

POULSBO CITY COUNCIL MEETING OF JULY 7, 2021

MINUTES

PRESENT: Mayor Erickson; Councilmembers Livdahl, Lord, McGinty, McVey, Musgrove, Phillips, Stern

Staff: City Clerk Fernandez, Director of Engineering Lenius, Parks & Recreation Director Schoonmaker, Civil Engineer Ranes, Engineer 1 Burgess, Senior Planner Coleman, Building Inspector Frazier, Housing, Health and Human Services Director Hendrickson, Prosecuting Attorney/Risk Manager Foster, Attorney Ragonesi

MAJOR BUSINESS ITEMS

- * * * Fire Cares Program 6-Month Update
- * * * BA# 21-0301 KC Sewer Project Budget to Actual Adjustment
- * * * BA# 21-0302 City Lobbyist Services and Contract Amendment
- * * * 2021 Shoreline Master Program Update Workshop – Part 1
- * * * PMC Building Code Update Workshop – Part 1
- * * * PSE Night Work & Road Closure Request
- * * * 1/10th of 1% Tax for Affordable Housing Discussion
- * * * Executive Session re: Potential Litigation

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

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

2. AGENDA APPROVAL

Mayor Erickson said a 30-minute executive session will be added to the end of the meeting regarding potential litigation, and Consent Agenda 5a will be discussed in the business agenda.

Motion: Move to approve the agenda as amended.

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

Motion carried unanimously.

3. COMMENTS FROM CITIZENS

City Clerk Fernandez read the following emails into the record:

- Rick Eckert asked the Council to ban aerial fireworks, which are unsafe.

- Rita Hagwell asked that she not be placed on case management, which was a possible new program discussed at the Housing, Health, and Human Services Committee.

4. MAYOR'S REPORT AND COUNCIL COMMENTS

Councilmember Livdahl hoped everyone survived the heatwave and congratulated those from the Police Department who were promoted.

Councilmember Lord congratulated the four police officers who were promoted. She attended the ceremony. She is concerned about fireworks as well. She went to the first Summer by the Bay Concert, which was the Navy band as well as a Navy duo.

Councilmember McGinty congratulated the police officers who were promoted. The ceremony was well done.

Councilmember McVey thanked Mr. Eckert for his comments regarding the fireworks situation. He supports having a conversation about this and believes it will be discussed at the July 21 Public Safety/Legal committee meeting. He also enjoyed attending the police promotion ceremony.

Councilmember Musgrove said he attended the WA State Office of Equity listening session about diversity, equity, and inclusion. He congratulated those officers who were promoted. He shared an email from a citizen who wished to have fireworks banned and asked how to do it. He said most complaints are for big aerial and booming fireworks and discussed which fireworks are legal and illegal and discussed enforcing the existing laws. It is a conversation they need to have on Council and try to figure out something that will be effective.

Councilmember Phillips congratulated those who were promoted from the police department. He also congratulated Dave Rasmussen and everything the Fire Cares team is doing. He said he does not want fireworks banned. He was driving home during the holiday, and everywhere in the state was covered in fireworks. He doesn't know what can be done but is willing to have the conversation.

Councilmember Stern thanked those who attended the AWC Conference, which was online, and shared some highlights. He noted past Port Commissioner Glenn Gilbert passed away. He said Public Safety/Legal Committee will be discussing a ballot issue on how the community feels about fireworks, and associated with that, if the City still wants to have a fireworks celebration on July 3 and if it would be better to move it to July 4 (do we have the resources to manage the large event).

a. Department Head Reports

City Engineer Lenius announced Anja Hart is retiring this month after 30 years. She also shared the paving at the south side of the roundabout will continue through tomorrow.

Parks & Recreation Director Schoonmaker said July is National Parks & Recreation month and shared upcoming events/activities.

Housing, Health & Human Services Director Hendrickson shared the new committee definition and mission statement of the Housing, Health & Human Services Committee.

b. Fire Cares Program 6-Month Update

Housing, Health & Human Services Director Hendrickson introduced the Fire Cares Team (Firefighter Dave Musselmann and Community Service Specialist Renee Miller) and they shared an update on the first six months of the new program. Presentation highlights included the number of referrals the team has responded to, how many individuals the team assisted, and who is being helped and how they are being assisted.

Mayor Erickson thanked KCDEM and its volunteers for the cooling centers during the heat wave, proclaimed July as Parks & Recreation month, and announced there is a cod fish dinner this weekend for the Poulsbo Historical Society.

5. CONSENT AGENDA

Motion: Move to approve Consent Agenda item b.

The items listed are:

- ~~a. BA# 21-0301 KC Sewer Project Budget to Actual Adjustment (Lenius)~~
- b. BA# 21-0302 City Lobbyist Services and Contract Amendment (Fernandez)**

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

6. BUSINESS AGENDA

a. BA# 21-0301 KC Sewer Project Budget to Actual Adjustment

Director of Engineering Lenius clarified information in the packet. The downstream sewer facilities for the City of Poulsbo are owned and operated by Kitsap County.

This budget amendment is for two Kitsap County projects. We pay 15.8% of the improvements projects that happen at the Kitsap County Treatment Plant and we pay them one year after project completion. This budget amendment is to correct an error in our capital improvement program. They accidentally had a transfer of information between the city and county that was not correct. They had two projects that were delayed multiple years and were multi-year projects, they lost carryover. When they took 15.8%, it was for only the current year. They discussed with the County how to make sure this mistake doesn't happen in the future. Sewer reserves are \$10.5MM and they have the budget to pay this. This was presented to the Public Works Committee.

Councilmember McGinty asked if this will affect other projects they had planned. Director of Engineering Lenius said this is \$1MM and it is a significant amount of money, and they have some large expenditures coming in the future. There is no action that needs to be taken right now. As they go through the sewer comprehensive planning process, they will identify the financial plan to support the improvements going forward.

Councilmember McVey asked what they will do differently to avoid this type of error in the future. Director of Engineering Lenius said when the County opens bids, they will send the City copies of the bid results so they will know what the contract is bid at, and they will receive a summary of its expenditures. We also need to loop back with them and let them see our final CIPs. The challenge is the timing of their CIP and our updates don't match and sometimes they get out of synch. Those efforts will improve their coordination.

Motion: Move to approve BA# 21-0301 regarding the sewer budget amendment.

Action: Approve, **Moved by** Lord, **Seconded by** Livdahl.

Motion carried unanimously.

b. 2021 Shoreline Master Program Update Workshop – Part 1

Senior Planner Coleman gave an overview of the 2021 Shoreline Master Program Update, noting Poulsbo has initiated a periodic review of our Shoreline Master Program (SMP) as mandated by the Washington State Shoreline Management Act (SMA), RCW 90.58.080(4), and in coordination with the Washington State Department of Ecology (Ecology). The SMA requires each local SMP to be reviewed and revised, if needed, every eight years to ensure consistency with changes to state laws and rules,

other city plans and regulations, and responsiveness to changed circumstances, new information, and improved data. The Planning Commission, in its role as the City's primary land use advisory committee, reviewed the staff proposed initial release drafts at workshops on March 9 and April 13, 2021, and held a properly noticed public hearing on April 27, 2021. After the close of the public hearing and Commission discussion, the Planning Commission provided a motion to recommend approval to the City Council.

Councilmember Stern asked about the intention of public access to the shoreline conflicting with the natural habitat being allowed to grow unabated (alder trees). As shrubbery and trees grow up, it blocks access. How can they manage the conflict, or is he misreading the statute. Senior Planner Coleman said the Shoreline Management Act requires public access (physical or visual). We can restore habitats with vegetation that is better for it but cannot remove it just for a view (whether it is private or public). There is a process that can happen for public and private property owners.

Councilmember Lord asked about:

- Definition 45 – the word “substantial number” is vague. It needs to be tightened up. Senior Planner Coleman said that language was from the State and she will ask them for something a little more definitive.
- Definition 66 – she asked if the extensive itemized list was meant to be inclusive and nothing else is allowed or is there flexibility. Senior Planner Coleman said this was also provided in the WAC, but maybe they could add the phrase, or as otherwise determined by the planning director.
- Page 23, Item D, Natural – she recommended spelling out natural instead of N and she recommended adding the West Poulsbo Stormwater Park to the list.

Councilmember Musgrove said the lack of definitions leaves the door open for litigation. He asked if part of the process was review of legal implications before they adopt it. Senior Planner Coleman said the Shoreline Management Act has gone through the courts of the last 20 years, and there are a number of cases that sets precedents for why we can continue having the program and some of the vague language has been held up. Everything in here reflects court cases that required changes to the code as well at the state level.

Councilmember Musgrove said he is concerned regarding the proposed changes they are considering today. He gave an example on page 4, section 4. He felt the proposed changes remove the limitations/exemptions and creates an open door. He asked if the changes will be reviewed for concerns they might want to review before they approve this. Mayor Erickson said this workshop is the process for review.

Councilmember Musgrove suggested the Council is not qualified to make legal interpretations of how people might try to abuse this, and this should go to someone more qualified for review.

Regarding Definition #4, Senior Planner Coleman said this discussion was at the Planning Commission, and they did not want to limit it. They felt it was unnecessary language, but they could add the language back in.

Councilmember Musgrove said the change makes it more general, and does not provide exceptions, which takes up staff time. He is not qualified to make an opinion on this. A quick legal review of proposed changes of the entire document would be beneficial. Senior Coleman said she will need to talk to Planning Director Boughton to see if they have budget for legal review of the document.

Councilmember Lord suggested a change to Definition 4 by keeping the last sentence.

Mayor Erickson asked the Council to review the document carefully and bring questions/concerns to Senior Planner Coleman so it can be reviewed at the next workshop.

Councilmember Lord said the Department of Ecology gave us several pages of documentation of their issues and provided significant changes. She asked if they will be tackled prior to the next workshop so they can see what the City's responses are to those issues. Senior Planner said they submitted for the initial determination in April. She had several conversations with their planners as they reviewed it. What the Council has for DOE proposed changes are staff supported. It is included in the table, and they will be incorporated in the final draft before it is approved. Councilmember Lord would like to review that.

Councilmember McVey asked what the most substantive changes in the document are that they should pay attention to. Senior Planner said 1) new definitions for

words previously undefined and 2) the change to the use table to allow Single Family (SF) in the shoreline residential 1 (SR-1) environment which previously required a variance. Everything else is minor and more administrative.

For next steps, Senior Planner Coleman will incorporate the Department of Ecology's recommended amendments into the draft, and she will email it to the Council. If the Council has any questions, she is happy to talk to them ahead of time before next Wednesday. She will also incorporate the Council's recommended changes from tonight.

c. Poulso Municipal Code – Building Code Update Workshop Part 1

Engineer 1 Burgess gave an overview of the PMC Building Code Update, noting Title 15 of Poulso Municipal code refers to constructing building code and Washington Administration Code adopted by the state. The construction building codes are updated every 3 years and adopted in the state the following year. This update to Title 15 will be consistent with the most recent 2018 building code cycle. This update will also capture needed updates identified by building department staff. Title 15 was found to need a formatting update when the Building Department joined the Engineering Department several years ago. The Building Department has since hired Jeannie Vaughn, a retired building official and International Fire and Building Code Instructor, to help determine areas of our code which were inconsistent with current state requirements and organize the code to be better understood by the public and more efficiently implemented by city officials. Adoption of the proposed changes require an ordinance be adopted by Poulso City Council. Engineer 1 Burgess reviewed the proposed Poulso Municipal Code Title 15 update.

Recommended administrative modifications to PMC Title 15 include:

- Reformat the PMC Title 15 to improve clarity
 - Reorganize to align with international code structure similar to other jurisdictions.
 - Reference other PMC sections where appropriate to avoid conflict (addressing, fees, penalties, etc.).
 - Consolidate the separate fire protection chapters into building and fire code amendments.
 - Create symmetry between the PMC and the adopted international codes and provide consistency with other jurisdictions.

- Refer to appropriate PMC sections to allow consistency, uniformity, and reduce duplicity.
 - Fees.
 - Penalties.
 - Addressing.

Recommended modifications to PMC Title 15 include:

- Delete Chapter 15.12 and incorporate into fire and building code amendments.
 - Fire protection system requirements in both IBC and IFC.
 - PMC terminology outdated.
 - Fire and building codes more stringent in some cases (i.e., residential).
 - Fire walls of 4 hours separate residential buildings according to formatting in chapter.
- Delete Chapter 15.14 and incorporate into fire and building code amendments.
 - Fire protection requirements for buildings greater than 3 stories in height.
 - Chapter refers to another document that isn't easily accessible to user.
 - Terminology outdated.
 - Fire and building codes more stringent in some cases.
- Delete Chapter 15.16 and incorporate into fire and building amendments.
 - Fire alarm requirements are contained in both codes.
 - Terminology outdated.
 - Fire and building codes more stringent in some cases.
- Delete Chapter 15.18 and incorporate into International Existing Building code amendments.
 - Separate chapter for existing multi-residential occupancies (>1999).
 - Written as result of Bremerton apartment fire with 4 fatalities in 1997. Countywide stake holder consensus.
 - Terminology outdated.
 - Fire and building codes more stringent in some cases.

Recommendations for IFC:

- Recommended adoption of Appendix B
 - Primarily focuses on Fire Flow and water supply to fight fires.
 - Allows for greater flexibility with fire sprinkler protection to address needs of different structure types and occupancy uses.

- We have been using this appendix, although it has not been formally adopted.
- Recommended to not adopt Appendix C
 - Primarily focuses on Hydrant spacing. Current Engineering Development Standards are more restrictive and preferred by Fire Department.
- Recommended to limit adoption of Appendix D
 - Primarily focuses on Fire Apparatus Access Standards which are already captured in current development standards and code sections.
 - Maintain currently adopted sections

Councilmember McGinty said regarding the fire apparatus access standards, if they go to the road standards, do they define the requirement or are they linked. Engineer 1 Burgess said they could add a statement into the construction standards, which references back to the PMC to add that connection. He also noted they are recommending the adoption of Appendix D, which clarifies the fire access road requirements, and the construction standards reinforce those requirements.

Councilmember McGinty asked if had any reference to the fire department or how are we working with them and integrating them into our code. Mayor Erickson said we have a relationship with the fire department, but we don't have a fire marshal. That is something we need to address.

Director of Engineering Lenius said they met with the fire department and incorporated their comments. We have an ILA with the fire department that establishes their role (related to operations) and our role (related to code), and she serves as the Fire Code Official (which is different than a fire marshal). She also noted this is not a Type 4 process, because the modifications they are making are clarifications rather than significant changes to the way they develop in Poulsbo.

Councilmember Lord asked about the amendments to 15.040.310, page 59, and asked if it applies to all property owners or only new construction. Building Inspector Frazier said it applied to all properties. Councilmember Lord said there are a lot of citizens who have no idea about the rules, for example about weeds. She also asked if Section I (insect screens) also applied to all properties or restaurants (food prep/storage). Building Inspector Frazier said it was for all properties. Councilmember Lord feels the public needs some education so they know what is expected of the average property owner.

Mayor Erickson said it was a good idea but wondered who we would go about enforcing these. Councilmember Livdahl also asked about equity and people not having access to landscapers or time to weed.

Engineer 1 Burgess said they could explore the reasoning behind these codes (health-safety requirement associated with it?). He will ask their consultant to find out where it comes from.

Councilmember Phillips feels screens are in there for a purpose. If we take it out, they won't be included in new home construction. He feels there is a purpose for the codes. Building Inspector Frazier said the property maintenance code is our mechanism for dealing with unsafe structures.

Mayor Erickson said this will come back at a future council meeting and asked if the Council has any questions to reach out to staff before the next workshop.

d. PSE Night Work & Road Closure Request

Engineer 1 Burgess presented the agenda summary, noting PSE is proposing to replace 14 high voltage transmission poles along the Noll Rd corridor. Most of the poles can be serviced while maintaining a minimum of 1-way alternating traffic. One pole, located between the intersection of Bjorn St/Noll Rd and the intersection of Bjorgen Creek Ct/Noll Rd, is on a section of roadway too narrow to perform work and allow 1-way alternating traffic. The City has a policy that road closures are not permitted unless specific permission is granted by City Council. PSE is requesting closure of this section of roadway and has proposed a Traffic Control Plan which includes temporary detour signs. PSE also recognizes that Noll Rd experiences a significant volume of vehicles during daytime hours. In order to accomplish the required work and provide the least disruption possible to the surrounding community, PSE requests allowance from City Council for two nights of work.

Councilmember Lord asked what the hours of the closure would be and if the Fire and Police Departments be notified about the closures. Engineer 1 Burgess said the closure hours are 7pm-7am, and CenCom will be notified, who will provide that notice to all emergency responders.

Motion: Move to approve two nights of work and road closure of Noll Road between the intersections of Bjorn St/Noll Rd and Bjorgen Creek Ct/Noll Rd consistent with the provided traffic control plan.

Action: Approve, **Moved by** McVey, **Seconded by** Phillips.

Motion carried unanimously.

e. 1/10th of 1% Tax for Affordable Housing Discussion

Housing, Health & Human Services Director Hendrickson gave a presentation on a local affordable housing tax relevant laws and purpose. Presentation highlights included:

- Washington laws relating to local affordable housing tax
 - RCW 82.14.530
 - HB 1590
 - ESHB 1070
- What affordable housing tax can pay for
 - Construction, operation & maintenance, acquisition of property or land
 - Operation, delivery, or evaluation of certain services
 - Housing and services provide to people at or below 60% of the median income of County who are (1) seniors or veterans (2) have disabilities, (3) are at risk of homelessness, or are (4) victims of domestic violence.
- How is this different than SHB 1406
 - 2019, the Washington State Legislature passed an affordable housing sales tax credit to encourage local efforts to increase affordable housing. Funds may be used for acquiring, rehabilitating, and constructing affordable housing, operations and maintenance, and in small Counties and Cities for rental assistance.
 - Participating Counties and Cities are given a tax credit—with no effect on tax rate to consumers.
 - City of Poulsbo passed Ordinance 2019-15 in November 2019; tax credit revenue of around \$20,000 per year.
- Why a local tax?
 - The City of Poulsbo Affordable Housing Tax Force unanimously recommended the passage of a City 0.1% affordable housing tax in its February 2020 report to City Council.
 - Housing Action Plan—internal draft released March 2021—identifies a present and increasing need for more affordable homes in Poulsbo.

Plan references declining housing affordability, people with critical skills that can't afford housing, increase in people who are homeless and unsheltered, growing elderly population and the needs for those aging in place.

- County Commissioners currently considering an Affordable Housing Tax. If passed, Poulsbo residents will pay 0.1% and County officials will make housing decisions; a local tax ensures more local
- Next steps
 - At the July 14, 2021, Council meeting an ordinance will be considered for adoption.
 - If adopted, the tax will go into effect January 1, 2022
 - Estimated revenues are \$425K per year
 - Considerations if passed:
 - Who can the City partner with to create more affordable units?
 - Should we form our own housing authority?
 - What code changes, if any, are needed to move forward with the Nordic Cottage project?

Mayor Erickson is compiling statistics at the Housing, Health & Human Services Committee's request. The Census reports 7.5% of Poulsbo citizens are living in poverty.

Councilmember Lord said Housing, Health & Human Services Committee wants the Council to consider if they want to put this in perpetuity or have it sunset in 20 years. And they need to prioritize use of the funds for Poulsbo residents. It would be nice to know how many Poulsbo residents compared to non-residents would contribute to the sales tax revenue (due to more people purchasing in city limits versus residents).

Councilmember Musgrove said when you create a service, people will be drawn to the services. It should prioritize current Poulsbo residents. For taxation, he feels it evens out whether you spend in your own town or not. He believes an interlocal agreement is required between Poulsbo and Kitsap County, but if it is not, we need to be working in coordination with Kitsap County, and it needs to be started immediately.

Councilmember Phillips understands the local control argument, but it is a much smaller pot of money than if it were combined with the whole County. But he does feel most of the projects would be south of Poulsbo.

Councilmember Livdahl questioned how to get them to prioritize Poulsbo. If we are at their mercy, she doesn't know what the benefit would be.

Mayor Erickson said no one doubts that we need affordable housing here. The question is what we are going to do to get there. One step is to identify a funding source.

7. COUNCIL COMMITTEE REPORTS

Finance-Administration Committee: Councilmember McVey reported they discussed an administrative assistant position to replace the eliminated office clerk, who would also support the Human Resources department (recommended approval to council); discussed a request to upgrade the Council chambers A/V equipment (recommended approval); discussed the ARPA fund distribution and new proposals from WWU, OC, and NK Schools Foundation and if a committee was needed for grant award distribution; and they discussed the Transportation Benefit District and it will be coming back to a future Council agenda.

Housing, Health, and Human Services Committee: Councilmember Lord reported they received an update on the Nordic Cottage project and HOME funding application (due in August) which needs a full council policy discussion; discussed the 1/10th sales tax for affordable housing; and discussed a request to consider a case manager for older adults as part of the budget process (ARPA behavioral health funds ~\$55K ARPA and matching \$55K from Kitsap County Treatment Tax).

8. BOARD/COMMISSION REPORTS

Councilmember Phillip said there is a summer school session happening in July at Poulsbo Elementary.

Councilmember Stern said the Kitsap Regional Coordinating Council ratified the Countywide Planning Policies and now they move onto Kitsap County for ratification.

9. CONTINUED COMMENTS FROM CITIZENS

Rick Eckert thanked Councilmember Musgrove for his explanation of what is already illegal for fireworks. But if they are illegal, he questioned the City's liability.

10. MAYOR & COUNCILMEMBER COMMENTS

Councilmember Livdahl does not enjoy the fireworks going off all times of day and night, it is an anxiety-ridden time of year for her personally. She hopes they can make some improvements.

Councilmember Lord agreed with Councilmember Livdahl. They need to come up with a solution.

Councilmember Musgrove thanked everyone who emailed in their concerns.

Councilmember Stern said Public Safety/Legal Committee is July 21 and will take up some of the concerns.

11. EXECUTIVE SESSION

Motion: Move that they recess from Council and adjourn from the executive session in half an hour,

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

Motion carried unanimously.

At 9:38 p.m., Mayor Erickson adjourned the meeting into a 30-minute executive session to discuss potential litigation per RCW 42.30.110(1)(i). No action was taken.

12. ADJOURNMENT

The meeting adjourned at 10:08 p.m.

Rebecca Erickson, Mayor

ATTEST:

Rhiannon Fernandez, CMC, City Clerk