

EDMONDS CITY COUNCIL APPROVED MINUTES

September 15, 2015

The Edmonds City Council meeting was called to order at 6:30 p.m. by Mayor Earling in the Council Chambers, 250 5th Avenue North, Edmonds.

ELECTED OFFICIALS PRESENT

Dave Earling, Mayor
Adrienne Fraley-Monillas, Council President
Diane Buckshnis, Councilmember
Kristiana Johnson, Councilmember
Lora Petso, Councilmember
Joan Bloom, Councilmember
Thomas Mesaros, Councilmember
Michael Nelson, Councilmember

STAFF PRESENT

Phil Williams, Public Works Director
Shane Hope, Development Services Director
Patrick Clark, Police Officer
Rob English, City Engineer
Sean Conrad, Planner
Jeff Taraday, City Attorney
Scott Passey, City Clerk
Jerrie Bevington, Camera Operator
Jeannie Dines, Recorder

ALSO PRESENT

Ari Girouard, Student Representative

SPECIAL MEETING

1. CONVENE IN EXECUTIVE SESSION TO DISCUSS COLLECTIVE BARGAINING

At 6:30 p.m., Mayor Earling announced that the City Council would meet in executive session to discuss collective bargaining per RCW 42.30.140(4)(a). He stated that the executive session was scheduled to last approximately 30 minutes and would be held in the Jury Meeting Room, located in the Public Safety Complex. No action was anticipated to occur as a result of meeting in executive session. Elected officials present at the executive session were: Mayor Earling, and Councilmembers Johnson, Fraley-Monillas, Buckshnis, Petso, Bloom, Mesaros and Nelson. Others present were Sharon Cates, City Attorney's Office; Human Resources Manager Mary Ann Hardie; and City Clerk Scott Passey. The executive session concluded at 6:55 p.m.

Mayor Earling reconvened the regular City Council meeting at 7:00 p.m. and led the flag salute.

BUSINESS MEETING

1. ROLL CALL

City Clerk Scott Passey called the roll. All elected officials were present.

2. APPROVAL OF AGENDA

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCIL PRESIDENT FRALEY-MONILLAS TO APPROVE THE AGENDA IN CONTENT AND ORDER. MOTION CARRIED UNANIMOUSLY.

3. APPROVAL OF CONSENT AGENDA ITEMS

Councilmember Bloom requested Item A and E be removed from the Consent Agenda.

COUNCILMEMBER BLOOM MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO APPROVE THE REMAINDER OF THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY. The agenda items approved are as follows:

- B. **APPROVAL OF CLAIM CHECKS #216051 THROUGH #216144 DATED SEPTEMBER 10, 2015 FOR \$190,455.04. APPROVAL OF REPLACEMENT PAYROLL CHECK #61787 DATED SEPTEMBER 4, 2015 FOR \$2,421.75**
- C. **ACKNOWLEDGE RECEIPT OF CLAIMS FOR DAMAGES FROM BIRGIT ALBIKER-OSTERHAUG (\$2,500) AND WILLIAM WISNER (UNDETERMINED)**
- D. **2015-2017 TEAMSTERS COLLECTIVE BARGAINING AGREEMENT (CONTRACT)**
- F. **AUTHORIZATION FOR MAYOR TO SIGN AN AGREEMENT WITH QUIET ZONE TECHNOLOGIES FOR THE WAYSIDE HORN PROJECT**
- G. **INTERFUND LOAN NOTIFICATION**

ITEM A: APPROVAL OF DRAFT CITY COUNCIL MEETING MINUTES OF SEPTEMBER 8, 2015

ITEM E: AUTHORIZATION FOR MAYOR TO SIGN A SETTLEMENT, RELEASE OF LIABILITY, AND EASEMENT AGREEMENT – 9232 183RD PLACE SW

Councilmember Bloom explained she pulled these items to abstain from the vote as she was not present at last week's meeting.

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCIL PRESIDENT FRALEY-MONILLAS, TO APPROVE ITEMS A AND E. MOTION CARRIED (6-0-1), COUNCILMEMBER BLOOM ABSTAINING.

4. AUDIENCE COMMENTS

No one in the audience wished to address the Council.

5. ACTION ITEMS

- A. **CLOSED RECORD REVIEW OF THE PLANNING BOARD'S RECOMMENDATION TO APPROVE AN APPLICATION BY MERLONE GEIER PARTNERS TO REZONE A PORTION OF A 9.1 ACRE PROPERTY AT THE NORTHWEST CORNER OF 220TH STREET SW AND HIGHWAY 99. THE PROPERTY IS CURRENTLY ZONED GENERAL COMMERCIAL (CG2) WITH THE WESTERN HALF OF THE PROPERTY ENCUMBERED BY A CONTRACT REZONE (R-02-90). THE REZONE REQUEST WOULD REMOVE THE CONTRACT REZONE AND ITS RESTRICTIONS ON THE WESTERN HALF OF THE PROPERTY AND LEAVE THE PROPERTY UNDER THE CG2 ZONE. (FILE #PLN20150024)**

Mayor Earling explained the purpose of the closed record hearing is for the City Council to consider the recommendation of the Planning Board to rezone a portion of the 9.1 acre property at the northwest corner of 220th Street SW and Highway 99. A rezone is a Type IV-B application where staff makes a

recommendation to the Planning Board and the Planning Board forwards a recommendation to the City Council for a final decision.

Mayor Earling opened the closed record hearing. He explained parties of record would normally include the applicant and any person who testified at the open record public hearing on the application or any person who individually submitted written comments regarding the application at the open record public hearing. In this case, the applicant was the only party to speak before the Planning Board other than the presentation from staff. Therefore only presentation from staff and the applicant will be allowed at the close record hearing.

The Appearance of Fairness Doctrine (AFD) requires that this hearing be fair in form, substance and appearance. The hearing must not only be fair, it must also appear to be fair. He asked whether any member of the decision-making body had engaged in communication with opponents or proponents regarding this matter outside the public hearing process. Councilmembers Petso, Johnson, Nelson, Bloom and Buckshnis, Council President Fraley-Monillas and Mayor Earling advised they have had no communication with opponents or proponents.

Mayor Earling asked whether any member of the Council had a conflict of interest or believed he/she could not hear and consider this application in a fair and objective manner. Councilmembers Petso, Johnson, Nelson, Bloom and Buckshnis, Council President Fraley-Monillas and Mayor Earling advised they had no conflicts.

Mayor Earling asked whether any member of the audience objected to the Council's or his participation in this matter. No objections were voiced. Mayor Earling asked whether the Council agree to the following: a 5 minute oral argument from the applicant. There are no other parties of record because no one else participated at the Planning Board level or submitted written comments.

COUNCILMEMBER MESAROS MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO ACCEPT THE PROCESS OUTLINED BY MAYOR EARLING. MOTION CARRIED UNANIMOUSLY.

Planner Sean Conrad displayed a map of the property at Highway 99 & 220th Street SW, the former Top Food grocery store site, now the site of Winco Foods. The property is 9.1 acres with commercial zoning of CG2. Contract zoning was placed by the Council in 1991 on the western half of the property that includes the existing building. The new owners are requesting the contract zoning be lifted and the underlying CG2 zoning remain.

He displayed a zoning map, identifying the site, the area of the site with the contract zoning, commercial CG2 zoning and medical use zoning including the hospital campus to the north of the site, commercial CG2 and CG zoning to the south, the cities of Mountlake Terrace and Lynnwood to the east that have corresponding commercial zoning along Highway 99 and a combination of commercial CG2 zoning and higher density residential to the west.

Mr. Conrad provided background; in 1990 the owner of the 9.1 acre property requested the property be rezoned from high density residential to commercial. The Council considered the request and approved the CG2 zoning and placed contract zoning on the western half of the property that implemented traffic mitigation on 220th for anticipated traffic created by the new grocery store, established construction and operating standards for the grocery during construction as well delivery times, and created a binding site plan that restricted further development on the western half of the property. The binding site plan is still in place; with approval of the rezone request, the contract zoning is lifted and additional development could occur on the property.

He displayed an aerial photo of the project site and surrounding area taken in 1990 and described characteristics of the area. At the time the contract zoning was put in place, there was a mix of commercial development and residential on Highway 99 as well as some older residential behind the site. He displayed an aerial photo taken in 2015 and identified the grocery store, expanded hospital campus and more intense commercial development on Highway 99.

The Planning Board held a public hearing and forwarded a positive recommendation to City Council to rezone the property. The Planning Board's findings found the rezone request was consistent with the City's Comprehensive Plan and the zoning ordinance, consistent with the surrounding zoning and change of character that has occurred in the last 24 years, and the site is suitable for additional commercial development.

Applicant

Brian Dickerson, PacLand, civil engineer representing the applicant, explained they have worked closely with staff and support staff's and the Planning Board's recommendations. The applicant team was present to answer questions regarding the rezone application.

Councilmember Buckshnis referred to discussion in the Planning Board minutes regarding mature trees. In comparing the old and the new aerial photographs, she did not see any trees in the 2015 photograph. Mr. Conrad said the trees referred to by the Planning Board are on the south end of the property. He identified trees in the parking lot and along 220th.

Councilmember Bloom referred to a statement made by Mr. Lien at the Planning Board meeting after the public hearing and staff's presentation, "When the Planning Board formulates the recommendation to City Council it should make mention of whether or not the application is consistent with the criterion. He emphasized the appearance of fairness is also important. Board Members should disclose any contact they may have had with the applicant or any other Appearance of Fairness issues." Councilmember Bloom said there is nothing in the minutes suggesting the Planning Board went through the process the Council just went through and she asked why that did not occur. Development Services Director Shane Hope answered the Planning Board typically does not go through a formal process; there is a recognition of the AFD and the requirements they must abide by. It is consistent in that respect but not formalized.

Councilmember Bloom asked why it is not formalized. Ms. Hope answered it typically has not been done which is common for Planning Boards and Commissions in other cities. The Planning Board has always been reminded of the AFD and ethical constraints. Councilmember Bloom asked whether it could be integrated into process. Ms. Hope agreed it could be and said a more formal process would be considered for the future.

Councilmember Bloom asked what will happen to the existing mature trees. **Kevin James, MCG Architecture**, said approximately 10 trees are being removed and their replacement is in excess of the City's 1:1 requirement. A landscape plan is proposed that will include additional trees, shrubs as well as outdoor plaza areas. Councilmember Bloom asked if the applicant was retaining trees to the maximum extent feasible as required by the code. Mr. James answered yes, the impacted trees are directly involved with the placement of the building. Councilmember Bloom asked if any other trees on the property would be retained. Mr. James answered a large number of trees on the site are not being removed.

Councilmember Johnson noted along with the contract rezone there is a concomitant agreement which states essentially that all existing trees shall remain, meaning the mature evergreens, and that there will be no development within the western portion of the site. If the contract rezone is removed, she noted there was potential for additional buildings and tree removal in future. Mr. Conrad agreed.

If the process at the Planning Board was indeed not adequate, Councilmember Petso asked whether that affected the Council's ability to approve tonight. City Attorney Jeff Taraday answered he did not think it did as the City Council was the ultimate decision maker. According to Ms. Hope, as the Planning Board understands its obligations under the AFD and would disclose any issues they had, it could be presumed they were in compliance with the AFD. In the future, he recommended the Planning Board formalize their process as their current process was not ideal. He did not feel the Planning Board's process prevented the Council from approving tonight.

Councilmember Petso asked if that would be the case even if the Planning Board was not aware of their obligation and did not make disclosures. Mr. Taraday answered yes, explaining he may feel differently if a member of the public had come to the hearing. In this instance, the hearing was essentially non-attended by the public; there was no opposition, so there was no reason to believe there would have been an opponent/proponent dynamic as there was in many projects. From a risk assessment standpoint, assuming the City Council approves the rezone, the decision could not be challenged because no one participated at the Planning Board stage.

Councilmember Petso referred to Attachment 3 which shows a portion of the building essentially on the property line and inquired about the setback on 220th. Mr. Conrad answered it will have the required minimum 4-foot setback for landscaping.

Councilmember Bloom observed one Planning Board Member abstained from the vote, stating "she chose to abstain from the vote because she felt the process was incomplete." Councilmember Bloom noted the minutes do not provide any detail regarding why the Planning Board Member felt the process was incomplete. Mr. Conrad said he was not aware of why she felt the process was incomplete; she engaged in questions and discussion regarding the merits of the project with the Board. Councilmember Bloom agreed Board Member Rubenkönig asked numerous questions which she appreciated.

Councilmember Bloom referred to a comment in the Planning Board minutes by Mr. Lien, "When the Planning Board formulates its recommendation to the City Council, it should make mention of whether or not the application is consistent with the criterion." She noted the Planning Board stated they generally felt it was consistent but did not give rationale to support it. She asked why that was not done. Mr. Conrad said the Planning Board's motion adopted the file and staff findings. If the Planning Board felt one of the findings needed to be changed, they could have made that request.

Councilmember Johnson referred to page 10 of 72 which shows the outline of the subject property, underlying zoning and the existing contract area; it appears the footprint for the proposed building could fit on the eastern half of the site and not affect the contract rezone. However, the Planning Board minutes state the applicant was only considering the proposed location. Mr. Conrad agreed the Planning Board discussed whether the building could fit on the eastern portion of the property where there was no contract rezone. The stipulations in the applicant's contract with Winco Foods restrict their ability to put a store between the Winco grocery store and Highway 99. Councilmember Johnson relayed her understanding they not want to obstruct the visual identity of the Winco store, but she was unsure how building anything on 220th would affect that.

Ross Vontver, Merlone Geier Partners (applicant), advised there was an extensive discussion about the location of the building. They have a 40-year lease with Winco. After extensive discussion and negotiations with Winco, the location of building is the only location they will approve and it is in the lease. He summarized if that building is not constructed, they do not build anything.

For Councilmember Johnson, Mr. Vontver advised they own the entire parcel and Winco is their 40 year lease tenant. Councilmember Johnson relayed her understanding Winco will only allow a 6,000 square foot building pad at this location. Mr. Vontver answered yes.

Councilmember Bloom expressed concerned that at least one Planning Board Member felt the process was incomplete, were no statements regarding AFD disclosures and board members did not provide specifics regarding how the rezone met the criteria. In her review, it appears it probably or may meet the criteria but it was not proven in the Planning Board minutes or the evidence provided to the Council. She was also concerned that perhaps the process was incomplete and not done in an open, fair and transparent manner. She will vote against the rezone for reasons related to process, not because of the rezone itself.

Council President Fraley-Monillas asked why Board Member Rubenkonig made that statement. Ms. Hope answered nothing was stated to explain her reasoning. Board Member Rubenkonig is one of the newer board members and may not have been comfortable voting for a variety of reasons but apparently she did not feel she needed to vote against it or urge others to vote against it. Ultimately five board members voted in favor and Board Member Rubenkonig abstained. Council President Fraley-Monillas asked whether other board members stated the reasons they supported the rezone. Mr. Conrad said the Planning Board minutes reflect at least two board members said the rezone was appropriate given the changes in the character of the area and felt it was the right time to lift the contract rezone.

Councilmember Buckshnis said she will support the Planning Board's recommendation as she did not want to implement AFD on the Planning Board since the issue was just brought up. The information presented is well documented. She acknowledged some commissioners/board members simply decide to abstain and sometimes do not give a reason.

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCIL PRESIDENT FRALEY-MONILLAS, TO APPROVE THE REZONE. MOTION CARRIED (5-2), COUNCILMEMBERS JOHNSON AND BLOOM VOTING NO.

Mr. Taraday asked for clarification that the Council's vote was to direct the City Attorney to draft an ordinance approving the rezone. Councilmembers agreed.

B. DISCUSSION AND POTENTIAL ACTION REGARDING RESOLUTION ADOPTING POLICY REGARDING COUNCILMEMBER PARTICIPATION BY SPEAKER PHONE OR OTHER TECHNOLOGY

Council President Fraley-Monillas explained during last two weeks staff has been researching what has occurred over the past few years. The agenda memo addresses MRSC's opinion regarding Councilmembers participating by phone. This issue was discussed by the Council in December 2013 as well as by the Public Safety Committee. She read from the proposed resolution under what circumstances a Councilmember may participate by speaker phone or other technology:

1. Prior approval given by the Council President for good cause, whose approval shall not be unreasonably withheld.
2. All persons participating in the meeting are able to hear each other at the same time, such as by the use of speaker phone or other technology; and
3. Councilmember must call in for the full meeting including audience comment; and
4. The Councilperson participating by speaker phone shall have reviewed all of the applicable material and participate in the relevant portion of the Council Meeting related to the topic to which the Council person is voting on.
5. **Exception:** Speaker phone or other technology will not be allowed when the Council is sitting as a quasi-judicial body.

Council President Fraley-Monillas noted “other technology” could include things like skype. She explained she was seeking Council consideration of the resolution tonight as a Councilmember is on vacation next week and she wanted them to have the ability to call in if they wished.

Main Motion

COUNCIL PRESIDENT FRALEY-MONILLAS MOVED, SECONDED BY COUNCILMEMBER MESAROS, TO APPROVE RESOLUTION 1340, A RESOLUTION OF THE CITY COUNCIL IMPLEMENTING A POLICY REGARDING COUNCILMEMBER PARTICIPATION BY SPEAKER PHONE OR OTHER TECHNOLOGY.

Councilmember Bloom read an apology: “During the Council meeting of August 25, I stated that I was concerned that remote participation by Councilmember Buckshnis could create a 3-3 tie. That motivation disrespects our adopted Robert’s Rules and more important, the democratic process. I was wrong to state that concern and I apologize. The correct concern is that remote participation at that time would have disrespected both Robert’s Rules and the democratic process. Precedent is not part of Robert's Rules and because Council never followed through with voting to allow remote participation, it should never have been considered nor voted on during that meeting. Democracy and procedures are not ad hoc. We establish rules and follow them precisely so politics does not interfere.”

Councilmember Bloom suggested the Council discuss amendments related to the following to ensure there was a thorough policy and not left completely to the discretion of the Council President:

- Limit of two times per year per Councilmember
- Allow only under extraordinary circumstances for example if needed for a quorum, an issue of high importance to the Councilmember is on the agenda, an issue for which it is important to have all Councilmembers participate
- Limit to one item and not allow participation in an entire meeting

Councilmember Buckshnis referred to Attachment 8, Council Speaker Phone Participation during Council Meetings, which indicates Councilmembers have called in 12 times to participate in the discussion and vote; 2 of which occurred after the Council adopted Robert's Rules. She stated democracy did not take place on August 25; regardless of Robert's Rules, the Council has allowed participation by speaker phone on 2 occasions. She summarized, “I don’t really care anymore.”

Council President Fraley-Monillas found a limit of two times a year acceptable. She referred to the history, noting participation by speaker phone has not occurred very often in the past. The proposed resolution does not include allow participation for an issue of high importance to a Councilmember because it that is subjective to each individual. The Public Safety/Personnel Committee minutes provide the basis for the proposed resolution.

Councilmember Nelson did not support an amendment limiting participation two times per year per Councilmember. The history indicates some Councilmembers participated more than two times per year and he felt Councilmembers should have that flexibility. At the same time, he acknowledged it would be problematic for a Councilmember to miss numerous meetings as that affects their ability to effectively do their job. It is in a Councilmember’s best interest to be present at Council meeting as often as possible. He supported it being an exception to the norm but was not comfortable with an arbitrary limit.

Councilmember Bloom she questioned why a Councilmember’s participation by speaker phone would not be allowed for an issue of high importance to a Councilmember; she did not feel it was subjective if looked at in terms of something a Councilmember felt passionate about. She also supported an amendment to allow participation on an issue for which it is important to have all Councilmembers participate, noting some issues warrant having all Councilmembers participate.

Amendment #1

COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCILMEMBER BLOOM, TO AMEND TO A ADD SECTION THAT STATES, "PARTICIPATION BY SPEAKER PHONE WILL ORDINARILY BE LIMITED TO TWO TIMES PER COUNCILMEMBER.

Councilmember Petso liked the idea of a limit and was sensitive to Councilmember Nelson's concern that there may be circumstances where it would be reasonable to exceed the two times per year. She preferred to include the limit as a message it should not be done often and Councilmembers are expected to pick and choose when to participate by phone. Including the verbiage she proposed would encourage Councilmembers not to participate by phone often but allow for an exception if something truly odd comes up.

Council President Fraley-Monillas agreed with Councilmember Nelson. She referred to the history, recalling a Councilmember who participated by phone three times in a year had had heart surgery. She also recalled calling in when she was very ill. Although rare, there may be instances where participation by phone could occur more than twice a year.

Councilmember Mesaros commented Councilmembers serve at the pleasure of the electorate. If Councilmembers habitually do not show up for meetings and use electronic communication to participate, the electorate will have something to say about that. He will vote against the amendment in support of Councilmember Nelson's comment and legitimate reasons for Councilmembers not to be present such as vacation, illness or family matters. He did not find a limitation of two times per year rational.

Mr. Taraday reminded the Council under State law, Councilmembers forfeit their office if they are absent for three consecutive meetings without being excused. State law provides a possible means of addressing the concern.

Action on Amendment #1

MOTION FAILED (2-5) COUNCILMEMBERS BLOOM AND PETSO VOTING YES.

Amendment #2

COUNCILMEMBER BLOOM MOVED, SECONDED BY COUNCILMEMBER PETSO, TO AMEND THE MOTION TO ALLOW PARTICIPATION BY REMOTE TECHNOLOGY IF IT IS AN ISSUE FOR WHICH IT IS IMPORTANT TO HAVE ALL COUNCILMEMBERS PARTICIPATE.

Council President Fraley-Monillas questioned who determines whether an issue is important enough.

Councilmember Bloom said she proposed this amendment because of the Woodway Fields ILA, an example of an issue for which it was important that all Councilmembers participate in the vote. There are many important issues that warrant having all Councilmembers' participate in the vote; during her term these included the Harbor Square Master Plan and the Shoreline Master Plan.

Councilmember Mesaros said when items of that level of importance are on the agenda, Councilmembers are usually present at the meeting. For example, it was important all Councilmembers be present for tonight's closed record review. Having a Councilmember absent from meetings with that type of agenda item is a rarity. He assumed the Council President, who is aware of potential absenteeism, would not schedule such an item when Councilmembers were absent.

Council President Fraley-Monillas reiterated her question regarding the interpretation of what is important, noting what one Councilmember deems to be the most important thing in the City, another

may not. She summarized it was unclear who would make the determination regarding what is important enough for all Councilmembers to participate.

Councilmember Bloom explained she made the motion in reaction to Council President Fraley-Monillas' statement that determining issues of high importance to an individual Councilmember was subjective. In response to Councilmember Mesaros, Councilmember Bloom said there could be a situation where a Councilmember is ill and an issue is important to them and/or it is important to have all Councilmembers participate. Subjectivity enters when the Council President is allowed to decide; an individual Councilmember can determine whether an item is important to them and they want to participate and the Council as a group can determine if it is an issue that is important to all.

Councilmember Buckshnis did not support the amendment. She recalled a time when Council President Fraley-Monillas was on vacation and did not call in and requested the Council delay a vote on the budget. She agreed it was a very subjective determination.

Action on Amendment #2

MOTION FAILED (1-6), COUNCILMEMBER BLOOM VOTING YES.

Amendment #3

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCIL PRESIDENT FRALEY-MONILLAS, TO AMEND #3 TO STATE, "COUNCILMEMBERS MUST CALL IN FOR THE FULL MEETING INCLUDING AUDIENCE COMMENTS UNTIL THE ITEM THEY ARE WILLING TO DISCUSS IS OVER."

Councilmember Buckshnis provided an example, a Councilmember is on the east coast and calls in for an item at midnight eastern time; remaining on speaker phone to the end of the meeting is unnecessary. She recalled participating by phone while in Charlotte when she was on the phone until 2:00 a.m.

Councilmember Mesaros said he understood the intent but more specific wording was necessary.

City Attorney Jeff Taraday observed the intent was any Councilmember be allowed to drop off but must start participation at the beginning of the meeting. Councilmember Buckshnis agreed, commenting often a Councilmember only wants to participate in a few items. Mr. Taraday suggested the following wording: "To be entitled to vote, Councilmembers must have participated for the full meeting up until such vote is cast."

Councilmember Buckshnis restated the amendment:

Amendment #3 Restated

AMEND ITEM 3 IN THE RESOLUTION TO STATE, "TO BE ENTITLED TO VOTE, COUNCILMEMBERS MUST HAVE PARTICIPATED FOR THE FULL MEETING UP UNTIL SUCH VOTE IS CAST."

Councilmember Bloom expressed her support for the amendment, commenting it makes sense to allow a Councilmember to participate just through the vote they want to participate in. She suggested the Council President schedule that item early in agenda if possible.

Council President Fraley-Monillas expressed support for the amendment. That item was included in the list of reasons a Councilmember may participate by phone or other technology due to complaints in the past regarding Councilmembers calling in for one item and potentially not hearing public comment.

Action on Amendment #3

MOTION CARRIED UNANIMOUSLY.

Councilmember Johnson said it was very important for the Council to establish rules from which to operate. According to her understanding of Robert's Rules, as long as the Council had bylaws that address remote participation and excused absences, that was an appropriate way to deal with the issue. She was very upset with the way things unfolded at the meeting that precipitated this discussion where the Council devolved to the point of arguments and interaction from the audience. For that reason she chose to vote to override the Mayor's ruling and move on with the agenda. She was not trying to discourage anyone from participating but felt it was not a good or civil scene. She felt this was a good step in the right direction and supported adopting rules that could be followed in the future.

Council President Fraley-Monillas asked Mr. Taraday to comment on the rules in Robert's Rules regarding Councilmembers calling in for meetings. Mr. Taraday read from Robert's Rules, "except as authorized in the bylaws, the business of an organization can be validly transacted only at a meeting." The proposed resolution creates that exception. In the absence of bylaws that authorize telephonic meetings, under Robert's Rules telephonic meetings do not happen. "A group that holds such alternative meetings does not lose its character as a deliberative assembly so long as the meetings provide conditions of opportunity for simultaneous oral communication. If electronic meetings are to be authorized, it is advisable to adopt additional rules pertaining to their conduct."

Mr. Taraday said Robert's Rules does not specifically identify those additional rules but suggests things that might be considered are whether a person has a right to participate or whether the body may choose to allow or disallow. Under the proposed resolution, it is up to the Council President to decide. Robert's Rules also suggest considering conditions under which a member may raise a point of order doubting the presence of a quorum. Mr. Taraday said that would be an issue if only three Councilmembers were present and everyone else was participating by phone which assumed would be very unlikely. Other things Robert's Rules mentions are methods for seeking recognition and obtaining the floor, ensuring that non-members cannot participate in meetings, especially during any meeting in executive session.

Councilmember Bloom said a Port Commissioner participated remotely at last night's meeting. Before the meeting began the Commissioner was called and the Port Attorney described the guidelines for his participation. The Commissioner was on the phone for everything even the Pledge of Allegiance. If that was the intent, she asked whether it needed to be included in the resolution or could that just be assumed to be part of the process. Mr. Taraday did not assume that would be part of the process. Robert's Rules states any rules the Council wants to make about telephonic participation should be included in the bylaws. The resolution the Council is considering is the bylaw that will govern telephonic participation, skype participation, etc. If his reading of things Robert's Rules suggests be considered caused a Councilmember to think about other issues, he suggested the bylaws be amended until the Council was satisfied with them.

Action on Main Motion as amended
MOTION CARRIED UNANIMOUSLY.

6. STUDY ITEMS - None

7. MAYOR'S COMMENTS

Mayor Earling reported the opening of the Cascadia Art Museum Thursday evening was a spectacular success and far exceeds the expectations of most of the community. The museum is truly spectacular and is a great addition to the community. Those in charge have a well thought out plan for how new material will be brought in. Sunday's car show was also spectacular. He would have picked a particular car had he been notified there was a Mayor's selection to be made.

8. **COUNCIL COMMENTS**

Councilmember Johnson announced the Artist Studio Tour this weekend. The tour, in its 10th year, features 25 venues and 40 artists.

9. **CONVENE IN EXECUTIVE SESSION REGARDING PENDING LITIGATION PER RCW 42.30.110(1)(i)**

At 8:03 p.m., Mayor Earling announced that the City Council would meet in executive session regarding pending litigation per RCW 42.30.110(1)(i). He stated that the executive session was scheduled to last approximately 10 minutes and would be held in the Jury Meeting Room, located in the Public Safety Complex. No action was anticipated to occur as a result of meeting in executive session. Elected officials present at the executive session were: Mayor Earling, and Councilmembers Johnson, Fraley-Monillas, Buckshnis, Petso, Bloom, and Nelson. Councilmember Mesaros recused himself from the executive session. Others present were Jeff Taraday, City Attorney and City Clerk Scott Passey. At 8:15 p.m., Mayor Earling emerged from the Jury Meeting Room to announce that the executive session would be extended for five minutes. The executive session concluded at 8:19 p.m.

10. **RECONVENE IN OPEN SESSION. POTENTIAL ACTION AS A RESULT OF MEETING IN EXECUTIVE SESSION**

Mayor Earling reconvened the regular City Council meeting at 8:20 p.m.

11. **ADJOURN**

With no further business, the Council meeting was adjourned at 8:20 p.m.