

RECORD OF PROCEEDING OF CITY COUNCIL

CITY OF BELLINGHAM, WASHINGTON

COUNCIL CHAMBERS, CITY HALL

Monday, September 30, 2013, 07:00 PM

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REGULAR MEETING

Called To Order The meeting was called to order by Council President Seth Fleetwood who led the Pledge of Allegiance.

Roll Call

Present:

Jack Weiss, Council Member, First Ward
Gene Knutson, Council Member, Second Ward
Stan Snapp, Council Member, Fourth Ward
Terry Bornemann, Council Member, Fifth Ward
Michael Lilliquist, Council Member, Sixth Ward
Seth Fleetwood, Council Member, At Large

Excused:

Cathy Lehman
Council Member
Third Ward

ANNOUNCEMENT(S)

- On Monday, October 14th, at 7:00 PM, in City Council Chambers, there will be a public hearing regarding a 2013 Water System Plan update for Council approval.

Bellingham City Council meets all requirements of the State of Washington Open Meetings Act.

APPROVAL OF MINUTES

SNAPP / KNUTSON moved approval of the September 16, 2013 minutes of the regular City Council meeting as submitted. MOTION CARRIED 5-1-1, LEHMAN excused, BORNEMANN abstained.

PROCLAMATION

Mayor Linville read a proclamation, proclaiming October 7, 2013 World Habitat Day in the City of Bellingham and Whatcom County.

PRESENTATION

AB20126 1. Presentation by the Department of Ecology to the City for the Wastewater Treatment Plant's outstanding performance

Information only.

15 - MINUTE PUBLIC COMMENT PERIOD

Suzanne Blais has concerns about the Request for Proposal (RFP) for Establishment and Operation of a PEG Access Cable TV Channel. She feels it is very restrictive and rigid.

Yoshé Revelle discussed social issues.

Bob Burr said he does not know what the city's position is on the new jail. He knows the city pays a per diem for prisoners and asked if that will go up with the increased costs for transportation of prisoners to Ferndale. He also mentioned the Leadership Alliance Against Coal. He said many elected officials and tribal leaders have signed on to this Alliance and asked those council members who have not signed on; why not?

PUBLIC HEARING(S)

AB20032 1. An Ordinance to amend BMC 10.24.120 (C)(4) relating to construction noise in residential areas

“AN ORDINANCE AMENDING BELLINGHAM MUNICIPAL CODE SECTION 10.24.120 TO PROTECT RESIDENTIAL AREAS FROM EVENING NOISE DISTURBANCE BY MODIFYING PERMITTED HOURS FOR CONSTRUCTION RELATED NOISE.”

Mark Gardner, Policy Analyst introduced the proposed amendment and reviewed process to date. He noted that the state code is based on decibel levels and that there is tremendous variation in what other jurisdictions regulate for their construction noise. In response to inquiry, he noted that there had been 1,171 public disturbance complaints in a twelve month period of which, 19 were construction related.

Council President Fleetwood opened the public hearing.

Jaime Henifin (local contractor) explained that he has never had a problem. He feels there is potential for hurting his business and also affecting family affairs. He cited an instance where, due to weather or the type of work being done, he may need to run two work shifts to get work done in a short period of time. If the council decides on a modification to the code, he would rather see the city use a decibel reader as it would be clearer and easier to be in compliance.

Brian Evans, Executive Director, Building Industry Association of Whatcom County said this law has been in place for several years with no significant impact on the general public. Construction is clearly not a noise problem in Bellingham and it allows jobs to get done on time. Less hours will affect construction, add to costs and most of all hurt homeowners doing jobs after their regular work hours.

Yoshe Revelle feels there is a problem and said that noise pollution does cause problems to people's health.

There being no further comments, the public hearing was closed

WEISS / LILLIQUIST moved to postpone to next regular meeting

Council Members Bornemann, Knutson and Snapp expressed opposition to postponing consideration, as well as a change in the code.

MOTION FAILED, 3-3, KNUTSON, SNAPP, BORNEMANN opposed.

WEISS / LILLIQUIST moved to amend Section (C)(4) throughout to: 9:00 p.m. and 7:00 a.m. on Monday through Saturday and between the hours of 9:00 p.m. and 9:00 a.m. on Sundays and federal holidays. MOTION FAILED, 3-3, KNUTSON, SNAPP, BORNEMANN opposed.

No further action was taken by the Council. BMC 10.24.120 (C)(4) remains unchanged.

AB20043 2. Public hearing on a recently adopted emergency ordinance creating interim zoning for the establishment of facilities producing, processing and retailing recreational marijuana. [*Ordinance #2013-08-061*].

Council President Fleetwood opened the public hearing.

No citizens spoke and the public hearing was closed.

No action by the Council. Interim zoning will remain in effect until further action is taken.

REPORTS OF COMMITTEES

Waterfront/Downtown Development

Terry Bornemann, Chair

Cathy Lehman; Jack Weiss

AB20063 1. Waterfront District Subarea Plan and related documents

Worksession scheduled for Monday, October 7, 2013 at 3:00 p.m.

Finance and Personnel

Michael Lilliquist, Chair

Gene Knutson; Stan Snapp

AB20127 1. Ordinance to modify the Bellingham Municipal Code establishing the authority and use of accepting donations

“AN ORDINANCE OF THE CITY OF BELLINGHAM, WASHINGTON AUTHORIZING ACCEPTANCE OF DONATIONS OF MONEY AND PROPERTY.”

LILLIQUIST / KNUTSON moved approval for first and second reading. MOTION CARRIED 6-0.

AB20128 2. Budget Ordinance accepting a donation being given to the Bellingham Fire Department

“AN ORDINANCE OF THE CITY OF BELLINGHAM ACCEPTING DONATION TO ASSIST THE FAMILIES OF FIREFIGHTERS KILLED OR DISABLED IN THE LINE OF DUTY.”

LILLIQUIST / KNUTSON moved approval for first and second reading. MOTION CARRIED 6-0.

Planning and Community Development

Jack Weiss, Chair

Michael Lilliquist; Gene Knutson

AB20129 1. Resolution establishing a schedule for joint City/County review of urban growth areas

“A RESOLUTION RELATING TO A SCHEDULE FOR JOINT COUNTY AND CITY REVIEW OF URBAN GROWTH AREAS.”

A meeting is scheduled for December 3, 2013.

WEISS / LILLIQUIST moved final approval of Resolution **#2013-13**. MOTION CARRIED 6-0.

Public Works / Public Safety

Stan Snapp, Chair

Terry Bornemann; Gene Knutson

AB20130 1. Ordinance amending BMC 15.36.020 allowing limited sewer main extensions in the Lake Whatcom Water

and Sewer District service area to protect basic public health and environment

Direction was provided to staff during committee. Staff will work on language as directed and bring back to council.

Committee Of The Whole

Seth Fleetwood, Chair

Jack Weiss, Gene Knutson, Cathy Lehman, Stan Snapp, Michael Lilliquist, Terry Bornemann

1. Approval of City Council Committee and/or Special Meeting minutes

None submitted at evening meeting.

2. Old/New business

Council Member Knutson will be out on medical leave for several weeks. He thanked the community for their support.

Executive Session - Report and action only.

1. Litigation: *Laurie Carlson v. City of Bellingham*:

SNAPP / KNUTSON moved to authorize the Mayor to enter into a settlement agreement with the following terms: dismissal of the lawsuit and resolution of all claims related thereto for the payment of \$40,000.00. MOTION CARRIED 6-0.

2. Potential Litigation: Staff provided information on a potential litigation matter. Direction given. No action taken.

3. Potential Property Sale: Staff provided information on a potential property sale. Direction given. No action taken.

MAYOR'S REPORT

1. Standing time for briefings, updates and reports to Council by the Mayor, if needed. Information only.

Mayor Linville reported that the Request for Proposal for Establishment and Operation of a PEG Access Cable TV Channel has been published and will take applications until November 2, 2013.

Budget worksessions are being scheduled.

Mayor Linville briefly reviewed proclamations she has made in the community this year.

CONSENT AGENDA

All matters listed on the Consent Agenda are considered routine and/or non-controversial items and may be approved in a single motion. A member of the Council may ask that an item be removed from the Consent Agenda and considered separately.

AB20131 1. Resolution setting the date and time for a Public Hearing before the Hearing Examiner for consideration of a petition to vacate an unnamed right-of-way north of W. Bakerview Road between Pacific Highway and Dover Street

Res. #2013-14 "A RESOLUTION FIXING THE DATE AND TIME FOR A PUBLIC HEARING TO CONSIDER A PETITION TO VACATE AN UNNAMED RIGHT-OF-WAY GENERALLY LOCATED NORTH OF WEST BAKERVIEW ROAD BETWEEN PACIFIC HIGHWAY AND UNIMPROVED DOVER STREET."

AB20132 2. Resolution setting the date and time for a Public Hearing before the Hearing Examiner for consideration of a petition to vacate certain right-of-ways within the Waterfront District (Portions of Army Street, Central Avenue, Oak Street and portions of C, D, E and F Street)

Res. #2013-15 “A RESOLUTION FIXING THE DATE AND TIME FOR A PUBLIC HEARING TO CONSIDER A PETITION TO VACATE CERTAIN RIGHT-OF-WAYS WITHIN THE WATERFRONT DISTRICT.”

AB20133 3. Resolution setting the date and time for a Public Hearing before the Hearing Examiner for consideration of a petition to vacate certain right-of-ways within the Waterfront District (Portion of G Street)

Res. #2013-16 “A RESOLUTION FIXING THE DATE AND TIME FOR A PUBLIC HEARING TO CONSIDER A PETITION TO VACATE A CERTAIN RIGHT-OF-WAY WITHIN THE WATERFRONT DISTRICT.”

AB20134 4 Resolution setting the date and time for a Public Hearing before the Hearing Examiner for consideration of a petition to vacate certain right-of-ways within the Waterfront District (Portions of West Ivy Street, H Street, Central Avenue, Laurel Street and West Maple Street)

Res. #2013-17 “A RESOLUTION FIXING THE DATE AND TIME FOR A PUBLIC HEARING TO CONSIDER A PETITION TO VACATE CERTAIN RIGHT-OF-WAYS WITHIN THE WATERFRONT DISTRICT.”

AB20135 5. Budget Ordinance for reclassification of the Resource Conservation Management Specialist position to a Facilities Project Manager in the Public Works Operations Division

“AN ORDINANCE RELATING TO THE 2013 BUDGET RECLASSIFYING ONE POSITION IN THE PUBLIC WORKS DEPARTMENT, FACILITIES FUND, WHERE NO ADDITIONAL APPROPRIATION OR REALLOCATION OF FUNDS IS REQUESTED.”

AB20136 6. Budget Ordinance relating to the 2013 budget appropriating \$228,828.00 of expenditures in the General Fund related to the State Department of Commerce and the Federal Department of Energy funds.

“AN ORDINANCE RELATING TO THE 2013 BUDGET APPROPRIATING \$228,828.00 OF EXPENDITURES IN THE GENERAL FUND RELATED TO THE STATE DEPARTMENT OF COMMERCE AND FEDERAL DEPARTMENT OF ENERGY FUNDS.”

AB20137 7. Budget Ordinance to amend the 2013 Budget to accept a grant from the Department of Justice

“AN ORDINANCE RELATING TO THE 2013 BUDGET APPROPRIATING AN ADDITIONAL \$35,159.00 IN THE POLICE DEPARTMENT, GENERAL FUND, AS A RESULT OF A GRANT AWARD FROM THE DEPARTMENT OF JUSTICE TO PURCHASE SOFTWARE AND THERMAL IMAGERS.”

AB20138 8. Council Member medical leave of absence

AB20139 9. Authorization of checks issued for pay period September 6, 2013 through September 12, 2013

AB20140 10. Authorization of checks issued for pay period September 13, 2013 through September 19, 2013

AB20141 11. Authorization of checks issued for payroll September 11, 2013 through September 25, 2013

SNAPP / KNUTSON moved approval of the Consent Agenda in its entirety. MOTION CARRIED 6-0.

FINAL CONSIDERATION OF ORDINANCES

AB20092 1. AN ORDINANCE OF THE CITY OF BELLINGHAM RELATING TO THE PERMANENT CLOSURE OF 20TH

STREET FROM WILSON AVENUE TO OLD FAIRHAVEN PARKWAY TO FACILITATE CONSTRUCTION OF THE
PADDEN CREEK DAYLIGHTING PROJECT

LILLIQUIST / BORNEMANN moved approval for third and final reading. Upon motion, said bill was placed on final passage and approved by the following roll call vote:

AYES: BORNEMANN, FLEETWOOD, KNUTSON, LILLIQUIST, SNAPP, WEISS

NAYS:

ABSTENTIONS:

EXCUSED: LEHMAN

MOTION CARRIED 6-0-1 and was thereafter named **Ordinance #2013-09-066**

AB20093 2. AN ORDINANCE OF THE CITY OF BELLINGHAM AMENDING BELLINGHAM MUNICIPAL CODE SECTIONS 13.70.020, 13.70.030, AND 13.70.060 TO ADOPT STANDARDS FOR REQUIRING PROJECT-SPECIFIC TRANSPORTATION IMPACT ANALYSIS AT PRE-APPLICATION STAGE OF PROJECT REVIEW

LILLIQUIST / BORNEMANN moved approval for third and final reading. Upon motion, said bill was placed on final passage and approved by the following roll call vote:

AYES: BORNEMANN, FLEETWOOD, KNUTSON, LILLIQUIST, SNAPP, WEISS

NAYS:

ABSTENTIONS:

EXCUSED: LEHMAN

MOTION CARRIED 6-0-1 and was thereafter named **Ordinance #2013-09-067**

AB20100 3. AN ORDINANCE RELATING TO THE 2013 BUDGET INCREASING REVENUE IN THE STREET FUND BY \$610,000.00 AS A RESULT OF AN INTERAGENCY AGREEMENT WITH THE WASHINGTON STATE DEPARTMENT OF ECOLOGY, AND APPROPRIATING RELATED EXPENDITURES FOR THREE BELLINGHAM BAY HABITAT RESTORATION PROJECTS IN THE PUBLIC WORKS DEPARTMENT

BORNEMANN / LILLIQUIST moved approval for third and final reading. Upon motion, said bill was placed on final passage and approved by the following roll call vote:

AYES: BORNEMANN, FLEETWOOD, KNUTSON, LILLIQUIST, SNAPP, WEISS

NAYS:

ABSTENTIONS:

EXCUSED: LEHMAN

MOTION CARRIED 6-0-1 and was thereafter named **Ordinance #2013-09-068**

AB20101 4. AN ORDINANCE RELATING TO THE 2013 BUDGET INCREASING REVENUE IN THE WASTEWATER FUND FROM THE ISSUANCE OF REVENUE BONDS TO PAY FOR THE EXPANSION OF IMPROVEMENTS TO THE WASTEWATER SYSTEM AND APPROPRIATING \$16,039,500.45 IN RELATED EXPENDITURES

KNUTSON / BORNEMANN moved approval for third and final reading. Upon motion, said bill was placed on final passage and approved by the following roll call vote:

AYES: BORNEMANN, FLEETWOOD, KNUTSON, LILLIQUIST, SNAPP,

NAYS: WEISS

ABSTENTIONS:

EXCUSED: LEHMAN

MOTION CARRIED 5-1-1 and was thereafter named **Ordinance #2013-09-069**

AB20107 5. AN ORDINANCE RELATING TO THE 2013 BUDGET RECLASSIFYING ONE POSITION IN THE POLICE DEPARTMENT, GENERAL FUND, WHERE NO ADDITIONAL APPROPRIATION OR REALLOCATION OF EXPENDITURES IS REQUIRED

BORNEMANN / LILLIQUIST moved approval for third and final reading. Upon motion, said bill was placed on final passage and approved by the following roll call vote:

AYES: BORNEMANN, FLEETWOOD, KNUTSON, LILLIQUIST, SNAPP, WEISS

NAYS:

ABSTENTIONS:

EXCUSED: LEHMAN

MOTION CARRIED 6-0-1 and was thereafter named **Ordinance #2013-09-070**

AB20114 6. AN ORDINANCE RELATING TO THE 2013 BUDGET APPROPRIATING AN ADDITIONAL \$8,450.00 IN THE POLICE DEPARTMENT, GENERAL FUND, AS A RESULT OF A GRANT AWARD FROM THE WASHINGTON STATE TRAFFIC SAFETY COMMISSION

KNUTSON / WEISS moved approval for third and final reading. Upon motion, said bill was placed on final passage and approved by the following roll call vote:

AYES: BORNEMANN, FLEETWOOD, KNUTSON, LILLIQUIST, SNAPP, WEISS

NAYS:

ABSTENTIONS:

EXCUSED: LEHMAN

MOTION CARRIED 6-0-1 and was thereafter named **Ordinance #2013-09-071**

AB20115 7. AN ORDINANCE AMENDING TERMS TO MAKE THEM GENDER NEUTRAL, CORRECTING INTERNAL INCONSISTENCIES WITHIN THE CODE AND REPEALING OBSOLETE PROVISIONS, AMENDING AND REPEALING NUMEROUS SECTIONS WITHIN TITLE 3 - PERSONNEL

SNAPP / WEISS moved approval for third and final reading. Upon motion, said bill was placed on final passage and approved by the following roll call vote:

AYES: BORNEMANN, FLEETWOOD, KNUTSON, LILLIQUIST, SNAPP, WEISS

NAYS:

ABSTENTIONS:

EXCUSED: LEHMAN

MOTION CARRIED 6-0-1 and was thereafter named **Ordinance #2013-09-072**

AB20116 8. AN ORDINANCE OF THE CITY OF BELLINGHAM, WASHINGTON AMENDING VARIOUS SECTIONS OF THE BELLINGHAM MUNICIPAL CODE IN ORDER TO CLASSIFY PENALTIES, MAKE CIVIL INFRACTION THE DEFAULT PENALTY, CLARIFY PENALTY PROVISIONS, AND STANDARDIZE PENALTY PROVISIONS

SNAPP / WEISS moved approval for third and final reading. Upon motion, said bill was placed on final passage and approved by the following roll call vote:

AYES: BORNEMANN, FLEETWOOD, KNUTSON, LILLIQUIST, SNAPP, WEISS

NAYS:

ABSTENTIONS:

EXCUSED: LEHMAN

MOTION CARRIED 6-0-1 and was thereafter named **Ordinance #2013-09-073**

ADJOURNMENT

There being no further business, the meeting adjourned at 8:33 p.m.

Seth Fleetwood, Council President

ATTEST: Linda D. Anderson City Clerk Representative

APPROVED: 10/14/2013

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