

October 13, 2016

CALL TO ORDER:

Mayor Steve Sexton called the meeting to order at 7:00 p.m., with the Pledge of Allegiance. Council members present: Bill Aslett, Tonya Bieche, Joe DeGloria, Rick DeGloria, Edie Edmundson, Chris Loving, and Ted Montgomery. Staff present: Bryan Harrison, Brittany Johnson, Leif Johnson, Tom Moser, Marv Pulst, Renee Sinclair, and Levon Yengoyan.

MINUTES:

A motion was made to approve the minutes of the September 22, 2016 council meeting by **Councilors R. DeGloria/Loving**. All in favor; motion carried.

AUDIT OF BILLS:

A motion was made by **Councilors R. DeGloria/Aslett** to approve Accounts Payable checks numbered 34036 - 34224 in the amount of \$1,121,805.64; September 30th payroll checks numbered 34000-34035 in the amount of \$558,596.47. All in favor; motion carried.

PUBLIC COMMENTS:

There were no Public Comments.

COUNCIL COMMENTS:

Councilor Aslett commented that he attended a memorial service for Terry Belcoe at the Skagit County Commissioner's Office. Terry will be missed; he was focused on youth, education, and health. Terry was a very dynamic person, cared a lot about the community, and will be missed by the community.

MAYOR'S UPDATE:

There was not a Mayor's Update.

PROCLAMATION:

Jack Gubrud Proclamation – Mayor Sexton read a proclamation proclaiming October 13th, 2016 as John V. "Jack" Gubrud Day in the City of Burlington, Washington.

SPECIAL PRESENTATION:

Skagit County Boys & Girls Club – Ron McHenry updated the council on the success of the Summer Breeze program at Maiben Park and how the program evolved. The Skagit County Boys & Girls Club partnered with the Burlington Public Library to give kids a place to go in the summer from the middle of June to August 12th. The program averaged between 35 – 50 kids per day and provided free lunch and activities with the Burlington Public Library. The goal of the program was to keep summer learning going and limit the loss of knowledge during the summer. **Mr. McHenry** thanked **Library Director Sarah Ward** and her team at the library for their contribution to the Summer Breeze program. **Mr. McHenry** reviewed the locations of the Boys & Girls clubs year round, an outreach program at the Burlington Public Library, he stated that there is not a club in Burlington, but they are working towards a more permanent program in Burlington; a more dedicated program next summer. The presence of the program at Maiben Park had a positive impact on the park. **Mr. McHenry** thanked the council and city staff for use of Maiben Park for the summer. **City Administrator Bryan Harrison** thanked Ron for the program and explained how the program evolved and the benefits of the program to the community. The program worked well with the Parks & Recreation programs and the programs at the library. **Harrison** stated that the City would love to have the program back next year.

October 13, 2016

OFFICER'S REPORTS:

Public Works Director Marv Pulst reported on the progress of the Fairhaven box culvert project. The construction company is currently replacing the large box culvert at Gages Slough. The installation of the culvert was completed in one week, finishing work is taking place this week, next week sidewalks, curbs, and gutters will be completed, and the following week pavement of Rio Vista Avenue will happen. **Pulst** reported that he has instructed the streets crew to mobilize immediately with substantial rain fall, a public notice was sent out to inform citizens and businesses to clear storm drains. The Public Works Department will work with the rain and wind as needed over the weekend.

Director of Budget & Accounting Renee Sinclair updated the council on the budget calendar. The first preliminary workshop will be held on Thursday, October 27th, at 6:00 p.m. prior to the council meeting, a full budget workshop is scheduled for Thursday, November 3rd at 6:00 p.m. in the city council chambers, and another budget workshop will be held on Thursday, November 10th, at 6:00 p.m. prior the council meeting, the final workshop will be held on Tuesday, November 22nd, at 6:00 p.m. prior to the council meeting. Council had no objections to this schedule.

City Administrator Bryan Harrison reported that next week is Flood Awareness Week and there will be a meet and greet which will include updates to the local flood forecast on Wednesday, October 19th from 8:00 a.m. to 10:00 a.m. at the Dike District 12 headquarters. Please notify Brittany Johnson if you would like to attend the meeting. **Harrison** also reported that there will be an Association of Washington Cities Regional Meeting being held on Wednesday, October 19th, at 5:45 p.m. located at the Burlington City Council Chambers. This is a meeting with dinner included. Please notify Brittany Johnson, if you would like to attend this meeting.

UNFINISHED BUSINESS:

There was no Unfinished Business.

CONSENT AGENDA:

There was no Consent Agenda.

NEW BUSINESS:

PUBLIC DEFENSE SERVICES: PROCESS TO SELECT POST COURT SUPERVISION AUDITOR; PUBLIC DEFENSE AUDITOR SCOPE OF WORK AND RFQ; INTERLOCAL AGREEMENT WITH MOUNT VERNON FOR PD AUDITOR AND PD PROGRAM ASSISTANT; AND EXTENSION OF THE CONTRACT WITH MOUNTAIN LAW, LLC

City Administrator Bryan Harrison introduced Scott Snyder Attorney at Ogden Murphy Wallace and Legal Counsel for Public Defense for the cities of Burlington and Mount Vernon. **Mr. Snyder** stated that the court order for court supervision expires mid – 2017. Prior to the transition a number of steps will need to take place to transition from the court appointed supervisor to an auditor who will work directly with the Mayor. This is an important aspect as 80% of most city budgets go to Criminal Justice. **Mr. Snyder** reviewed the judge's ruling, history of public defense, and the effect of the Wilbur decision. **Mr. Snyder** reviewed the caseload limit and the effect on cities; this is an issue that is felt budget wise by every community in Washington. **Mr. Snyder** reviewed the transition to the auditor role and the duties of the auditor. The auditor will be an experienced professional in the criminal justice system; the auditor will advise the Mayor and the City Administrator and work closely with the Public Defense Program Assistant who works with the Public Defenders. The auditor will report to the Mayor and advise the council. The auditor will provide reports in April and October to the council and Mayor. **Mr. Snyder** outlined the process that will take place in the next six to eight months from court appointed supervision to own internal supervision. The

October 13, 2016

Mayors of Burlington and Mount Vernon will select a neutral panel for the selection of the Public Defense Auditor; the first step is to receive feedback on the process approval for recruiting an auditor. The auditor will work with Eileen Farley, court appointed supervisor, to insure a smooth transition. **Mr. Snyder** reviewed the scope of work for the Public Defense Auditor.

Discussion was had regarding the need for the Public Defense Auditor after Ms. Farley is done with her supervision role. **Mr. Snyder** stated that there is an obligation to actively manage Public Defense program. It is very important for the cities to have closure with the federal system and to have an auditor to maintain the quality public defense system. Discussion was had on how long the Public Defense Auditor will be needed and the possibility to do any of the work internally. **Mr. Snyder** stated that may be a possibility, but there is an obligation to actively manage Public Defense. The individual needs to be a neutral third party outside of police or prosecution to supervise the audit of the Public Defense program. There have been great strides made with the Public Defense program, but most important is to show the Federal Court that the city has made commitment to maintain a quality Public Defense system. **Councilor Aslett** stated that there needs to be focus on the Public Defense system and this is money well spent to maintain the Public Defense system. The follow up Public Defense Auditor is the way to go. Discussion continued on the need for outside supervisors needed for the cities to actively manage Public Defense system, the role of the auditor, and caseload of defense.

A motion was made to approve the process for identification and selection of a Public Defense Auditor and the proposed Scope of Work as set forth as Exhibits A and B of the memorandum from W. Scott Snyder, Special Counsel, dated October 4th, 2016 by **Councilors Aslett/Loving**. All in favor; motion carried.

Mr. Snyder requested authorization to publish the RFQ for Public Defense Auditor. The contract is informational only; the contract will be negotiated when the best possible candidate is selected. This is not asking for approval of auditor contract, just approval to publish the RFQ to begin the process of selecting the Public Defense Auditor. The contract for the auditor will come at a later date when an individual has been selected and terms negotiated. Discussion of training of Public Defenders, oversight of defenders, and how to insure that training is taking place.

A motion was made to authorize the Mayor and staff to proceed with a Request for Qualifications (RFQ) for a Public Defense Auditor in keeping with the RFQ included as Exhibit C of the October 4th, 2016 memorandum by **Councilors Loving/Aslett**. All in favor; motion carried.

Mr. Snyder reviewed the proposed interlocal agreement with the City of Mount Vernon for the Public Defense Program Assistant. **City Administrator Bryan Harrison** explained the position of the Public Defense Program Assistant that is currently filled by Juan Farias. **Harrison** reviewed Juan's background with the City and his role within the City both in his position as the Public Defense Program Assistant and the Spanish Outreach Library Associate at the Burlington Public Library. **Harrison** explained that Juan works directly with Mountain Law and conflict counsel; he provides screening opportunities for defendants to connect with Mountain Law and conflict counsel.

A motion was made to approve the interlocal agreement with Mount Vernon for Public Defense Program Assistant services as set forth in Exhibit E of the October 4, 2016 memorandum by **Councilors Aslett/Loving**. All in favor; motion carried.

Mr. Snyder stated the Mountain Law contract expires at the end of the year. Counsel has looked at Ms. Farley's concerns regarding turnover at Mountain Law; believes this

October 13, 2016

has to do with the level of compensation of Public Defenders. At this point, **Mr. Snyder** stated, they are not ready to make a recommendation of compensation, the hope is to move forward with Mountain Law. Communication is being had between all parties; this is an informational item only. The contract is being worked through prior to making any recommendations of compensation. Discussion regarding compensation, experience of attorneys, impacts of compensation on cities, and the concerns that the turnovers may be based on compensation. **Councilor Aslett** stated to be aware of what is causing the turnover, may not be based on compensation, the reason may be buried elsewhere. **Mr. Snyder** stated that he agreed with **Councilor Aslett**, part of the review is conducting exit interviews with individuals and to look at the issue holistically with Mountain Law, Ms. Farley, and a neutral, third party Human Resources expert.

Discussion followed regarding staying with Mountain Law, no concerns with service or complaints, and quality of Public Defense system.

City Administrator Bryan Harrison reviewed the performance of Mountain Law, how metrics are measured. There has been great success with Mountain Law and the investment that council has made to significantly improve the Public Defense system. **Harrison** reviewed the success of Mountain Law and how this has improved the system; the City has a custom, successful, vibrant, strong program invested with Mountain Law. **Harrison** recommended that the City work with Mountain Law to reach terms of agreement.

SKAGIT COUNTY PROBATION INTERLOCAL AGREEMENT FOR 2017 – 2019

City Administrator Bryan Harrison reviewed the contract stating this is a three year interlocal agreement to current probation system. Reviewed the financial terms and the termination clause of the agreement; recommended to continue by the Municipal Court Supervisor.

A motion was made to approve the 2017 – 2019 interlocal agreement between Skagit County and the City of Burlington for probation services and authorize the Mayor's signature by **Councilors Montgomery/J. DeGloria**. All in favor; motion carried.

CONTRACT AMENDMENT WITH PACIFIC SURVEYING & ENGINEERING FOR CONSTRUCTION ENGINEERING SERVICES

Public Works Director Marv Pulst reviewed the original contract stating the service provided is construction engineering and inspection projects for two roadway projects. The current agreement of \$20,000 was approved during the June 23rd, 2016 city council meeting. The extent of engineering provided for the Gilkey/Anacortes Street roundabout/sidewalk, as well as the Whitmarsh Road overlays was much for extensive than estimated and their \$20,000 budget has been depleted. PSE did an excellent and efficient job on the aforementioned projects. PSE has designed the culver replacement project and it will be cost effective and technically efficient for them to perform the construction inspection services for this project. The proposed amendment will increase their existing project by \$30,000 to provide construction engineering services for the Fairhaven project.

A motion was made to approve the agreement amendment with Pacific Surveying & Engineering to increase their existing contract by \$30,000 for construction engineering services and authorize the Mayor's signature by **Councilors R. DeGloria/Edmundson**. All in favor; motion carried.

POGOZONE FACILITY USE AGREEMENT PARCEL #P127627 AND PARCEL #P125613

City Attorney Leif Johnson stated these agreements are similar drafts, but for two different locations in Burlington. Pogozone is being forced to move the towers by the

October 13, 2016

end of the month and are looking for a new place to locate. The benefit to the City is to increase fiber/wireless access to City businesses to promote economic development. There are two towers to be installed in two different locations owned by the City; one tower installed on Burlington Hill next to cell tower and the another tower to be installed next to a city owned pump station by the Park n' Ride. **L. Johnson** reviewed the project details and both the responsibilities of the City and Pogozone.

A motion was made to approve the facility use agreement for parcel #P127627 and authorize the Mayor's signature by **Councilors Aslett/Bieche**. All in favor; motion carried.

A motion was made to approve the facility use agreement for parcel #P125613 and authorize the Mayor's signature by **Councilors Aslett/Bieche**. All in favor; motion carried.

REVIEW OF THE SPECIAL PERMIT FOR THE VETERAN'S DAY PARADE ON SATURDAY, NOVEMBER 12, 2016

There was no discussion for this agenda item.

A motion was made to approve the Veteran's Day Parade special event on Saturday, November 12th, 2016 by **Councilors Loving/J. DeGloria**. All in favor; motion carried.

EXECUTIVE SESSION

There was not an Executive Session held.

ADJOURNMENT:

Mayor Sexton adjourned the meeting at 8:12 p.m.

Renee Sinclair
Director of Budget & Accounting

Steve Sexton
Mayor