

January 14, 2021

**MEETING HELD TELEPHONICALLY DUE TO THE COVID-19 PANDEMIC**

**Mayor Steve Sexton** called the meeting to order at 7:01 p.m. with the Pledge of Allegiance. Council members present: Bill Aslett, Keith Chaplin, J. DeGloria, Scott Green, Chris Loving and James Stavig. Staff present: Janice Burwash, Geoff Hawes, Brad Johnson, Leif Johnson, Mike Luvera, Katie Olafson, Marv Pulst, Jim Rabenstein, Joe Stewart, Rob Toth, Sarah Ward and Greg Young.

A motion was made to excuse **Councilor Rick DeGloria** by **Councilors J. DeGloria/Aslett**. All in favor; motion carried.

**MINUTES:**

A motion was made to approve the minutes of the December 10, 2020 Council meeting by **Councilors R. DeGloria/Green**. All in favor; motion carried.

**AUDIT OF BILLS:**

A motion was made by **Councilors Aslett/Loving** to approve Accounts Payable invoices to be paid as of December 17, 2020 in the amount of \$2,750.00, December 30, 2020 in the amount of \$249,235.99, December 31, 2020 in the amount of \$292,651.50, January 14, 2021 in the amount of \$555,441.91 and Payroll Expenses for Pay Period ending December 15, 2020 in the amount of \$694,899.23 and December 31, 2020 in the amount of \$502,273.30. All in favor; motion carried.

**PUBLIC COMMENTS:**

**City Attorney Leif Johnson** stated that a public comment has not been submitted. **L. Johnson** stated that members of the public may submit comments or questions by mail to City Hall at 833 S. Spruce Street, ATTN: Greg Young or by email to [badministration@burlingtonwa.gov](mailto:badministration@burlingtonwa.gov), as the city still cannot by law, hold in-person meetings.

**COUNCIL COMMENTS:**

**Councilor Keith Chaplin** gave his thanks to everyone's hard work to help keep democracy in the country alive.

**Councilor Joe DeGloria** shared he attended the exit conference with the State Auditors and offered a huge thank you to **Finance Director Joe Stewart** and his staff for a great audit review. **J. DeGloria** also requested an in-person council discussion be held to review a write off amount that occurred in 2018. The purpose of this discussion would be to determine where the funds were distributed and in what amounts. **Councilor Bill Aslett** spoke against discussing the past audit stating the audit review for 2018 showed

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that while there were some poor accounting practices that took place that year all the dollars were accounted for. **Councilor Chris Loving** spoke in agreement with **Councilor Aslett** sharing that he appreciated **J. DeGloria's** comments and concerns but feels the city needs to move forward. **Mayor Sexton** offered to bring this topic back to the council for possible discussion and clarification when in-person meetings resume.

**MAYOR'S UPDATE:**

**Mayor Sexton** updated the Council about a conference call he had with the Department of Health and other elected officials regarding the COVID-19 vaccination process in Skagit County. The roll out of the vaccine has been slow in Skagit County but the suggestion of counties sharing vaccines has been brought up. **Councilor Keith Chaplin** asked if any city employees have received the vaccination. **Fire Chief Keith Toth** shared the fire department is classified as group 1A to receive the vaccine. The department had about a 50/50 response to receiving the vaccination. About 80% of willing, eligible employees have received the vaccine. **Mayor Sexton** shared he feels all First Responders and the Sewer Department are in critical positions of receiving the vaccine first.

**SPECIAL PRESENTATION:**

No Special Presentation.

**PROCLAMATION:**

No Proclamation.

**COMMITTEE & BOARD REPORTS:**

**Councilor Keith Chaplin** updated Council on the Parks and Recreation Board meeting. Focus points of the meeting consisted of prioritizing park projects and new designs for signage throughout the parks will be discussed at the next meeting. **Councilor James Stavig** also attended the Parks and Recreation meeting and shared a great discussion was held about implementing a new dog park in Burlington. A location for this park will hopefully be selected by the end of 2021.

**OFFICERS REPORTS:**

No Officers Reports.

**UNFINISHED BUSINESS:**

No Unfinished Business.

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**CONSENT AGENDA**

**A Resolution Designating a Legal Publisher for all Legal Notices in 2021**

**City Administrator Greg Young** stated all cities in Washington State are required to declare an official newspaper to publish all legal and public notices. Skagit Valley Herald has been selected as the official newspaper for the City of Burlington for the year 2021.

A motion was made by **Councilors Stavig/J. DeGloria** to add the official newspaper selection of the City of Burlington to the Consent Agenda. All in favor; motion carried.

A motion was made by **Councilors Aslett/Green** to approve the Consent Agenda item #1 and authorize the Mayor 's signature on appropriate documents and resolution. All in favor; motion carried.

**NEW BUSINESS:**

**2021 Comcast Franchise Agreement**

**City Administrator Greg Young** shared the City of Burlington, not unlike other cities, has franchise agreements with various private companies that extensively use our city right-of-way (ROW). In this case, Comcast uses our ROW to run cable into buildings supplying internet and television services. This franchise agreement has a term of ten (10) years with a five (5) year extension, which is common in Washington State. This franchise agreement is nonexclusive meaning the City could grant other franchise agreements for similar purposes. The agreement is also cancelable should Comcast or the city wish to terminate the agreement. Federal Law limits what cities can charge for franchise agreements and in this case, the City is charging Comcast the legal limit – 5 percent. One important factor in franchise agreements is the ability of the city to require the franchise to relocate their infrastructure should the city need to complete road or ROW improvements. This is a standard provision which was contained in previous franchise agreements and public works has reviewed this new franchise for these provisions. **Councilor Joe DeGloria** asked if the City has other agreements like this and if the charge is five percent for those agreements as well. **Young**, shared Comcast and Cascade Natural Gas are the only two companies with franchise agreements that he is aware of. The City cannot charge Cascade Natural Gas a franchise fee however there is a Cascade Natural Gas Utility Tax. The Cascade Natural Gas agreement will be presented to Council at the next meeting. **J. DeGloria** asked if this was a renewal or a new agreement. **Young** stated this a new franchise agreement but is a continuation of the important aspects of the previous agreement. This is the same agreement Comcast uses throughout the State of Washington. **J. DeGloria** asked if the fee was five percent in the previous agreement. **Young** explained there was no change to the fee from the past agreement. **Councilor James Stavig** stated there is not an option to increase the fee because the city is already charging the maximum allowed which is five percent. **Young** shared any increase in

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Comcast franchise revenue in 2021 would be the result of them increasing their customer base and/or increasing their fees for which the franchise fee is applied.

**Mayor Sexton** opened the public hearing.

A motion to close the public hearing was made by **Councilor Chaplin/Aslett**. All in favor; motion carried.

A motion was made by **Councilors Stavig/Chaplin** to approve the 2021 Comcast Franchise Agreement. All in favor; motion carried.

#### **Flood Development Regulations - Update**

**Community Development Director Brad Johnson** explained in order to remain eligible for flood insurance coverage and ensure compliance with the critical area provisions of the Growth Management Act (GMA) the City is required to periodically update its floodplain development regulations for consistency with current Department of Ecology and FEMA requirements. Originally, the flood development regulations were going to be revised as part of the ongoing comprehensive plan update; however, the Department of Ecology has informed us the City must adopt revised flood development regulations by the end of January. The proposed changes are based on a model ordinance developed by FEMA's Region 10 office. DOE has approved the proposed changes and the Planning Commission recommends the revisions be adopted. **Councilor Chris Loving** asked if these changes will get the city up to date. **Johnson** shared these are the last changes needed to adhere to the Department of Ecology's regulations. **Councilor James Stavig** thanked **Johnson** for putting all the information together and asked if the city is still involved in a program to give residents a break on their flood insurance. **Johnson** explained the program is called the Community Rating System and the city is still involved which allows for offering a lower rate of deduction but, would like to bring a plan to council outlining the cost vs. the benefits of this plan.

A motion was made by **Councilor Stavig/Loving** to accept the Planning Commission's recommendation dated December 16, 2020 and authorize the Mayor to sign the attached ordinance. All in favor; motion carried.

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**Development Regulation Amendments to Improve Fiber Infrastructure**

**Community Development Director Brad Johnson** explained Chapter 12.28 of the Burlington Municipal Code regulates the construction of streets, roads, sidewalks and other infrastructure necessary to support new development. The provisions of this code chapter are used to regulate public and private development and generally apply whenever a grading permit or civil plan review is requested. Currently, Chapter 12.28 BMC requires that fiber optic conduit and vaults be installed whenever certain types of development occur within a City right-of-way. In practice, City staff have experienced problems with the current regulations. Specifically, Chapter 12.28 does not cover all types of development and does not require that fiber optic infrastructure be provided between new buildings and the public right-of-way. In order to address these issues City staff revised Chapter 12.28 to broaden its applicability. **Councilor Keith Chaplin** asked if the city would be providing vaults in the right-of-way. **Johnson** shared the city requires the developer to show the vaults on the civil engineering plans, if requested the city will then provide the conduit and the vaults. The developer then takes on all installation costs and the conduit and vaults in the right-of-way become public property, materials on private property would remain the property of the property owner. **Councilor Joe DeGloria** spoke in support of lowering cost for builders and asked if this will significantly increase cost to developers. **Johnson** explained the conduit and the vaults are extremely inexpensive. **Facilities Maintenance Supervisor Travis Schwetz** shared the cost is pennies on the dollar to install this equipment during development. The cost increases when work is required on existing sites. **Councilor Keith Chaplin** shared Burlington is one of the least costly cities to build in regarding impact fees. **IT Director Geoff Hawes** spoke about the specific price points for the equipment and shared the benefits of getting fiber available to more business.

A motion was made by **Councilors Stavig/Chaplin** to adopt the proposed revisions to Chapter 12.28 of the Burlington Municipal Code and authorize the Mayor to sign the attached ordinance. All in favor; motion carried.

**Comprehensive Plan Update - Development Regulation Amendments (RD and RA 1 Zones)**

**Community Development Director Brad Johnson** shared the Planning Commission previously recommended that changes be made to the land use and housing elements of the City's comprehensive plan. The Planning Commission also previously

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recommended that changes be made to the City's comprehensive plan map. In order to comply with Washington State Growth Management (GMA) requirements, ensure the City's comprehensive plan and development regulations are consistent, and to ensure the City's development regulations are sufficient to accommodate projected population and employment growth, the Planning Commission has determined that significant revisions must be made to the City's development regulations. The Planning Commission requested that City's Planning Department break the development regulation update project into manageable components. The Planning Commission has reviewed the first group of code changes prepared by the Planning Department, including changes to the zoning code for the City's "RD" (Residential Detached) and "RA-1" (Residential Attached) zones. The Planning Commission recommends these changes be adopted by the City Council. **Councilor Joe DeGloria** acknowledged the thorough layout, hard work and thoughtfulness that was put into the development of this plan.

A motion was made by **Councilors Green/Stavig** to accept the Planning Commission's recommendation dated December 16, 2020 and authorize the Mayor to sign the attached resolution. All in favor; motion carried.

**Interim Policies for Outdoor Dining Facilities and the Use of Public Right-of-Way**

**Community Development Director Brad Johnson** explained due to the restrictions imposed on indoor eating and drinking establishments as a result of COVID-19 the City has been approached by several businesses interested in establishing temporary outdoor dining facilities, either on private property or within a City right-of-way. The Community Development Department previously discussed this matter with Council. At that time, Council agreed to temporarily grant the Community Development Department authority to administratively approve street use applications. Council also directed staff to develop more formal policies or regulations to guide this process during the duration of the COVID-19 pandemic. **Councilor Keith Chaplin** asked how many businesses have come forward for this request. **Johnson** stated about 4 businesses have been in contact. **Councilor Bill Aslett** expressed concerns about structures extending into the street and asked if the public safety aspect of this policy was in order with Fire and Police. **Johnson** shared the Fire Marshal and Streets Department both visited sites and gave positive input that these structures were not a hinderance.

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A motion was made by **Councilors Stavig/Chaplin** to authorize the Mayor to sign the attached resolution establishing interim policies for outdoor dining facilities. All in favor; motion carried.

**Dark Fiber Lease with SkagitNet**

**IT Director Geoff Hawes** explained SkagitNet (Port of Skagit) wants to lease a dark fiber from the City to connect NoaNet equipment in our PD computer room, to the SkagitNet hut on Airport drive. This will utilize one of the existing unused strands of fiber from the PD computer room, to the SkagitNet demarcation hut which feeds all SkagitNet. This will be the first time a fiber connection is being made between the City and SkagitNet. **Councilor Keith Chaplin** asked if this item was presented to the city awhile ago but due to scheduling issues had to wait until this Council meeting. **Hawes** shared that these requests tend to be timely in manner and would like Council approval to be able to authorize the Mayor to sign on similar agreements that have little to no cost to expedite the process. **Mayor Sexton** offered to have a workshop on this matter in the spring to give Council more information.

A motion was made by **Councilors J. DeGloria/Aslett** to approve the Dark Fiber lease agreement and authorize the Mayor to sign the document. All in favor; motion carried.

**Termination of Lease Agreement for 465 Pease Rd.**

**Mayor Sexton** explained the City of Burlington entered into a lease agreement with AutoSource Vehicle Importers on July 1, 2019. The lease period is month to month and requires a 90-day notice for termination by either party. Conversation began between the Mayor and the tenant in mid-October of 2020 regarding the possible repurposing of the property for an emergent need of a homeless shelter. In order to commit to the proposed project to alleviate that need, Council action to authorize the termination of the lease agreement is necessary. The Mayor has had discussions with all adjacent property owners to describe in detail what the proposed shelter would look like, not only physically but also the level of 24/7 onsite management at that location. **Councilor Joe DeGloria** spoke in opposition of this item and shared he would like the plan to develop a bit more before deciding, expressing concerns including safety and power issues. **J. DeGloria** also asked for zoning information for neighboring properties and for an opportunity for the public to share comments and concerns. **Mayor Sexton** spoke to these concerns and shared he has had discussions with every surrounding business

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adjacent to this property and expressed the overall feeling was positive. **Councilor James Stavig** spoke in favor of this item and expressed a need to support the Mayor in this program. **Councilor Keith Chaplin** also spoke in favor of this program sharing his support to take the first step and show surrounding cities the commitment Burlington has to making this program a success.

A motion was made by **Councilors Stavig/Chaplin** to authorize the Mayor to execute the termination of the current lease agreement with AutoSource Vehicle Importers for the location of 465 Pease Rd. in Burlington. **Councilors Stavig/Chaplin/Loving** and **Aslett** in favor; **Councilors Green** and **J. DeGloria** opposed. Motion carried.

#### **2021 Council Committee Assignments**

A motion was made by **Councilors Stavig/Loving** to elect **Councilor Joe DeGloria** as Mayor Pro Tempore. All in favor; motion carried.

A motion was made by **Councilors Chaplin/Stavig** to elect **Councilor Bill Aslett** as Investment Chair. All in favor; motion carried.

**Councilor James Stavig** offered his alternate position on the Audit and Finance Committee to **Councilor Joe DeGloria**. **Councilor J. DeGloria** accepted the alternate position.

A motion was made by **Councilors Aslett/Stavig** to approve the Mayor's 2021 Council Committee assignments. All in favor; motion carried.

#### **DISCUSSION**

No Discussion.

#### **EXECUTIVE SESSION:**

**City Attorney Leif Johnson** recited the following: pursuant to RCW 4230110 as well as RCW 4230140, an executive session will be in regard to Collective bargaining sessions with employee organizations, including contract negotiations, grievance meetings, and discussions relating to the interpretation or application of a labor agreement; or (b) that portion of a meeting during which the governing body is planning or adopting the strategy or position to be taken by the governing body during the course of any collective bargaining, professional negotiations, or grievance or mediation proceedings,

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or reviewing the proposals made in the negotiations or proceedings while in progress. **L. Johnson** stated that the session is expected to last about 45 minutes and conclude at approximately 9:40 p.m., and no action is expected at the conclusion.

**ADJOURNMENT:**

**Mayor Sexton** adjourned the meeting at 8:46 p.m.

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Joe Stewart  
Finance Director

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Steve Sexton  
Mayor