

## POULSBO CITY COUNCIL MEETING OF JUNE 5, 2019

### MINUTES

**PRESENT:** Mayor Erickson; Councilmembers Garland, Lord, Musgrove, Nystul, Stern, Thomas.

Staff: Finance Director Booher, City Clerk Fernandez, Planning Director Boughton, Parks & Recreation Director McCluskey, Transportation Engineer Bateman, Associate Planner Coleman, IT Senior Technician Williamson.

**ABSENT:** Councilmember McGinty

### MAJOR BUSINESS ITEMS

- \* \* \* Minutes of April 10, 2019, Council Meeting
- \* \* \* Minutes of May 1, 2019, Council Meeting
- \* \* \* Minutes of May 8, 2019, Council Meeting
- \* \* \* Minutes of May 15, 2019, Council Meeting
- \* \* \* April 2019 Payable Disbursements
- \* \* \* Budget Amendment/BA# 19-0204 Urban Forestry – Supplies
- \* \* \* Fireworks Ban Discussion
- \* \* \* Sailing Program Safety Boat and Additional Motor Budget Amendment
- \* \* \* Public Hearing: Interim Regulations on High Risk Secured Facilities Ordinance
- \* \* \* Public Hearing and Adoption of Resolution No. 2019-08, 6-Year TIP
- \* \* \* Workshop: Clearing and Grading Ordinance

#### 1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

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

#### 2. AGENDA APPROVAL

Mayor Erickson noted there is a change on the TIP and a budget amendment has been included for the purchase of the sailing program safety boat. Additionally, there is a handout for Kitsap Homes of Compassion and a letter the Mayor sent to Kitsap County.

**Motion:** Move to approve the agenda as amended and noted.

**Action:** Approve, **Moved by** Stern, **Seconded by** Nystul.

Motion carried.

#### 3. COMMENTS FROM CITIZENS

Rita Hagwell spoke regarding the D-Day anniversary, clearing and grading and is concerned about the high risk sexually violent predator house. She shared various concerns regarding her property, Marelaine Lane, water rights, and a survey.

#### **4. MAYOR'S REPORT AND COUNCIL COMMENTS**

Councilmember Nystul attended the Puget Sound Regional Council General Assembly. He noted that D-Day starts today and tomorrow and shared some statistics from that event.

Councilmember Thomas stated that D-Day is an important day for him and his family. He returned from a trip abroad, and he compared how that country or city deals with similar problems. If you are observant, you will see solutions all around you. The negative things he observed on his trip is what happens to a place that is overrun with tourists.

Councilmember Lord was thinking about D-Day during the pledge of allegiance and the need to remember in context what so many soldiers died for during World War II.

Councilmember Musgrove shared the Parks and Recreation newsletter. He pointed out that there is a junk furniture roundup at the Olympic View Transfer Station on June 9.

Councilmember Stern reported on a new bus run from Olympic College Poulsbo directly to Olympic College Bremerton. He shared news from PSRC regarding projected growth in jobs and population for 2050 and how planning needs to start now.

Mayor Erickson shared information on the Kitsap Homes of Compassion, which are permanent boarding houses. One house is opening in Poulsbo which will house women and children, and the project manager has asked the City to help support the utilities of the house. She will bring this to a council committee.

Mayor Erickson shared a letter that was sent to Bonnie Tufts asking for a delay in our decision to continue to be involved in the urbanized county for the CBDG program.

Mayor Erickson reported the Cystic Fibrosis Walk happened (raised \$24,000) and "Paint Out Poulsbo" happened last weekend; Forest Rock Hills Lane was ground up today and the road will be closed for about two months; and Coffee Oasis is opening in Kingston on June 8.

#### **5. CONSENT AGENDA**

Councilmember Musgrove requested the following corrections to the minutes:

- May 1 - removal of two duplicate paragraphs on page 4

- May 8 - Page 4, Section 9, adding the word "burn" to countywide "burn" ban

**Motion:** Move to approve Consent Agenda as amended.

The items listed are:

- a. April 10, 2019 Meeting Minutes Approval
- b. May 1, 2019 Meeting Minutes Approval
- c. May 8, 2019 Meeting Minutes Approval
- d. May 15, 2019 Meeting Minutes Approval
- e. April 2019 Payable Disbursements
- f. Budget Amendment/BA #19-0204 Urban Forestry – Supplies

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

## 6. BUSINESS AGENDA

### a. Fireworks Ban Discussion

Mayor Erickson introduced Kitsap County Fire Marshal Lynam who gave a presentation on the current Kitsap County ban of sales on certain fireworks.

Councilmember Lord thank Fire Marshal Lynam for the information. She heard that the US is expected to have six billion acres of wildfires this year. She asked how the Fire Marshal is coordinating with the tribal nations. Fire Marshal Lynam said they intend to have a conversation with them on the safe use of fireworks.

Fire Chief Gillard spoke regarding when he can ban fireworks, and how according to the City of Poulsbo's code, that it can only be done if there is a county-wide burn ban in place. Once the county-wide burn ban begins, he'll reevaluate and look at the projected weather conditions over the holiday.

Mayor Erickson clarified, and the Fire Chief acknowledged that if he needs to, he can ban personal fireworks within the City limits if it is extremely dry.

Councilmember Stern noted the ban on certain fireworks creates confusion, and he believes it should be an all or nothing ban on fireworks.

Councilmember Musgrove is glad that the Fire Chief can ban all fireworks in Poulsbo if needed and he is glad to hear the changes at the County level.

Fire Chief Gillard hopes that the County and City will work together to create similar bans in order to cut down on confusion. One existing conflict are the dates that fireworks can be discharged in the City versus the County.

Councilmember Nystul asked if there will be any retail sales of fireworks within the City. Fire Chief Gillard answered that there is one stand that has received a permit. Councilmember Nystul asked what the statistics are for fireworks-related emergency incidents. Fire Chief Gillard said there has been an increase of incidents, but not significant.

Mayor Erickson noted that this is just a discussion, and the Council will not take action, but she wanted the public to be aware of the possibilities of a fireworks ban within the City.

Police Chief Schoonmaker stated that the Police Department is in a tough spot in enforcement. He thinks the City should be more consistent with neighboring cities and counties.

Councilmember Musgrove mentioned the budget line item for fireworks education. He requested we use that money for signage or mailings. He asked the Fire Chief for recommendations on how to use that budget effectively. Fire Chief Gillard said the county fire departments have been working together on getting a unified public message out. It goes back to having one unified message. He could put their public educator in touch with the City to start coordinating efforts.

**b. Sailing Program Safety Boat and Additional Motor**

Parks & Recreation Director McCluskey presented the agenda summary, noting the Poulsbo Sailing Program has flourished since moving to Liberty Bay in 2016. Parks & Recreation hosts both youth and adult classes throughout the summer, and high school competitive sailing each spring. The first session this year is June 24, 2019. The end of 2018 and early 2019 has proven difficult on our safety boats. They must have three boats for safety purposes. Two are used during the day and one must be available as back up. Adult programs are in the evening.

Recreation Programmer Shiel gave an update on the number of participants they have had in the program over the last three years. He discussed the current boat issues: 1) the 1995 Apex Inflatable, purchased in 2012, has been repaired and patched for many years. One main tube has now failed and repairing it may or may

not work; and 2) the Whaler/40 HP motor was hit by a wake and inadvertently flipped in April, and the motor was flooded and is now frozen.

Parks & Recreation Director McCluskey said they are in discussion with WCIA for a claim to possibly replace the motor. She said this request is for two separate purchases from two different vendors: 1) one used Whaler/motor combination to replace the Apex Inflatable; and 2) one new motor with an 8-year warranty to go on our existing Whaler. Research and due diligence have been done, and Capital Replacement funds are recommended.

Councilmember Musgrove asked about the engine they previously discussed and asked what that was for. Recreation Programmer Schiel stated that the engine was from the Port of Poulso, but it was a 50 hp engine, but these whalers can only handle 40 hp engines. We took no action on that previous discussion.

Councilmember Garland stated that it's a safety issue, and she appreciates the Parks & Recreation department for its due diligence.

Councilmember Nystul asked if the program generates revenues. Parks & Recreation Director McCluskey stated that the programs pay for themselves each summer.

Councilmember Thomas reminded the Council that it's important to have a boating program since they're a coastal community.

**Motion:** Move to approve a budget amendment #19-0207 for funding for two safety purchases for the sailing program: (1) one new motor and (2) one used boat/motor safety boat combination; total funding not-to-exceed \$14,000.

**Action:** Approve, **Moved by** Thomas, **Seconded by** Garland.

Motion carried.

**c. Public Hearing for Interim Regulations on High Risk Secured Facilities Ordinance**

Planning Director Boughton presented the agenda summary, noting the City of Poulso conducted a review of the City's development regulations addressing facilities that would house multiple sexually violent predators (SVPs). These individuals have been found by Superior Court to be eligible for placement in a less restrictive alternative (LRA) to total confinement. The review found that existing City development regulations do not define LRA facilities or mitigate their land use and life safety impacts. To mitigate land use and life safety impacts, an interim ordinance has been developed that: define a new land use (High-Risk Secured Facility); establish a permit and review process (Conditional Use Permit in Light Industrial (LI) zoning

districts); address building code and life safety requirements; and outline facility siting requirements consistent with state law. The City Council is authorized by state law to adopt interim regulations to protect public health and safety without first holding a public hearing but is required to hold a hearing within 60 days of enactment. The June 5, 2019, public hearing meets this requirement.

Mayor Erickson stated that they will open the public hearing and receive testimony. Once the hearing is closed, if this body takes not action, it remains enacted as in interim regulation for six months.

Planning Director Boughton stated that October 17, 2019, will be the six months timeframe, and the Planning Department would take the ordinance through the Type 4 process to make it a permanent amendment to the City's zoning regulations.

At 8:16 p.m., Mayor Erickson opened the public hearing.

Rick Eckert, NKSD Board member, appreciates the City taking steps on this. He thinks it is appropriate to making it a zoning for light industrial.

Rita Hagwell read a quote into the record from the WA State Supreme Court regarding property, rights of use, and property values.

At 8:19 p.m., Mayor Erickson closed the public hearing.

Councilmember Stern said he was confused on the letter written by the Bremerton Mayor stating they are handcuffed by the county as to the location, and sites Poulsbo as receiving undue favorable treatment by the County. He asked if this was accurate.

Planning Director Boughton said she understands that Bremerton is responding to the zoning districts that the County has chosen for their interim zoning regulations. They have chosen non-residential zoning districts in areas that abuts the city limits of Bremerton (which is residential for Bremerton). Unincorporated Kitsap County around the City of Poulsbo is all zoned residential, with the exception of north end areas off of 305. They have not had the same zoning conflict. It is not favoritism, but the circumstance of the zoning maps.

Mayor Erickson said they should be asking why there is industrial on one side and residential on the other. That shouldn't happen. The bottom line is this is a state issue that needs to be solved at the state level. She is sympathetic toward Bremerton, but we should be addressing these concerns to the state.

Councilmember Thomas said letting this become a permanent situation sounds good to him. The Council concurred and no action was taken.

**d. Public Hearing and Adoption of Resolution No. 2019-08, 6-Year TIP**

Transportation Engineer Bateman presented the agenda summary, noting SEPA Determination of Nonsignificance (DNS) was issued on May 3, 2019 for the 2020-2025 TIP.

Councilmember Stern asked if Front Street doesn't count in the TIP. Transportation Engineer Bateman said Front Street is not a transportation project; it is a utilities project that will most likely include repaving. Councilmember Stern asked should the Council seek to create amenities past the enterprise activity, for example crosswalks, would it cross the threshold to a TIP significant project. Transportation Engineer Bateman said it could, and they can modify this list every year. The improvements could also end up being covered in other city-wide projects like number 13 or 14.

Councilmember Musgrove noted the TIP is basically a "to-do" list, and sometimes not everything gets done. If the project could potentially be grant funded, it must be on the list. He reported the Public Works Committee reviewed this, and recommended approval.

Councilmember Lord said there is a lot of community conversation thinking we are going to rehabilitate Front Street. Because Front Street is not on the list, they have had to field these questions many times, and explain it is not on this list because it is a utility project. However, if there is opportunity (number 13/14 could be applied to Front Street), what would be the process to compile several components into a project, who initiates it? Transportation Engineer Bateman said it would be within Engineering and Public Works and would be part of the Capital CIP program review. We would have to budget for it, find money, and allocate the resources to do that. It happens as an on-going process every year. Councilmember said the public has a great desire to rehab Front Street, and the City does to, but when it is fractured into several lists, it is hard for the general public to understand that they can be

synchronized and pulled together. She hopes there is a conversation to pull all of this together prior to starting the utility project to create a comprehensive approach. One of the concerns if we are going to repave the street after it is torn up to put in a utility line and if we want to put in amenities afterwards, she wants to coordinate to the best of our ability.

Councilmember Thomas asked if the list is in order of priority. Transportation Engineer Bateman said it is, although it is not strict. Mayor Erickson said they are kind of prioritized, but the funding package will dictate when we work on a project. If we can get grants, we will grab them to do the project.

Councilmember Nystul said for everyone who wants to do something on Front Street, they need to talk to the Mayor and Director of Engineering and get it on the work plan. It is a complex project, right-of-way issues, lots of interests of people wanting different things, with no money to pay for it. Mayor Erickson agreed and said right now Noll Road is the priority. Once it is complete, Front Street will pop up. But right now, we don't have capacity with our staff.

Councilmember Nystul said regarding the sidewalks on 4<sup>th</sup> Avenue, it is on there, and we continue to seek funding to finish the project.

Councilmember Musgrove asked about the dollar amount change on the revised list. Transportation Engineer said it was a rounding issue when he broke out the two projects.

Councilmember Musgrove said our departments do a great job of stretching money, so this is more of a to-do list instead of a priority order because staff will try to maximize dollars by coordinating projects (opportunity based). He also said regarding Front Street, the Council is aware of the concerns and desires of the community, and they wish they could do other improvements and maybe they can. But right now, it is a utility project. They might be able to do other changes, but there are other priorities that need to get finished first.

Councilmember Stern said the flexibility of this list's priority is a double-edged sword. In years past, every time they received a federal grant with its match requirements, they would take money from some other project and move it over. They have been successful with this approach, that was the impetus of the Neighborhood Streets Improvement being its own line item to segregate and protect that fund. Regarding

Front Street, he remembered it was supposed to be 2018, and now it is 2022. To the degree that the water improvements are not time, health, or welfare sensitive, in order to reserve coordination, he suggests moving the project to 2023 or 2024 until after the Johnson Parkway is finished. They need to maintain maximum flexibility.

Mayor Erickson said there are things coming that might help this along, but right now they don't have the staff for another project of that scope and still do Johnson Parkway.

At 8:49 p.m., Mayor Erickson opened the public hearing, and receiving no comments closed the public hearing.

**Motion:** Move to adopt Resolution No. 2019-08, a resolution of the City Council of the City of Poulsbo, Washington, adopting a six-year transportation improvement program (TIP) for the years 2020-2025 and directing the same to be filed with the Washington State Secretary of Transportation and the Transportation Improvement Board.

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

**e. Clearing and Grading Ordinance Workshop**

Associate Planner Coleman presented the agenda summary, noting the draft Clearing and Grading Ordinances were publicly released on March 8, 2019. The Planning Commission (PC), in its role as the City's primary land use advisory committee, has reviewed the draft update by holding four workshops. The PC identified several modifications to the draft. The Planning Commission held a public hearing on May 28, 2019, and offered a recommendation of approval with modifications.

Presentation highlights of the Clearing Ordinance included:

- Splitting Chapter 15.35 into two separate chapters – 15.35 Tree Cutting and Clearing, and Chapter 15.40 Grading.
- Review Schedule & Purpose
- What is allowed with a tree cutting and/or clearing permit
- What is exempt from a tree cutting and/or clearing permit
- Class IV Forest Practices
- Critical Areas & Shoreline
- Open Space and Tree Retention Tracts

- Hazard Trees
- Best Pruning Practices
- Tree Cutting or Clearing Permit

Engineer I Roberts presented the Grading Ordinance Update. Presentation highlights included:

- Background & Purpose
- Grading Permit
  - Issued by Engineering department
  - Most projects must have approved land use application (No Speculative Grading)
  - Includes conditions, inspection deposits, etc.
  - Permit expires 1 year from date of issuance
- Activities requiring a grading permit
- Activities exempt from a grading permit
- Performance standards, City inspections, and final inspection
- Enforcement and violations

Councilmember Thomas asked about page 6 and why the line of the topographic map was removed. Associate Planner Coleman said they decided it was a grading permit requirement and a hold over.

Councilmember Thomas asked about page 5 of 9 for grading, item H, cemetery graves language. It would be nice to add wording in there within areas "zoned as cemetery".

Councilmember Nystul read language from page 5, item G, and referenced the street trees in Poulsbo Place that are now breaking up the sidewalks. He said the city arborist says the trees should be taken out and not replaced, so would the code or the city arborist prevail? Associate Planner Coleman said they want flexibility in the ordinance, so they could add language that they will rely on the city arborist to determine what should be replanted.

Councilmember Musgrove said some definitions in there are not used anywhere else in the document, so are they used somewhere else? For example, DBH. Associate Planner Coleman said that term is no longer used, so it can be removed from the definitions.

Councilmember Musgrove asked for an explanation about high grading and limiting investors to recoup costs from investment properties. Planning Director Boughton said for many years DNR was the agency that issued forest practice permits for all agencies. Ten years ago, DNR decided they wanted to get out of the timber harvesting permit issuance for non-conversion (Class IV General Permit), meaning it is a conversion from timber land to urban land. The state legislature changed the RCW regarding the classes and designated Class IV as all types of forested land in cities and UGAs are not considered timber harvesting and therefore the local jurisdictions were to take over the permitting for that. They had on the books if you were to do a class IV timber harvesting you had to sign a form that you were not going to convert this land to urban development for six years (six-year moratorium). Because of the evolving forest practice legislation, that six-year moratorium has been removed. Poulsbo received an application for a forest practice permit on Viking Avenue, and was stuck, because we don't allow for speculative clearing without a land use permit, but her clearing ordinance exempts out Class IV forest practices because in 1995 we had a six-year moratorium. We are lucky we have only had one of these happen. This change closes that loop in this ordinance. Class IV forest practice timber is as it is intended to be, it is intended to convert to urban development, and it was recommended language from DNR regarding Class IV. The Planning Commission wanted a definition included.

Mayor Erickson said there is secondary workshop planned for next week do continue discussion on this ordinance update. Discussion will continue at the next meeting.

## **7. COUNCIL COMMITTEE REPORTS**

None.

## **8. DEPARTMENT HEAD COMMENTS**

Planning Director Boughton reported the Kitsap Public Facility District is beginning their review of all seven proposed projects on June 10 (she'll attend with Parks & Recreation Director McCluskey); Kitsap County will be presenting a letter to PSRC regarding our requests for their population targets for Kitsap County regarding their transit focused alternatives.

## **9. BOARD/COMMISSION REPORTS**

None.

**10. CONTINUED COMMENTS FROM CITIZENS**

Rita Hagwell shared her various concerns regarding the proposed ordinance and shared what happened to her property.

Rick Eckert, NKSD Board, gave a school board budget update and they did not have to lay off any teachers. They had enough retirements and have to hire some positions. He wished them luck if they end up banning fireworks. He shared a story of his travels through the Normandy coast and all the D-Day museums at each of the towns.

**11. MAYOR & COUNCILMEMBER COMMENTS**

Mayor Erickson noted the Council will adjourn out of their executive session. No action will be taken. She must recuse herself from the executive session.

At 9:44 p.m., Mayor Erickson left the meeting. Assistant Deputy Mayor Lord continued chairing the meeting and recessed the Council into executive session.

**12. EXECUTIVE SESSION**

A ten-minute executive session to discuss real estate matters was held pursuant to RCW 42.30.110(1)(b). No action taken.

**13. ADJOURNMENT**

The meeting adjourned at 9:54 p.m.

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Rebecca Erickson, Mayor

ATTEST:

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Rhiannon Fernandez, CMC, City Clerk