erickson asked what techniques are we willing to consider for the roads. Are the citizens willing to accept a chip seal or slurry seal? She feels the City needs to do a demonstration project of both methods and see if the citizens would tolerate it. That will govern the price structures. That is the first step. If we overlay everything, that is a big problem.

Mr. Piccone said that in most cases, doing overlays is not money well spent. They don't provide much structural integrity. All you are left with is good driving surfaces. Slurry seals are more cost effective. He has tried to stretch those methods in the map that he presented. Of all the twelve miles of failed roads, there is only a small percentage that you would want to overlays. It is worth looking at other ways of rebuilding roads.

Councilmember Musgrove said it would be great to get some handle on this to reduce the long-term cost. Up until now we have been putting out fires. He has been told the cheapest way to have a road is to build it and don't maintain it; let it run out its life and then rebuild it again. He wondered if that was correct.

Mr. Piccone said building a road and letting to run its lifecycle and rebuilding is not the cheapest way to go. There have been so many studies that well establish that spending the money on maintenance is the best investment in the infrastructure. He also said when he says "address the failed roads," he means we must look at ways to repair the road short of full blown reconstruction.

In response to Councilmember Nystul, Mr. Piccone said the best time to do a demonstration project would be late in the spring next year.

Councilmember McGinty said we need to figure out which techniques we can use practically.

Councilmember Musgrove said if maintenance is the direction we want to go, then what maintenance is permissible and what options will the public be willing to consider.

Councilmember Henry said we need to get these ideas going, and put the matter up to the public to decide what is acceptable.

Councilmember Nystul asked for a map with the colors on it, so they can get a feel for what in town. Director of Engineering said a map and the presentation will be put on the website.

Councilmember Stern said it is important to turn to property owners and ask them to see if they are willing to fund the repair of their affected street: transportation benefit district (TBD), license tabs, or leave it alone and do nothing.

Mayor Erickson said we don't know how much this is going to cost. We won't know until we figure out how we are going to fix them. We won't know how to fix them until we do the test of techniques. If the citizens won't tolerate chip seals, then we are going to need to ask for a whole lot of money, and that will be a different conversation, and the TBD will be the only way we will be able to afford it. If we can do it lessor cost, then maybe we can do it different ways.

Councilmember Stern said this is a great example of a legislative goal that sustained over the last seven years.

Next steps: Figure out if the people of Poulsbo will tolerate something other than an overlay. Picks some roads, test the different processes, and find out what they think. Use that as an educational piece of what it is going to cost, and begin the discussion of a TBD if there is community support.

7. COUNCIL COMMITTEE REPORTS

Ad-Hoc Cemetery Committee: Councilmember Thomas reported the committee will meet tomorrow at 2:30pm. The consensus he is seeing is that the anticipated dedication of the improved cemetery entrance will be pushed back to January.

Finance-Administration Committee: Councilmember Nystul reported they reviewed the Animal Control Contract from Kitsap Humane Society, 3rd quarter investment report, and the new program requests and baseline adjustments requests.

Public Safety/Legal Committee Meeting: Councilmember Stern reported they discussed the ordinances adopted tonight, and Judge Tolman reported his department and other municipal courts are doing a coordinated inquiry to organize the mental health officers' activity; it is being embraced and coordinated. They heard a brief report on a supreme court ruling that could constrain the municipal court regarding if a person could afford a fine. The police department has a vacancy, and they have some candidates that are on the last stages of approval. There was a quick review of the code officer position.

Economic Development Committee: Councilmember Musgrove reported the committee has held special meetings to review the comprehensive plan update. It has been an enjoyable process; they are getting a lot done. Strategic planning will be coming up next year, it will be on the budget to fund ED strategic planning.

8. DEPARTMENT HEAD COMMENTS

Director of Engineering Kasiniak announced the upcoming SR305 public meeting on October 30 at City Hall; he reported they met with Kitsap County Sanitary Sewer staff and they presented the new CIP program; and the Solid Waste team met today and they need to validate our cost to make sure it is sustainable.

Public Works Superintendent Lund said he attended a seminar at KCDEM, and the upcoming winter weather is predicted to be cooler and wetter than normal.

City Clerk Fernandez asked which Councilmembers will be attending the AWC regional meeting on November 10 prior to the KRCC Legislative Reception.

9. CONTINUED COMMENTS FROM CITIZENS

Missy Sue spoke regarding dog licenses and the need to go door to door and fine those who do not have a license. She questioned how the City will ask citizens what type of road repairs the citizens want. She discussed 4th Avenue and that the residents don't want it fixed, because it causes people to slow down at the gully. She wants to know why City Hall cannot dispatch an officer and the need to call 9-1-1. She said the road and sidewalks on 4th Avenue are level. She said she was given incorrect information about 4th Avenue being an arterial road and that they need a speed bump.

10. COUNCILMEMBER COMMENTS/BOARD/COMMISSION REPORTS

Councilmember Thomas reminded everyone to be vigilant on Halloween night.

Councilmember Nystul reported he attended the school board meeting last Thursday. They have a \$1.3MM shortfall due to enrollment. They also have a Senior, Neil Blackwood,

who is a semifinalist for the national merit program. He also attended Transpol last week on Thursday and the big discussion is regional centers.

Mayor Erickson said she is chairing the Finance Committee for PSRC Vision 2040 update. She also stated that when she is talking about the Passenger Only Ferries, she expressing her own opinion, not the Council's, nor the opinion of the City of Poulsbo.

Councilmember Henry reported he attended the Kitsap Readiness Project meeting in Bremerton last Friday. They are trying to come up with ideas for a major catastrophe.

11. ADJOURNMENT

Motion: Move to adjourn at 9:23pm,

Action: Approve, **Moved by** Henry, **Seconded by** McGinty.

Motion carried unanimously.

Rebecca Erickson, Mayor

ATTEST:

Rhiannon Fernandez, CMC, City Clerk