

RECORD OF PROCEEDING OF CITY COUNCIL

CITY OF BELLINGHAM, WASHINGTON

COUNCIL CHAMBERS, CITY HALL

Monday, November 18, 2013, 07:00 PM

Book: 67, Page: 1

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
Cathy Lehman, Council Member, Third 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:

ANNOUNCEMENT(S)

- On Monday, November 25th, at 1:00 PM, in the Mayor's Boardroom, there will be a Committee of the Whole Worksession regarding the 2014 Preliminary Budget.
- On Monday, December 2nd, at 7:00 PM, in City Council Chambers, there will be a public hearing to consider the proposed 2014 Budget Ordinance.

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

APPROVAL OF MINUTES

BORNEMANN / WEISS moved approval of the October 28, 2013 and November 4, 2013 minutes of the regular City Council meetings as submitted. MOTION CARRIED 5-0-2, KNUTSON, LEHMAN abstained.

15 - MINUTE PUBLIC COMMENT PERIOD

Bob Burr took issue with the city and the council's handling of the waterfront public process and the fact that there would be no further public hearings. He commended Council Member Weiss and Council Member Lilliquist for their attention to the details. He said he wants a habitat plan and a living wage zone. Barring a living wage zone, then there should be an annual survey of wages on the waterfront.

Mark Lowry, President, Northwest Washington Central Labor Council commended Council Member Weiss for his work on the waterfront plan. Many elements of this plan are incomplete and he feels there should be an opportunity for public comment on the plan's final form, and before the council votes on it.

Wendy Harris believes that the waterfront plan cannot be fixed or improved. It needs to be abandoned and then start from scratch. The plan is ideologically and philosophically flawed, she said. This plan puts profit before people, natural resources and habitat. The public visioning process was all about public ownership of the land and that whole basic premise has changed. Please take a look and start over.

Patrick McKee said that in 2008 the city decided to reduce hours/days at the Bellingham Public Library. He understands there is no money in the proposed budget to reopen the library on Sundays. If that is true, he asked that it be changed. He does not feel there is a need to renovate the Federal Building; General Fund monies would be better used to reopen the library on Sundays.

Alex McLean would like to see more Green Roofs in Bellingham and suggested changing development regulations to strengthen roofs to 50# psi to allow green roofs, which would automatically allow solar panels as well. He also feels that people want to build on the waterfront, which should be a privilege, and should not come with tax incentives.

Ken Holmes took issue with the possibility of raising taxes to put the unbalanced budget in balance.

Wendy Steffensen North Sound Baykeeper, ReSources, requested a public hearing on the waterfront plan once there is a clean copy with all the amendments. They want a habitat assessment and living wage jobs included.

Aileen Satushak would like to see living wage job standards included in waterfront documents and an annual compensation survey of businesses. Living wage jobs are vital to the welfare of the community, she said.

Bob Marshall asked that an annual compensation survey of businesses on the waterfront be included in the waterfront development documents. Any business that won't pay a living wage should not build there.

Gaythia Weis understood a process to work with the port to conduct the habitat assessment and opportunities for employment at fair living wages had been set in motion. She would like the current status to be clarified. It is possible for the council to open the door on new opportunities to do the right thing regarding the waterfront. This is going to be a legacy for generations to come and it is worth spending the time to make processes that work. She reiterated: there should be more public hearings; sea level rise requires thinking ahead and requires land for buffers; consider the short term economic gain of having more of a footprint for development vs. having things flooded; the city should reach out to the university as there is plenty of expertise and willingness to help. We have a labor force that stands ready to build the structures for a vibrant future and to provide the energy to propel that future forward. We have the resources in this town to be a magnet for economic growth that would be an example to the rest of the country.

Betsy Pernotto, co-chair, Jobs with Justice, would like a public hearing on the final documents. She feels there is unfinished business, including, living wage jobs and a habitat plan for the waterfront. It is not too late to include standards and asked that the city include in the development agreement, an annual compensation survey of businesses that locate to the waterfront. She suggested that the survey be included with the forms that businesses must complete when they pay B&O taxes to the city.

Carole Jacobson, co-chair, Jobs with Justice, has heard that a compensation survey is going to be included in the development agreement. She hopes that is true. Paying construction workers prevailing wages with 15% of construction jobs set aside for apprentices and a qualified apprentice program, is a way to look forward to the future. People need full time jobs. Small startup businesses may not be able to support the financial commitment of paying a living wage. She suggested exempting retail businesses with less than 10 workers, hotels with less than 30 workers and other businesses with fewer than 20 workers for 10 years of business. This would provide waterfront workers the dignity of a living wage with benefits and full time employment along with hiring local people who would spend locally and contribute to the local tax base.

Abe Jacobson referenced the 2005 Interlocal Agreement between the City and Port of Bellingham, which had a radical outcome for how we do business in Bellingham. It was never made an ordinance; voted upon nor was there formal deliberation by City Council. The 2005 agreement basically changed the premise by which we do development. Rather than task a developer with paying for infrastructure you've said: for this favored project, it is so special, and we're so pleased to have anybody come on the campus and develop there that the city taxpayers will take over the cost of bringing infrastructure to the frontage of every unit. Recouping some public benefit from developers has disappeared.

What can we do to claw back something of public benefit? Requiring a port-wide living wage standard would improve the financial well-being of Bellingham workers.

Patrick Stickney added his agreement with Jobs with Justice and the Blue Green Waterfront Coalition and supports living wage jobs on the waterfront.

Theresa Meurs discussed the homeless, specifically in the downtown area. She said she was excited that the Cornwall Housing Project was going forward but has discovered there is an appeal by some Bellingham merchants and citizens against the project which expresses that the proposed development will significantly diminish the value of surrounding real estate and interfere with and devalue existing businesses in the area, including the farmer's market. Ms. Meurs also read part of a letter from the Fair Housing Center of Washington Executive Director stating that by limiting the housing opportunities to members of the homeless community, there is a disparate impact on members of protected classes. She asked council members, if they have any influence on this appeal or downtown merchants/citizens, to not let this become a matter of discrimination.

Ryan Riley supports living wage jobs on the waterfront and cited the living wage ordinance passed in SeaTac. This is an idea whose time has come, he said.

PUBLIC HEARING(S)

AB20186 1. Resolution to declare certain real property surplus to the City of Bellingham

“A RESOLUTION OF THE CITY OF BELLINGHAM DECLARING CERTAIN REAL PROPERTY SURPLUS.”

This action is affiliated with the draft Interlocal for Facilities Agreement within the Waterfront District with the Port of Bellingham. The surplus action does not include the property transaction, which would occur with the approval of the Interlocal Agreement. The city owns the subject properties fee simple. The property is located in or near tidelands and is; (1) adjacent to vacated Hilton Avenue from Maple Street to the Inner Harbor Line; (II) in the vicinity of Hilton Avenue, between Roeder Avenue and West Chestnut Street and (III) vacated C Street, south of West Laurel Street to the Inner Harbor line.

Council President Fleetwood opened the public hearing.

Wendy Harris took issue with the proposed action saying that: publically owned tidal lands are not surplus property and should not be treated as such; that the agenda does not disclose to the public that this is an action involving the waterfront; we're giving up public tide lands in exchange for industrial mixed use of the property based on draft regulations; it is not clear what the city will get back in exchange and there is no evidence that the city is protecting a shoreline of statewide significance. She said, "Please, do not give away our public tidelands; they are one of the most important resources that we hold."

Patrick McKee asserted that this is the second time this year that the city will surplus property on the waterfront that has not been appraised. The first was the property along C Street, which was almost simultaneously traded to the Port with no appraisal done of the properties that were involved. There was simply an agreement between the Port staff and the City staff that the trade was roughly fair. The City is going to call these rights-of-way surplus, without putting any value on them and then trade them to the Port for 'something' as part of an Interlocal Agreement. The C Street land was not really surplus land; the city bought that land to clean it up and then sell it to pay off the bonds. The people of Bellingham are still paying off those bonds. Nor, are these surplus lands; these are the last two access points to the bay that the city will have full control over. These are valuable properties - don't call them surplus properties.

Gaythia Weiss does not feel these properties are surplus and suggested leasing the properties to the Port. With a long term lease the city could put in conditions so the city would have land on which to monitor conditions of the sea floor, habitat and anything else. Restrictions in the lease would force the Port to work in conjunction with the needs of the city. She sees no need to give these properties away.

Bob Burr agreed with the previous speakers that there is value on these properties and is tired of the city yielding to the port on a trust-me basis. He urged the council to not take action in declaring these properties surplus.

There being no further comments, the public hearing was closed

Tara Sundin, Economic Development Manager explained that an appraisal was done on the properties in the waterfront district for the park properties.

\$2.00/square foot from the shorelines' edge back 50';
\$8.00/square foot for the properties in the light industrial area; and
\$25.00/square foot for properties within the downtown waterfront area.

She has used these values to calculate the square footage declaring surplus property, street vacations and long term use agreements. What the Port is going to dedicate to the city equates to equal value at the end of the Phase 1 dedications. There is also language in the Interlocal Agreement that states that at the end of that first phase, if the Port does not dedicate all those properties in the downtown waterfront area, they have to pay the city \$25.00/sf for every square foot that they don't dedicate to the city.

Council Member Weiss expressed concern that better maps and property value information had not been included in the agenda packet.

Ms. Sundin apologized and said they are on the web site and that she would provide that information to the council.

BORNEMANN / SNAPP moved to continue to Committee of the Whole worksession on December 2, 2013. MOTION CARRIED 7-0.

AB20187 2. An Ordinance to amend the BMC to clarify the density bonus provisions currently allowed for multi-family developments in portions of the King Mountain Neighborhood

“AN ORDINANCE AMENDING BELLINGHAM MUNICIPAL CODE (BMC) 20.38.050 B. 3. DENSITY AND BMC 20.00.095 KING MOUNTAIN NEIGHBORHOOD TABLE OF ZONING REGULATIONS CLARIFYING AND ADDING DENSITY BONUS PROVISIONS FOR MULTI-FAMILY PLANNED DEVELOPMENTS.”

Jeff Thomas, Director of Planning & Community Development and Kurt Nabbefeld, Senior Planner reviewed the proposal and process. The code amendments clarify the process/standards and add the existing cluster bonus provision (with minor changes) to the planned chapter in Title 20. The Planning and Development Commission recommends approval.

Council President Fleetwood opened the public hearing.

Wendy Harris believes this is actually increasing density bonuses. All development has impact and the cumulative impacts are significant. The city is not keeping up with stormwater standards and infrastructure. She would like to see more enforcement and more use of regulations. She hopes council will consider, before rubber stamping bonuses and incentives, whether or not we can afford them and who's paying for them, and that:

- we can't keep up with development - you can see it in the roads and the traffic is horrendous;
- we need to get the infrastructure caught up before providing density bonuses;
- we are not protecting our critical areas and shorelines from no-net loss; and
- we are losing wetlands at an astonishing rate.

Clayton Petree suggested looking at the URMX (Urban Residential Mixed District) during the upcoming Comprehensive Plan update process. The city and county have worked together and created a good code. It's what most of the UGA (Urban Growth Area) is and he believes it can achieve good mixed use, mixed density to create a good neighborhood feeling but, he said, it is never used. He would be happy to share his ideas.

There being no further comments, the public hearing was closed

KNUTSON / BORNEMANN moved approval for first and second reading. MOTION CARRIED 7-0.

BREAK

Council President Fleetwood called the meeting back to order at 8:46 p.m.

AB20188 3. Resolution to authorize two amendments to the City's Shoreline Master Program [SMP]

“A RESOLUTION AUTHORIZING THE CITY OF BELLINGHAM TO FORWARD PROPOSED AMENDMENTS TO BELLINGHAM MUNICIPAL CODE (BMC) TITLE 22, SHORELINE MASTER PROGRAM TO THE DEPARTMENT OF ECOLOGY FOR REVIEW AND APPROVAL.”

Steve Sundin, Planner introduced the proposal and reviewed the amendments. The proposed amendments:

- Change shoreline subarea Recreational Use to Shoreline Mixed Use.
- Create a 'Use Exception Area' for stand-alone non-water-oriented uses.
- Increase height from 25' to 35'.
- Apply requirements for public access and habitat restoration for non-water-oriented uses.

Sylvia Goodwin, Planner, Director of Planning & Development presented a Power Point and discussed and reviewed the proposed amendments. She noted that the port will be paying for the cleanup of the Phase 1 Whatcom Waterway Cleanup Plan and that the port and city are both signatures on the Whatcom Waterway Consent Decree. The port will also be paying for that shoreline cleanup and restoration of the log pond beach with Ecology Grant Funds. Additionally she clarified that a lot of the habitat is below the ground surface, before the ordinary water mark, so you will see this shoreline area restored as part of the cleanup. Beyond the shoreline will be a 50' buffer; a 20' landscape buffer along the edge of the industrial area and then a 75' building setback. The Port of Bellingham recommends approval of the amendments.

Council President Fleetwood opened the public hearing.

Wendy Steffensen advocated that the council not pass the amendments because the Blue Green Alliance:

- does not like the non-water-oriented use exclusion area;
- wants to see habitat wherever we can;
- came to the agreement because the pier is so important for potential business it should be left there for industrial business;
- feels the waterfront is so limited it should only be used two purposes - industrial use, and habitat and recreation; and
- the 50' buffer is not enough and should be increased to 150'. A trail should not be put within a 50' buffer that will be a prime habitat area.

Bob Burr acknowledged that his observations are not in line with the city's and would take advantage of further opportunity to comment at the Department of Ecology hearing.

Wendy Harris said this proposal should not be approved.

There being no further comments, the public hearing was closed

BORNEMANN / SNAPP moved final approval of the Resolution. Superseded by motion to postpone.

WEISS / LILLIQUIST moved to postpone to Committee of the Whole on December 2, 2013. MOTION CARRIED 5-2, KNUTSON, BORNEMANN opposed.

REPORTS OF COMMITTEES

Public Works / Public Safety

Stan Snapp, Chair

Terry Bornemann; Gene Knutson

AB20189 1. Approval for Mayor to enter into Ecology Grant Agreement for NPDES Costs and Project Engineering

SNAPP / KNUTSON moved to authorize the Mayor to enter into the 2013-15 Municipal Stormwater Capacity Grant with the Washington State Department of Ecology. MOTION CARRIED 7-0.

AB20190 2. Ordinance appropriating funds from Ecology Grant #G1400239 into the SSWU Fund for NPDES Activities

and Project Engineering

“AN ORDINANCE RELATING TO THE 2013 BUDGET INCREASING REVENUE IN THE PUBLIC WORKS DEPARTMENT, STORM AND SURFACE WATER FUND, BY \$170,000.00 AS A RESULT OF A GRANT FROM THE DEPARTMENT OF ECOLOGY FOR NPDES ACTIVITIES AND PROJECT ENGINEERING AND APPROPRIATING RELATED EXPENDITURES.”

SNAPP / KNUTSON moved approval for first and second reading. MOTION CARRIED 7-0.

AB20191 3. Bid Award for 2013 Sewer Replacement Project, EU-0163, Bid # 73B-2013

SNAPP / BORNEMANN moved to award Bid No. 73B-2013 for the 2013 Sewer Replacement Project to Interwest Construction Inc. of Burlington, Washington as the lowest responsive, responsible bidder and to authorize the Mayor to enter into a contract with them for the amount of their bid, which is \$973,404.15 and which includes WSST. MOTION CARRIED 7-0.

Planning and Community Development

Jack Weiss, Chair

Michael Lilliquist; Gene Knutson

AB20177 1. Consideration of a recommendation to Whatcom County regarding new population and employment growth forecasts to be used to update the Bellingham Comprehensive Plan

WEISS / KNUTSON moved to recommend adoption of a high projection number for population allocation for Bellingham. MOTION CARRIED 6-1, LILLIQUIST opposed.

WEISS / BORNEMANN moved to recommend adoption of the high projection numbers for employment allocation for Bellingham. MOTION CARRIED 7-0.

WEISS / BORNEMANN proposed language to staff to convey the city's policy direction to Whatcom County justifying the recommendation of high projection numbers. MOTION CARRIED 7-0.

Parks and Recreation

Gene Knutson, Chair

Stan Snapp; Terry Bornemann

AB20192 1. Budget Ordinance to amend the 2013 Budget appropriating \$45,000 from Estimated Ending Undesignated Reserves in the Golf Course Fund to pay for repairs and maintenance at the Golf Course

“AN ORDINANCE AMENDING THE 2013 BUDGET APPROPRIATING \$45,000.00 FROM ESTIMATED ENDING UNDESIGNATED RESERVES IN THE GOLF COURSE FUND FOR REPAIRS AND MAINTENANCE AT THE GOLF COURSE.”

KNUTSON / SNAPP moved approval for first and second reading. MOTION CARRIED 7-0.

AB20193 2. An Ordinance amending the 2013 Budget recognizing a \$150,000 Grant from the Washington State Recreation and Conservation Office Aquatic Land Enhancement Account for shoreline improvements at Bloedel Donovan Park

“AN ORDINANCE RELATING TO THE 2013 BUDGET INCREASING REVENUE IN THE PUBLIC WORKS DEPARTMENT, WATER FUND, BY \$150,000.00 AS A RESULT OF A GRANT FROM THE STATE OF WASHINGTON AQUATIC LANDS ENHANCEMENT ACCOUNT FOR DEVELOPMENT AND RESTORATION OF THE SHORELINE AT BLOEDEL DONOVAN PARK, AND PLACING THIS AMOUNT IN ESTIMATED ENDING UNDESIGNATED RESERVES.”

KNUTSON / SNAPP moved approval for first and second reading. MOTION CARRIED 7-0.

AB20194 3. Squalicum Creek Park Phase Three construction project update

Information only.

Lake Whatcom Reservoir and Natural Resources

Cathy Lehman, Chair

Michael Lilliquist; Stan Snapp

AB20195 1. Aquatic Invasive Species Program Update

Information only.

Committee Of The Whole

Seth Fleetwood, Chair

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

AB20196 1. Closed Record Hearing to consider a petition to vacate an unnamed right-of-way north of West Bakerview Road between Pacific Highway and Dover Street

“AN ORDINANCE RELATING TO THE VACATION OF AN UNNAMED EAST WEST RIGHT-OF-WAY GENERALLY LOCATED NORTH OF WEST BAKERVIEW ROAD BETWEEN ARCTIC AVENUE AND PACIFIC HIGHWAY ALL WITHIN THE CITY OF BELLINGHAM.”

Council President Fleetwood reported that council voted unanimously during the Closed Record Hearing to accept the Findings of Fact, Conclusions and Recommendations of the Hearing Examiner and approve the vacation of an unnamed right-of-way north of West Bakerview Road between Pacific Highway and Dover Street subject to the dedication of new right-of-way. Payment for the vacation of the subject right-of-way is not required. MOTION CARRIED 7-0.

Peter Ruffatto, City Attorney read an amendment to the ordinance, after “Now Therefore, The City of Bellingham Does Ordain”:

“Section 1.

The vacation is approved, subject to the dedication of the new rights-of-way for Arctic Avenue between the subject right-of-way and Division Street/Mahogany Avenue and additional width of Dover Street between West Bakerview Road and the subject right-of-way, as proposed and shown in Attachment 1. The Hearing Examiner Findings of Fact, Conclusions of Law and Recommendation shown on Attachment 2 are hereby incorporated herein and adopted.”

LILLIQUIST / KNUTSON moved approval for first and second reading as amended. MOTION CARRIED 7-0.

AB20197 2. Army Street Memorandum of Agreement

Council President Fleetwood reported that the council has requested a discussion as part of the Budget worksession on November 25th and further consideration of the Memorandum of Agreement will be on December 2, 2013.

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

None submitted at evening meeting.

4. Old/New business

Council President Fleetwood reported that a recommendation on Mode Shift had been set at 60% and that motion passed 5-2.

Council also requested that staff go to the Port of Bellingham to further discuss jointly agreed upon goals for wages and

habitat assessment.

Council Member Weiss feels there should be another public hearing on the waterfront. Council Member Knutson pointed out that there have been 87 meetings since 1997 with regard to the waterfront and he would not support another public hearing.

Council Member Weiss attended the Whatcom Community College open house for their nursing program.

Council Member Lilliquist reported on the Bellingham Technical College Fisheries open house.

(Committee of the Whole continued following Executive Session)

Executive Session – Report and action only.

1. Litigation: *Newlun v. City of Bellingham, et al.*: Staff provided information on a litigation matter. Information only. No action taken.

~~2. Potential Litigation: Cancelled.~~

Committee Of The Whole

Seth Fleetwood, Chair

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

AB20142 5. Worksession regarding the 2014 Preliminary Budget

Discussion during worksession. Direction to staff.

MAYOR'S REPORT

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

AB20198 2. Mayor's reappointment of John Stewart to the Design Review Board for Council's approval.

SNAPP / BORNEMANN moved to authorize the Mayor's reappointment of John Stewart to the Design Review Board, term ending September 25, 2016. MOTION CARRIED 7-0.

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.

AB20199 1. Resolution setting an additional Committee Meeting and Regular Meeting date for December 2, 2013

Res. 2013-24 "A RESOLUTION ESTABLISHING ADDITIONAL COMMITTEE MEETINGS AND REGULAR MEETING OF THE BELLINGHAM CITY COUNCIL, DECEMBER 2, 2013."

AB20200 1. Budget Ordinance for an amendment to allow for receipt and spending of a grant from Washington Auto Theft Prevention Authority in the amount of \$32,900

"AN ORDINANCE RELATING TO THE 2013 BUDGET APPROPRIATING AN ADDITIONAL \$32,900.00 IN THE POLICE DEPARTMENT, GENERAL FUND, AS A RESULT OF A GRANT AWARD FROM THE WASHINGTON AUTO THEFT PREVENTION AUTHORITY TO PURCHASE AN AUTOMATED LICENSE PLATE RECOGNITION SYSTEM."

AB20201 2. Authorization of checks issued for pay period October 25, 2013 through October 31, 2013

AB20202 3. Authorization of checks issued for pay period November 1, 2013 through November 7, 2013

AB20203 4. Authorization of checks issued for payroll October 26, 2013 through November 8, 2013

KNUTSON / BORNEMANN moved approval of the Consent Agenda in its entirety. MOTION CARRIED 7-0.

FINAL CONSIDERATION OF ORDINANCES

AB20176 1. AN ORDINANCE OF THE CITY OF BELLINGHAM, WASHINGTON RELATING TO THE LEVYING OF TAXES AND ESTABLISHING THE AMOUNT TO BE RAISED IN 2014 ON THE ASSESSED VALUATION OF THE PROPERTY WITHIN THE CITY.

Council President Fleetwood closed written public comment. (Res. 2012-09).

WEISS / SNAPP 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, LEHMAN, LILLIQUIST, SNAPP, WEISS

NAYS:

ABSTENTIONS:

MOTION CARRIED 7-0 and was thereafter named **Ordinance #2013-11-082**

ADJOURNMENT

There being no further business, the meeting adjourned at 10:55 p.m.

Seth Fleetwood, Council President

ATTEST: Linda D. Anderson City Clerk Representative

APPROVED: 12/16/2013

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