

**City of Kenmore
City Council Regular Meeting
Minutes
June 10, 2019**

CALL TO ORDER - Mayor David Baker called the meeting to order at 7:00 p.m.

ROLL CALL

Mayor David Baker
Deputy Mayor Nigel Herbig
Councilmember Joe Marshall
Councilmember Milton Curtis
Councilmember Debra Srebnik
Councilmember Stacey Denuski
Councilmember Brent Smith

FLAG SALUTE

AGENDA APPROVAL

PROCLAMATION

Ted Christensen Day - June 14, 2019

PRESENTATION

2018 Officer of the Year Jeff Durrant, MPO - Chief Horvath

Report on the 2019 Legislative Session - Shelly Helder and Briahna Murray of Gordon
Thomas Honeywell Governmental Affairs

CITIZEN COMMENTS

Melanie O'Cain
18548 60th Avenue NE
Kenmore, Washington 98028

Ms. O'Cain stated that she was working on the pride picnic event coming up. She thanked the Council for adding the Pride proclamation to the June 17 agenda. She would like to see the City proclaim pride month in June.

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Nadia Reigna Silver
18230 70th Lane NE
Kenmore, Washington 98028

Ms. Silver also reported that she is working on the pride picnic event. She stated that she is hoping this because an annual event.

Sara Solum Hayashi
14615 81st Avenue
Kenmore, Washington 98028

Ms. Hayashi thanked the Council for their support of Arts of Kenmore. She also thanked the Council for the assistance with the Legends bench.

Corina Pfeil
Address on file

Ms. Pfeil thanked the Council for the Pride proclamation. She also asked the Council to make the month of June, Pride Month. She urged the Council to fly the Pride flag at City Hall.

Vicki Grayland
20308 73rd Avenue NE
Kenmore, Washington 98028

Ms. Grayland spoke about the PSE Franchise. She has health concerns on PSE's new smart meters.

John Hendrickson
5919 NE 202nd Lane
Kenmore, Washington 98028

Mr. Hendrickson spoke about his concerns with the Critical Area regulations on the agenda this evening.

CONSENT AGENDA

MOTION: Councilmember Denuski made a motion to approve the consent agenda, Mayor Baker seconded the motion.

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Councilmember Srebnik requested that Item D, Receive and File the 2018 Kenmore Waterfront Activities Annual Report, be pulled from the consent agenda. This item will be discussed at the end of the meeting.

The motion passed unanimously.

The consent agenda approved included the following:

Authorize the City Manager to Sign an Interlocal Agreement with the City of Marysville for the Rental of Outdoor Video Services for Movies at the Square Events

Authorize the City Manager to Execute Contract 19-C2061 between the Washington State Parks and Recreation Commission and City of Kenmore

Ordinance 19-0487 Amending Section 3.65.040 of the Kenmore Municipal Code for the Multifamily Tax Exemption

PUBLIC HEARING

Ordinances 19-0488, 19-0489 and 19-0490 Amending the City's Critical Area Regulations and Shoreline Master Plan - Debbie Bent, Community Development Director and Lauri Anderson, Principal Planner

Director Bent and Principal Planner Anderson explained that on May 13 and May 20, the City Council considered amendments to the Municipal Code related to the City's critical area regulations and Shoreline Master Program as recommended by the Planning Commission. Changes requested by Council at those meetings have been incorporated into the attached ordinances included in the Council packet.

Because Ordinance 19-0488 (Attachment 1) includes a significant amendment not considered during the Planning Commission's public hearing, a public hearing in front of the City Council is needed. The relevant sections are found in changes to the definitions (18.20.665, definition of degraded wetland buffer or degraded wetland) and in 18.55.300, Increased Wetland Buffer Widths. Although these changes resulted in the need for the public hearing, all of the proposed amendments could be addressed during the hearing.

After the public hearing, staff recommends that the Council consider adoption of Ordinances 19-0488, 19-0489 and 19-0490. Adoption of the critical areas ordinance (19-0488) should occur prior to adoption of the two Shoreline Master Program ordinances.

Staff also has provided a "docket criteria analysis" addressing the criteria for approval of the amendments.

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Mayor Baker opened the public hearing at 8:23 p.m.

John Hendrickson
Spoke earlier

Mr. Hendrickson spoke about the Critical Area Regulations and the PAUE.

Maria Jumanca
8030 NE 203rd Street
Kenmore, Washington 98028

Ms. Jumanca spoke about the Critical Area Regulations and wetland concerns.

Principal Planner Anderson read a letter into the record that was received by the Department of Commerce (They were unable to attend the hearing).

Mayor Baker closed the hearing at 8:34 p.m.

BUSINESS AGENDA

Ordinance 19-0488 Amending Chapter 18.55, Critical Areas, of the Kenmore Municipal Code; Repealing Division II of Title 16, Flood Damage Prevention, of the Kenmore Municipal Code; Amending Chapter 18.20, Definitions, of the Kenmore Municipal Code; Amending Sections 18.30.190 and 18.40.030 of the Kenmore Municipal Code; and Providing an Effective Date - Debbie Bent, Community Development Director and Lauri Anderson, Principal Planner

Council discussed the amendments and the concerns raised in the letter received by Department of Commerce.

MOTION: Councilmember Denuski made a motion to approve Ordinance 19-0488 Amending Chapter 18.55, Critical Areas, of the Kenmore Municipal Code; Repealing Division II of Title 16, Flood Damage Prevention, of the Kenmore Municipal Code; Amending Chapter 18.20, Definitions, of the Kenmore Municipal Code; Amending Sections 18.30.190 and 18.40.030 of the Kenmore Municipal Code, Councilmember Curtis seconded the motion.

MOTION: Councilmember Marshall made a motion to table Ordinances 19-0488, 19-0489 and 19-0490 until June 17, 2019 (in order to meet with Department of Commerce and address concerns), Deputy Mayor Herbig seconded the motion. The motion passed unanimously.

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Ordinance 19-0489 Amending the Shoreline Sub-Element of the Comprehensive Plan; Revising Figure LU-12, the Shoreline Environment Designations Map; and Providing an Effective Date - Debbie Bent, Community Development Director and Lauri Anderson, Principal Planner

See above – tabled to June 17, 2019.

Ordinance 19-0490 Revising Division 1 of Title 16 of the Kenmore Municipal Code Entitled Shoreline Management; Revising the Shoreline Environment Designations Map; and Providing an Effective Date - Debbie Bent, Community Development Director and Lauri Anderson, Principal Planner

See above – tabled to June 17, 2019.

Ordinance 19-0486 Approving a Non-Exclusive Dual Franchise Agreement with Puget Sound Energy, Inc. - Nancy Ousley, Assistant City Manager

Contract 19-C2043 Memorandum of Understanding with Puget Sound Energy, Inc. on Performance and Reliability Reporting - Nancy Ousley, Assistant City Manager

Assistant City Manager Ousley explained that the proposed agreements work in concert to: 1) permit and set the conditions for Puget Sound Energy (PSE) to locate its electrical and natural gas facilities in the public right of way and 2) require actions to report on and identify ways to improve electrical service reliability in Kenmore. The current Franchise Agreement between the City of Kenmore and Puget Sound Energy was approved in 2005. The proposed Agreement is for a five- year term, with the ability to extend an additional five years by mutual agreement. As a privately-owned utility, PSE is regulated by the Washington Utilities and Transportation Commission.

City staff and Puget Sound Energy staff briefed the City Council on May 20, 2019 on the proposed agreements. Following the meeting, City staff and PSE staff discussed a question raised by Councilmember Denuski regarding the term of the Memorandum of Understanding and agreed on revised language that allows for consideration of extending the MOU at the end of the five-year term. This revision is more consistent with the term of the Franchise Agreement, which is five years with an option to extend the Agreement for an additional five years. The proposed revised language is in Section 4 of the Franchise Agreement, and is shown here in underlined format:

"Section 4. Term of Franchise/Acceptance

This Franchise is and shall remain in full force and effect for a period of five (5) years from the effective date of the Ordinance. This Franchise may be renewed, at the sole discretion of the Kenmore City Council for one additional five (5) year period upon the written request of PSE, such request to be submitted not less than one hundred eighty days (180) prior to the

expiration of the initial five (5) year term. If PSE requests the Franchise to be renewed for an additional five (5) years, as authorized in this Section 4, then the Parties shall also review and determine if the Memorandum of Understanding described in Section 32 of this Franchise ("MOU") shall also be renewed for an additional five (5) year period. This Franchise is granted upon the express condition that PSE, within sixty (60) days after the adoption of this Ordinance, shall (i) file with the clerk of the City a written acceptance of the same; and (ii) jointly with the City, execute and deliver the Memorandum of Understanding. Upon completion of each such step, this Franchise shall constitute a contract between the City and PSE for all the purposes herein set forth. If PSE fails to provide its written acceptance or jointly with the City execute and deliver the Memorandum of Understanding as provided above, this Ordinance and Franchise shall be null and void."

The City Council discussed a proposed PSE Franchise and Memorandum of Understanding in January, 2018 and recommended additional attention to service reliability measures. The current proposal contains language updated since 2018 on: specific performance goals for Kenmore circuits, performing in the lowest quartile of the PSE system (MOU Section 6); third parties that have facilities attached to PSE poles (Franchise Agreement Section 10 and Section 17); minor revisions to Vegetation Management (Franchise Agreement Section 18); and Electric Vehicle Charging Station partnership (MOU Section 10). Note also the recent revision to Section 4 on the term of the Franchise Agreement and MOU.

Right of Way provisions in the Franchise Agreement that have been updated and strengthened compared to the 2005 Agreement include: improved mapping of PSE facility locations; reporting on known third party users of PSE facilities; detailed procedures for relocating facilities that interfere with City public works projects; and accelerated vegetation patrols and trimming to reduce contact with electrical wires. Provisions for non-interference of facilities to safe passage of pedestrians and vehicles have been updated to include bicycles, and compliance with the Americans with Disabilities Act is now specifically mentioned. Procedures requiring disabling decommissioned natural gas facilities have also been added.

Declining electrical reliability and increasing incidences of outages caused widespread inconvenience, loss of business productivity and health concerns for Kenmore residents and businesses in recent years. The Administration and Council called for a turnaround in electrical service reliability, and PSE has made a number of investments in 2016, 2018 to improve electrical service in certain areas of the city. Kenmore residents and businesses have recently noted service improvements.

The proposed Memorandum of Understanding (MOU), which must be approved in order for the Franchise Agreement to take effect, requires annual detailed reports to the City Council and community on the frequency and duration of outages and how those metrics compare to the PSE system as a whole as well as neighboring jurisdictions served by other utilities. The MOU also covers identifying investments to improve reliability, improved ways of communicating with property owners who have utility easements that PSE needs to access

for maintenance and repairs, and detailed procedures for emergency services and City long range planning cooperation.

The City commissioned an Electrical System Reliability Assessment in 2016 from Exponent Failure Analysis Associates, Inc., which confirmed the crisis in reliability in Kenmore in comparison to the overall PSE system and recommended actions that could improve power reliability in Kenmore. The report notes that seven of the ten electrical circuits in Kenmore performed in the lowest quartile of the entire PSE system. Exponent prepared a report on reliability goals in 2018 and concluded that given the reliability projects planned in 2016, 2018, six of the circuits in the lowest quartile should see reliability improve. The City has retained Exponent to analyze future reliability metrics as outlined in the proposed MOU.

The WUTC approved a PSE proposal in December 2018 to initiate a pilot program relating to Electric Vehicle (EV) charging stations. The MOU language in Section 10 has been updated and states that Kenmore will be evaluated according to the terms of the tariff along with other cities for installation of charging facilities.

State law does not allow a Franchise Fee for electric utilities but does authorize a Utility Tax of up to 6% of gross revenues that municipalities can enact. The current Kenmore Utility Tax rate for electrical and natural gas is 4% of gross revenues and the projected revenue for 2019-2020 is \$1,656,355.

Julien Loh and Rae Lynn Asah from Puget Sound Energy were present to answer questions for the Council. Council also asked Mr. Loh to address Ms. Grayland's comments earlier made about the smart meters.

MOTION: Councilmember Srebnik made a motion to approve Ordinance 19-0486, Approving a Non-Exclusive Dual Franchise Agreement with Puget Sound Energy, Inc., Councilmember Curtis seconded the motion. The motion passed unanimously.

MOTION: Councilmember Curtis made a motion to approve Contract 19-C2043 Memorandum of Understanding with Puget Sound Energy, Inc. on Performance and Reliability Reporting, Councilmember Denuski seconded the motion. The motion passed unanimously.

Hangar Building Facility Use Policy - Rob Karlinsey, City Manager

City Manager Karlinsey explained that at its June 19 and June 26 regular meetings in 2017, the City Council discussed a draft policy for use of the new Hangar community building. Changes to the policy as directed by the City Council were incorporated and the Hangar Building Facility Use Policy was approved by the Kenmore City Council on July 24, 2017.

The Town Square and accompanying "Hangar" community building have been in operation for almost two years, and a reservation system for spaces in the Hangar has been functioning

since fall of 2017. Both the Town Square and the Hangar serve as a year-round public gathering space in the heart of Kenmore's downtown. The 4,600 square-foot Hangar includes space for a coffee shop retail tenant.

In addition to the tenant retail space, the Hangar includes a larger community gathering space (the "Otter" Room) and a smaller multipurpose room (the "Beaver" Room). These spaces are available for the public to use daily, and they can reserve the Otter Room and Beaver Room during certain designated hours of the week.

Facility use policies for the Hangar have been essential in creating a framework for the public to reserve the spaces in the building or just "hang out." Now that Hangar has been operating for almost two years, we have been able to assess the adopted policy and how it has been working in practice. As a result, staff propose a number of amendments to the Hangar Building Facility Use Policy, with several amendments highlighted as follows:

Eligibility to Reserve Space. Currently, the Hangar spaces are available for anyone to reserve, regardless of residency or other criteria. We are finding that the Hangar is well used and generally in high demand, whether the spaces are reserved. Given the Hangar's popular use and for workload purposes we propose the following eligibility requirements to reserve space in the Hangar:

Otter Room:

The following may reserve the Otter Room:

- Residents of Kenmore
- Any nonprofit organization registered as a 501(c)(3)

The following cannot reserve the Otter Room:

- Non-residents of Kenmore
- For-profit businesses

Beaver Room:

The following may reserve the Beaver Room:

- Residents of Kenmore
- Any nonprofit organization registered as a 501(c)(3)
- For-profit businesses physically located with a mailing address in the City of Kenmore and Kenmore Business Incubator clients

The following cannot reserve the Beaver Room:

- Non-residents of Kenmore
- For-profit businesses not located in Kenmore, with the exception of Kenmore Business Incubator clients

Refundable Deposits. For larger groups (30 or more) we are proposing the applicant be charged a refundable deposit in advance of the event. The lease with our retail tenant requires us to give our tenant several weeks' advance notice for reservations of 30 or more people. This notice allows the retail tenant to have time to staff up and stock up for the event. Some of the larger group reservations have resulted in "no shows," have over-stayed their allotted time, or have left a mess. Charging a deposit for larger groups will allow the City to recoup cleanup costs and provide an incentive against no-shows and staying past the scheduled end time.

Limited Public Forum. The proposed amendments include retaining the policy's language about the Hangar as a limited public forum; however, given the nature of the Hangar as a public space, we propose eliminating the language that prohibits campaign or political activity as the space is open to the Kenmore community on an equal access, nondiscriminatory basis.

Other proposed changes to the Hangar Building Facility Use Policy are shown as revisions in the attached Exhibit.

Council and staff discussed the policy and made edits.

MOTION: Councilmember Denuski made a motion to approve the Hangar Building Facility Use Policy, Councilmember Srebnik seconded the motion. The motion passed 6-1-0 with Councilmember Marshall opposed.

Added to the business agenda:

Receive and File the 2018 Kenmore Waterfront Activities Annual Report

Councilmember Srebnik explained that she pulled this item so that the Council could have further explanation and clarification. City Manager Karlinsey will work with KWAC for further information.

MOTION: Councilmember Srebnik made a motion to receive and file the 2018 Kenmore Waterfront Activities Annual Report, Councilmember Denuski seconded the motion. The motion passed unanimously.

STAFF REPORT

City Communications - Flags - Dawn Reitan, City Attorney

MOTION: Councilmember Marshall made a motion to make Pride Month on month, Deputy Mayor Herbig seconded the motion. The motion passed 6-0-1 with Councilmember Curtis abstaining. (He stated this was due to personal reasons/traditional values.)

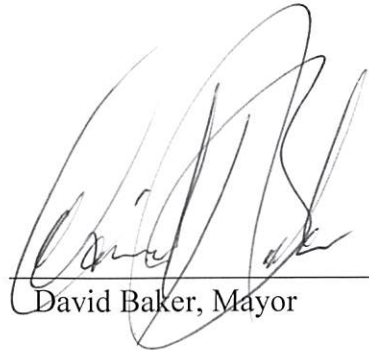
Affordable Housing Panel

The consensus of the Council was they are still interested in the panel. This item will come back in September.

COUNCILMEMBER REPORTS & COMMENTS & INITIATIVES

ADJOURNMENT

The meeting adjourned at 10:01 p.m.



David Baker, Mayor

ATTEST:



Kelly M. Chelin, City Clerk