

**CITY OF DUVALL
COUNCIL MEETING MINUTES
January 21, 2020
7:00 P.M. – Riverview Educational Service Center
15510 – 1st Ave NE**

The City Council Meeting was called to order by Mayor Pro Tem Remington at 7:07 P.M.

Roll Call: Amy McHenry, Michelle Hogg, Matthew Eyer, Dorothy Lengyel, Dianne Brudnicki, Mike Remington, Jennifer Knaplund

Staff Present: Lara Thomas, Dana Mason, Jodi Wycoff, Troy Davis

I. Additions or Corrections to the Agenda:

Under Consent Agenda add: Payroll for 01/20/20 in the amount of \$182,885.37; Claims for 12/31/19 in the amount of \$197,638.78; Claims for 01/21/20 in the amount of \$308,837.44; Prepaid for 01/16/20 and 01/19/20 in the amount of \$14,695.22; and remove 1/7/20 Council minutes from Consent and add new section “approval of minutes” after “approval of consent agenda”

II. Adoption of Council Agenda:

It was moved and seconded (Eyer-McHenry) to adopt the 01/21/20 Council Agenda. The motion carried (7 ayes).

III. Approval of Consent Agenda:

It was moved and seconded (Eyer-Brudnicki) to approve the consent agenda which includes approving the Committee of the Whole and City Council minutes of 01/07/20; Payroll for 01/20/20 Checks #31218-31219 in the amount of \$182,885.37 including EFTs in the amount of \$159,341.40; Claims for 12/31/19 Checks #31173-31217; and Claims for 01/21/20 Checks #31220-31243 in the amount of \$308,837.44; and Prepays for 01/16/20 and 01/19/20 Checks #31165-31172 in the amount of \$14,695.22 including EFTs in the amount of \$13,935.87. The motion carried (7 ayes).

IV. Approval of Minutes:

Jodi Wycoff, City Clerk, explained that there was a mathematical error on the claims announced during the January 7, 2020 minutes under consent agenda – the correct amount is \$250,812.59. *It was moved and seconded (Eyer-McHenry) to amend the 01/07/20 City Council minutes to strike the claims amount of \$249,598.58 and replace with \$250,812.59 and to approve the amended minutes. The motion carried (7 ayes).*

V. Comments from the Audience:

Lisa Yeager, Director of Sno Valley Senior Center, requested that Council continue to support local non-profits.

Elizabeth Hill, representing Duvall Foundation for the Arts (DFA), said that they have the deed for the property where the future Performing Art Center will be and requested Council to approve the proposed amendments the agreement extension that is on the agenda.

Jesse Phillips, area resident, expressed his support for the proposed food forest.

Jennifer Hoof, area resident, expressed her support for the proposed food forest.

Erik Anderson, representing the Duvall Chamber of Commerce, invited Council to the next meeting on February 6th.

Mark Weiss, area resident, expressed his support for the proposed food forest.

Richard Boman, Duvall resident, spoke regarding the reconsideration of Ordinance #1258 that is on the agenda.

Carol Van Noy, representing Snoqualmie Valley Community Network, invited everyone to the Heart of the Valley Gala and encouraged everyone to purchase a heart street sign from Duvall Rotary.

VI. Scheduled Items:

1. Mayor's Report

No reports.

2. Council Reports

No reports.

3. Council Committee Reports

No reports.

4. Administration Report

No reports.

5. King County Fire District 45 Report

Fire Chief David Burke gave a report on a variety of items including call volume for 2019 and to-date for 2020, the response to the recent snow event, and construction on the new station. Chief Burke also said that the Department has purchased snow removal equipment, including a plow to attach to one of their vehicles, and snow blowers.

VII. Presentation: Jeff Davis – Community Garden

Jeff Davis, area resident, gave a presentation showing his proposal for a food forest at the pea patch site adjacent to the Dougherty Farmstead and asked Council for their support.

Presentation: Historical Society

Marilyn Roney, Historical Society Vice President, gave a presentation showing events and programs the Historical Society was involved in throughout 2019 and invited everyone to become a member.

VIII. Public Hearing: Riverview School District 10% Annexation Petition

8:07 PM: The Public Hearing was opened.

Troy Davis, Senior Planner, presented the staff report.

There were no public comments.

8:16 PM: The Public Hearing was closed.

IX. New Business:

- 1. (AB20-05) Approve Resolution #20-01 accepting the notice of intent to annex to the City the property known as the Riverview School District Annexation Area, located in the North Urban Growth Area Reserve of the City**

It was moved and seconded (Eyer-McHenry) to approve Resolution #20-01 accepting the notice of intent to annex to the City the property known as the Riverview School District Annexation Area, located in the North Urban Growth Area Reserve of the City.

The motion carried (7 ayes).

- 2. (AB20-06) 4Culture Grant Acceptance – Dougherty Farmstead Roof Replacement**

It was moved and seconded (Eyer-Lengyel) to suspend Council Procedures in Section 5.6 requiring additional review and finalize this item at this meeting. The motion passed (7 ayes).

It was moved and seconded (Eyer-McHenry) to authorize the Mayor to execute grant agreement between City of Duvall and King County 4Culture for the Dougherty Farmstead Roof Replacement. The motion carried (7 ayes).

- 3. (AB20-04) Reconsider Ordinance #1258 amending Chapter 4.08 of the Duvall Municipal Code; providing for severability; and establishing and effective date.**

Mayor Pro Tem Remington stated that the mayor has vetoed Ordinance #1258 and has returned the Ordinance for Council reconsideration along with her objections and that Council hereby enters the Mayor's objection memo dated January 15, 2020 into the minutes [*Exhibit A*]. Mayor Pro Tem Remington read aloud a response letter to the Mayor from Council and entered the letter into the minutes [*Exhibit B*].

It was moved and seconded (Eyer-Hogg) to adopt Ordinance #1259 amending Chapter 4.08 of the Duvall Municipal Code; providing for severability; and establishing and effective date.

The motion carried (6 ayes – Eyer, McHenry, Remington, Hogg, Knaplund, Lengyel; 1 nay – Brudnicki).

X. Unfinished Business:

- 1. (AB20-02) Agreement Extension – Duvall Foundation for the Arts (formerly AB19-80)**

Lara Thomas, Community Development Director, handed out and reviewed the most recent draft received today with requested edits from Duvall Foundation for the Arts. This item will be on the next agenda for further discussion and potential action.

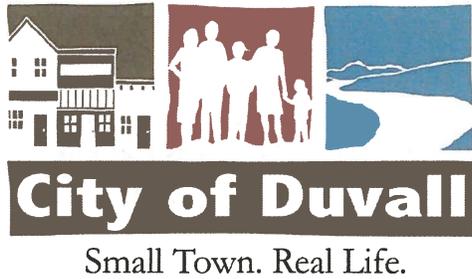
XI. Executive Session: None

XII. Adjournment:

There being no further business and no objections, Mayor Pro Tem Remington adjourned the meeting at 8:55 p.m.

Signed _____
Michael Remington, Mayor Pro Tem

Attest _____
Jodi Wycoff, City Clerk



Office of the Mayor
Amy Ockerlander

MEMORANDUM

TO: Duvall City Council

FROM: Amy Ockerlander, Mayor

DATE: January 15, 2020

RE: Mayor Veto of Ordinance No. 1258, AB20-04 Adopt Ordinance amending Chapter 4.08 of the Duvall Municipal Code

I hereby notify the Duvall City Council of a Mayoral Veto of Ordinance No. 1258, pursuant to RCW 35A.12.100 and RCW 35A.12.130, in addition to referencing multiple violations of Resolution No. 15-09, A resolution of the City Council of the City of Duvall, Washington, Amending the Council Procedures for City Council Meetings.

As Chief Administrative Officer of the City of Duvall I fully respect the authority of the legislative body to approve legislation amending Duvall Municipal Code (DMC) and have taken an oath of office to uphold state and federal law, which in my interpretation includes ensuring the following of Council's adopted procedures unless they have been suspended by a majority vote of the council to the best of my, and staff's ability. This includes recognition and acknowledgement that at times there will be occasional, unintentional oversights that occur in council process.

While it is the council's responsibility to follow its own procedures when those procedures have clearly not been followed in a case such as this, I feel a responsibility to the City organization and the public to acknowledge the sequence of events and subsequent action.

In the case of this veto, many of the issues raised in this letter provide the public appearance of lack of transparency through the policy development process and lack of adherence to council approved procedures.

Furthermore, there was no evidence provided to administration that a wholistic review of Chapter 4 was completed by legal counsel to ensure an absence of conflict with other sections of the chapter, or DMC. It is also highly unusual that legal counsel nor council consulted with administration on the impacts of the ordinance and no actual policy analysis was conducted prior

to its approval by council. The legal review was requested by administration in an open, public meeting on December 17, 2019. As of this date, legal counsel assigned to this task has had zero communication with the Mayor or staff regarding the request.

1. Council Procedures Section 5.5 Development of Council Agenda, section C states: Councilmembers are encouraged to introduce agenda topics and discussion items. Items of consideration for future council or committee agendas may be introduced by councilmembers during a regularly scheduled council meeting through a motion, second, and majority vote. Alternatively, agenda items may be introduced by an individual Councilmember request made to the City Administrator.

Section D states: Individually requested agenda discussion items from Councilmembers made to the City Administrator shall include a written summary of items in the Proposed Council Agenda by the Monday of the week preceding the scheduled council meeting.

This process was not followed by council, to my knowledge.

Upon reviewing the agendas for the Finance and Administration Committee, amendments to Chapter 4 were not listed on the published agendas for the public meetings. Additionally, the committee has been meeting without recording of meetings, as required by Section 5.9 of the Duvall Council Procedures which states

“The City Clerk, or designee, shall make and keep audio recordings of all meetings of the Duvall City Council and including Committees and Committee of the Whole except those meetings or portions of meetings conducted in Executive Session. Recordings and related records of all City Council and related Committee and Committee of the Whole meetings, except as referenced above, shall be retained by the City in accordance with the Washington State Records Retention Schedule.”

To my knowledge, this procedure has not been followed. In addition, the Clerk has not received summaries for any Finance and Administration Committee meetings held in the month of December, which includes those meetings held via email.

During the December 17th Committee of the Whole, members of the Finance Committee publicly discussed a discussion on amending Chapter 4 that occurred amongst the committee members via email. It was further stated on the record that those emails were forwarded to a fourth councilmember, meaning a majority of the council was involved in the policy discussion outside of public meetings or process. This action was in direct violation of Council Procedures Section 6.5 Electronic Communications which states:

“Improper use of electronic communications between elected officials of a governing body may violate the Open Public Meetings Act. If a quorum of Councilmembers is discussing City business via e-mail, texts, or social media, it

constitutes a meeting and may created a violation of the Open Public Meetings Act.

Such correspondences directly between Councilmember shall be limited to a maximum of three, including the sender and recipients.

Communications that are intended to be shared among four or more Councilmembers, whether concurrently or serially must be considered in light of the Open Public Meetings Act. If the intended purpose of the correspondence is to have a discussion that should be held at an open meeting, the electronic discussion should not occur. Further, the use of e-mail communication to form a collective decision of the Council is inappropriate.”

In this case, the discussion that occurred appears to be at a minimum a serial violation. Further public discussion implies that a decision by four councilmembers may have been made prior to formal action on the item and communicated electronically.

As a part of administration’s due diligence during council discussions regarding the ordinance, our employment attorney was consulted to ensure compliance with our collective bargaining agreements. The attorney did make a language recommendation to council. Council chose not to accept the language.

Additionally, administration requested that due to the nature of the ordinance, changing the duties of an independently elected official that a public hearing be held prior to final approval of the ordinance. That request was also ignored.

In closing, I believe that standing council procedures were violated at the behest of administrative and public involvement in the policy making process and appropriate due diligence on the legal consistency with existing code, public involvement was stifled and there is not a solid understanding of the long-term impacts of this ordinance.

As a result of this veto, the council will be required to reconsider the ordinance by state law.

In closing, it has never been a desire to veto legislation, however in this case and with my long-standing commitment to government transparency and following existing procedures I cannot in good conscience sign this ordinance with the knowledge that this work was completed primarily outside of the public view, without the involvement of the staff it affects and without proper legal review.

Sincerely,



Amy Ockerlander
Mayor

EXHIBIT B

January 20, 2020

TO: Amy Ockerlander, Mayor

FROM: Wm. Michael Remington, City Council Member, Mayor pro tem
On behalf of Duvall City Council

RE: RESPONSE TO MEMORANDUM AND MAYOR'S VETO OF ORDINANCE NO. 1258

At the January 17, 2020 City Council Retreat, Council Members asked that I respond to the Memorandum dated January 15, 2020 regarding the veto of Ordinance No. 1258. We are using this letter to respond and assure the Citizens of Duvall are provided clarity on the reason Council felt compelled to amend Chapter 4.08.010(c) of the Duvall Municipal Code. Council authority granted by Washington State Code, RCW 35.11.020 includes oversight of city codes, expenditure of tax payer funds, and city operating policies.

We have arrived at this issue for one key reason, the lack of Administration's response to the City Council's clearly stated and on-going concern for the Duvall's cash flow stability and long-term sustainability. In 2018 and 2019 key staff vacancies occurred including Finance Director and City Administrator. As a result, City Council did not receive timely and accurate finance and budget reports required to fulfill our duty regarding oversight of the taxpayer's dollars. This lack of quarterly reports and other supporting documentation diminished transparency and greatly impacted our confidence in the current budget related data.

Amending Ordinance 4.08 is the culmination of a series of discussions and fundamental disagreements between the Mayor and Council over how to manage the taxpayer's funds. Council learned of employee reclassifications from one pay range to another several months ago. Council was not notified or provided any budget details on the short-term and long-term fiscal impacts from the Mayor prior to these changes being made.

Second, during the mid-biennium budget review the Mayor stated her intent to immediately recruit several positions that did not appear to be estimated in the Council approved 2019/2020 budget. Our concerns about overspending became exacerbated because we did not have the financial reports showing we had funds to cover those costs. The Mayor stated she would use her authority to proceed with hiring even after Council clearly expressed concern that moving forward with recruitment prior to establishing the position in the budget was not fiscally responsible.

Council understands there are times when employee reclassifications and filling new or vacant positions are warranted. However, Council must always be fully informed, so it can analyze the Administration's proposal for fiscal impacts. Failure to provide this information makes it impossible for Council to fulfill its legal oversight duties and decide if future revenues will likely be available to support the additional salary wage and benefit expenses.

City Council amended Ordinance 4.08.010(C) to assure City Council could meet our responsibility to evaluate the fiscal impacts of reclassifications and to provide Council with simple notification in writing of changes in position titles or position job descriptions. This is key in protecting employee positions not only in the current budget but into the future.

While Council Members acknowledge a Mayor's veto authority as provided in RCW 35A.12.100 and RCW 35A.12.130, Council Members are deeply hurt by unsubstantiated accusations made against Council Members in the memorandum.

The most disturbing accusation the Mayor made about City Council was implying Council Members were not following the Open Public Meeting Act. City Council is committed to transparency, that meetings are announced and open to the public. City Council Finance and Administration meetings included one or more City staff. Minutes were maintained and provided to the City Clerk for public posting.

To insinuate that members of the governing body collectively intended to meet to transact the governing body's official business because another member received information by email is personally hurtful and inaccurate. City Council discussed amending the ordinance openly at both COW and City Council meetings. The amendment included open discussion with Legal Council at a Council meeting. Draft ordinance language was introduced for consideration and discussion at meetings on December 10, 17 and on January 7. Council's desire to move this policy forward without delay was clearly a reflection of the deep concern for budget stability and to demonstrate the emergent need for transparency in matters effecting the budget.

City Council sees no positive outcome continuing a legalistic and confrontational back and forth. Our goal moving forward is to improve communication between the Mayor and City Council. Mayor, Council, Staff and citizens alike desire a positive, collaborative and productive relationship. I pray these trials will lead to our being better leaders and help us set a shining example of responsible governance for our community.

Sincerely,

A handwritten signature in black ink that reads "Wm. Mike Remington". The signature is written in a cursive, flowing style with a large, decorative flourish at the end.

Wm. Michael Remington, City Council Member, Mayor pro tem