

**TOWN OF YARROW POINT
COUNCIL MEETING MINUTES
March 10, 2009
7:00 PM**

The following is a summary of the proceedings and is not a verbatim transcript. The meeting is recorded, and the audio files are public record.

CALL TO ORDER:

Mayor Pro-Tem Lisa Mushel called the meeting to order at 7 p.m.

MEMBERS PRESENT:

Mayor: David Cooper (excused)

Mayor Pro-Tem: Lisa Mushel

Council Members: John DesCamp (excused)
Steve Rutledge (excused)
Carl Scandella
Andy Valaas

Staff: Lt. Kyle Kolling – Clyde Hill Police
Sara McMillon – Town Clerk-Treasurer
John Joplin – Fiscal Coordinator
Mona Green – Town Planner
Stacia Schroeder – Town Engineer

Guests: Richard Gates – 4662 95th Ave., Yarrow Point
Cheryl Pietromonaco – 3445 92nd Ave., Yarrow Point
Ray Jensen – 3802 94th Ave., Yarrow Point
Andy Swayne – Puget Sound Energy
Jim Hutchinson – Puget Sound Energy
Ray Hisayasu – Puget Sound Energy

APPEARANCES:

Yarrow Point resident Cheryl Pietromonaco addressed the Council. She asked if anything has been done about a gate at the Wilcox property. Councilmember Mushel responded that Building Official Steven Wilcox has been in contact with the property owner concerning the gate, which was constructed without Town approval. Bellevue Fire currently is reviewing plans for the gate, and the discussion is ongoing. Town Clerk McMillon added that Mr. Wilcox is meeting with Bellevue Fire personally concerning the gate.

Mrs. Pietromonaco stated that she has directed Mr. Wilcox to Yarrow Point Municipal Code Title 16, but hasn't gotten any response from him regarding enforcement of this code section. She said she does not think Bellevue Fire Code would prohibit the gate. Mrs. Mushel said the Town would contact Mr. Wilcox and find an answer for Mrs. Pietromonaco at a later time.

On a different topic, Mrs. Pietromonaco expressed her concern that the Council is not holding public hearings on code revision ordinances. She does not think anyone in the town is aware that the Council is considering the code changes. Councilmember Mushel responded that the Town posts meeting notices on mailbox pagodas, which is beyond what is required by law. These notices are posted only a few days before the meetings, Mrs. Pietromonaco said. A few days notice is not adequate.

Mrs. Mushel stated that revision of the Town Code is not a new topic. The Council has been discussing it at open meetings for over a year. Holding public hearings would provide the public with a chance to comment, Mrs. Pietromonaco said. She asked if the Council would hold public hearings. Town Attorney Wayne Stewart said public hearings are required only for land use ordinances. He explained that a revision of Title 17 of the Town Code would have required a public hearing.

Councilmember Valaas commented that the Town Council has never forbid public input at public meetings. Members of the public are invited to speak at public meetings and public hearings. The Council will continue to take public input at public meetings on the ordinances, Mr. Valaas said.

MINUTES:

MOTION: Councilmember Andy Valaas motioned to approve the minutes of the regular Town Council Meeting February 10, 2009, as presented.

Councilmember Scandella noted that the meeting he attended and reported on at the February Council meeting was a WRIA 8 Salmon Recovery Council meeting.

Councilmember Lisa Mushel seconded the motion.

Vote: 3 For, 0 Against, 0 Abstain. Motion carried.

CONSENT CALENDAR:

Councilmember Valaas questioned a payment to Contract Solutions Group. This was for a training seminar that the Mayor and Town Engineer attended, Fiscal Coordinator Joplin explained. Councilmember Mushel noted that the Town's engineer now works for a different company. She asked if this would require a contract change. Mr. Stewart responded that a contract change has been made.

Mrs. Mushel asked about a payment for the replacement of the lamps in Town owned streetlights on 92nd Avenue. Mr. Joplin explained that one of the lamps was broken, and staff decided that if workers were out to replace one, all of them should be replaced as

part of regular maintenance. The lamps have not been replaced since the installation of the streetlights.

MOTION: Councilmember Andy Valaas motioned to approve the consent calendar dated March 5, 2009, including warrant numbers 16386 through 16416, totaling \$51,739.49. Councilmember Carl Scandella seconded the motion.

Vote: 3 For, 0 Against, 0 Abstain. Motion carried.

STAFF REPORTS:

Lt. Kyle Kolling, Clyde Hill Police – Lt. Kolling reported that criminal activity in the town is low. Recently, some criminal traffic has passed through the area. A juvenile in Yarrow Point reported that an intruder rattled the door to a house, but this report was not confirmed.

The department has received a grant from the Washington Association of Sheriffs and Police Chiefs for field sobriety testing devices, Lt. Kolling said. This allows police to test multiple suspects in an hour.

REGULAR BUSINESS:

AB 09-010 – Report from Puget Sound Energy – Power Outages – Andy Swayne and Jim Hutchinson of PSE

Andy Swayne, municipal liaison manager for Puget Sound Energy (PSE), addressed the Council concerning a recent power outage. Jim Hutchinson, PSE government and community relations manager and Ray Hisayasu, a PSE distribution system consulting engineer, also were in attendance.

Mr. Swayne provided a general overview of electrical systems. The Medina substation is used for distributing electricity to Yarrow Point. He showed a graphic representation of how Yarrow Point receives power. Three areas are served from the Medina 33 circuit, including Yarrow Point, Hunts Point and a small portion of Clyde Hill. The Medina 36 line can be used as a backup. A third circuit at the substation feeds Medina, Evergreen Point and residents farther south.

During a power outage, Medina could have power, when Yarrow Point does not, because the municipalities are served from different circuits, he explained. Just outside of a substation there is a switch and a fuse. The fuse and switch are critical, Mr. Swayne said, and these are the two elements that worked together during the recent Yarrow Point power outage. In response to a question from Councilmember Mushel, Mr. Swayne said PSE is using the latest technology in this regard.

In response to a question from Mr. Scandella, Mr. Swayne explained that if the fuse has to be replaced, power can be easily restored to one side of the fuse, if it is an overhead system. Power restoration is more difficult with an underground system.

The recent Yarrow Point outage occurred in early February due to a faulted or failed cable on 41st, but workers did not know this when the outage began, Mr. Swayne stated. A switch sensed the fault in the system and disconnected, acting as a circuit breaker. At first, PSE workers attempted to close the switch, but it opened, indicating a larger problem. The alternative feed, Medina 36, was used to restore power to almost everyone, but a group of Yarrow Point residents still did not have power.

A fuse located at 33rd, where the system goes underground, had blown. Three phases, or lines are located at the pole, and only one phase blew. PSE was then able to discover that the problem was a bad cable on 41st. The bad cable and two other cables were disconnected and the fuse was replaced, which restored power to everyone except people living on 41st. The last cable at the end of 41st had malfunctioned, and when this cable was disconnected, power was restored to all but six PSE customers.

The cable that had malfunctioned was inside an asbestos conduit installed in the 1960s. PSE decided that disturbing the asbestos conduit would be more hazardous than running a new cable. In response to a question from Mr. Scandella, Mr. Swayne said PSE did not expose the asbestos cable. This type of conduit is some of PSE's oldest and best performing. He explained the configuration of the cables on 41st to the Council.

While the new cable was being installed, workers used an extension cord to restore power to the affected homes, Mr. Swayne said. Two other cables on the street were vintage cables, and since a crew was in the area, PSE decided it would be best to replace all three. Often PSE does not know why a cable fails. In response to a question from Councilmember Valaas, PSE's Mr. Hisayasu said the line that failed was at end of life.

Mr. Swayne said PSE does not often see that kind of longevity. Councilmember Scandella asked if the Town can expect other failures in underground cables. Failures will happen sooner or later due to corrosion, Mr. Swayne said. PSE is aware of one other street in Yarrow Point with very old lines. The company's policy is to get the most life out of the cables as possible. Proactively replacing them would create an unnecessary disruption in service.

PSE tracks cable outages, Mr. Swayne reported, and when trends indicate a continuing problem, there is remediation. Compared with other municipalities in the area, Yarrow Point's service has sometimes been more reliable and sometimes less reliable, so there is no definite trend that can be established. The numbers Mr. Swayne studied do not include storm related outages or planned outages, he said.

Councilmember Valaas noted that he experienced a power outage on New Year's Eve due to the malfunction of a transformer. He asked Mr. Swayne about how PSE determines what capacity of transformer to install. The transformer was not sized to maximum capacity. Mr. Swayne responded that the assumption is that not everyone would have all of their electrical devices on at one time. If everything was sized to maximum capacity, PSE would have to install five times more substations and cables.

Councilmember Valaas asked if PSE studies the usage on every transformer to determine if it is properly sized. Mr. Hisayasu responded that PSE maintains reports on transformers, and they are fairly reliable. Most of the time, these reports are pulled during

new construction, when there is a possibility of a change in load. In response to a question from Mr. Valaas, Mr. Hisayasu stated that PSE has a system that matches billings with transformer ratings.

Councilmember Scandella asked if there are still any transformers using PCBs, and Mr. Swayne said sometimes one is found, but for the most part they have been removed from the system.

Mr. Valaas said the Town appreciated the upgrade to the system in 2007, but it does not appear that reliability improved. A trend has not yet been established, Mr. Swayne said. Some aging equipment was replaced.

Councilmember Scandella pointed out that a licensed electrical engineer submitted a letter to the Town that was critical of PSE. Mr. Swayne said this resident was concerned about the age of the cable, but the cable could have lasted a long time. All of the aging cables on that street were replaced. There is one other area with aging cables, but PSE is taking a wait and see approach because the company does not want to disturb the neighborhood unnecessarily.

AB 09-011 – Public Hearing, Ordinance No. 593 – Amending Zoning Code – Calculation of Maximum Building Height and Regulating Retaining Walls and Rockeries Within Setback Areas

Town Planner Mona Green addressed the Council concerning the proposed code changes. Planning commissioners were looking for ways to make new construction more compatible with the existing neighborhood. The ordinance is the result of their efforts, she explained.

Ordinance No. 593 proposes to restrict structure height to 25 feet above original grade or 31 feet above finished grade, whichever is less. Retaining walls and rockeries would be added to the list of items regulated within setback areas.

Mayor Pro-Tem Lisa Mushel opened the public hearing on the proposed ordinance at 8:02 p.m.

Resident Cheryl Pietromonaco addressed the Council. She asked why original grade wording was eliminated from the section regulating hedges. Mrs. Green responded that the only change is that rockeries and retaining walls were added to this list.

Resident Richard Gates asked why structure height wording was changed. The ordinance appears to provide six feet. Planner Green explained that the ordinance was designed to address problems resulting from when soil is exported to an area. There was no established maximum height from finished grade. Mr. Gates asked why the number was not less, and Mrs. Green said many existing structures are this height, so the number appeared logical.

Mrs. Pietromonaco asked about an instance where the level of the property is raised when a structure is on a hill. If a property owner raised a structure, they would still be limited to 25 feet, so there would be no advantage, Mrs. Green stated. The changes seem to

encourage mega-home development, Mr. Gates stated. This was not the intention of the planning commission, Mrs. Green reiterated. Commissioners felt this would control soil disturbance and eliminate the possibility of elevation changes from one property to another. The neighborhood would be consistent.

Mr. Gates stated that this code change seems to allow a percentage of visual impact that was not previously allowed. The wording is “whichever is lower,” Mrs. Pietromonaco said. No limit was established before, Mrs. Green said. Mr. Gates said that the ordinance should state that the height is zero above finished grade.

Resident Ray Jensen asked at what point the elevation is taken. Planner Green explained that it is measured from every point on the structure. No averaging is done. An engineer has to certify original grade. A site plan showing existing and original grade is provided. When a house is framed, the contractor must provide a survey showing that what was built matches the plans.

Mrs. Pietromonaco stated that the revision seems to contradict other parts of the code that only state original grade. She was concerned about a situation where a berm is put in under a fence or sport court. Mrs. Green said this proposed regulation is dealing only with setback areas. The Code is not meant to address sport court construction. A fence outside of a setback area could be 25 feet in height, Mr. Stewart said. Mrs. Pietromonaco asked why the Town allowed a sport court to be constructed on top of fill in her neighborhood.

Planner Green stated that the Town is not concerned that someone will elevate an area 25 feet and build a sport court on top of the fill. Concerning the change in wording for structure height, Mr. Gates said that 25 feet is always less. The wording is confusing.

Councilmember Mushel closed the public hearing at 8:23 p.m.

MOTION: Councilmember Andy Valaas motioned to approve Ordinance No. 593, an ordinance amending the zoning code to provide additional methods for the calculation of maximum building height and restricting the height of rockeries and retaining walls in setback areas, as presented. Councilmember Carl Scandella seconded.

Vote: 3 For, 0 Against, 0 Abstain. Motion carried.

AB 09-012 – Review of Proposed Ordinance No. 594 – Amending Title 5 of Town Code – Cable Television

Town Attorney Wayne Stewart addressed the Council. Review of this ordinance is the first step in amending the entire Municipal Code, except for Title 17, which deals with zoning. Amendments to the Code are designed to bring it up to date and in conformity with state and county regulations.

Amendments to Title 5 were needed because the regulation has no legal effect, Mr. Stewart reported. This section was written as an agreement with Viacom Cable, and it is no longer viable. Since the year 2000, municipalities have moved away from ordinance agreements to contractual franchise agreements. This part of the code is obsolete.

Councilmember Valaas asked if the Town has a current contract with Comcast Cable. Before eliminating this section of Code, it would be best to have a contract. He asked if the Town has a utility tax that is paid by the cable company. A utility tax is not a part of this Code section, Mr. Stewart stated.

Fiscal Coordinator Joplin reported that to his knowledge the Town does receive utility tax revenue from Comcast for the phone services the company provides, but he said he needed to do some research to be certain. Comcast provides Town Hall with cable service free of charge as part of an agreement. A franchise fee is not collected from Comcast. Councilmember Valaas said he is concerned that the revenue would not be remitted if this Code section is eliminated.

The Council decided not to pass Ordinance No. 594.

AB 09-013 – Review of Proposed Ordinance No. 595 – Amending Title 6 of Town Code – Animal Care and Control

Attorney Stewart explained that this ordinance eliminates Yarrow Point’s animal control code, which has not been updated for many years, and adopts King County animal control code by reference. King County animal control officers would respond to animal complaints.

Often an animal control officer will not respond unless the complaint involves a vicious animal, Mr. Stewart said. In Mercer Island, a process in regard to some vicious animals was needed, but in most instances the King County code is adequate.

Councilmember Mushel asked if the King County animal control code is too restrictive. Some residents in Yarrow Point keep chickens or other exotic animals like snakes and tarantulas. These residents should not be affected unreasonably.

Mr. Stewart responded that adopting the King County code has advantages. It provides the Town with a simplified process, and the county code is updated more frequently. In response to a question from Mrs. Mushel, Mr. Stewart said the King County regulations are adopted as they currently stand. Councilmembers would review any changes.

MOTION: Councilmember Andy Valaas motioned to approve Ordinance No. 595 amending Title 6 of Yarrow Point Municipal Code, as presented. Councilmember Carl Scandella seconded the motion.

Vote: 3 For, 0 Against, 0 Abstain. Motion carried.

AB 09-014 – Review of Proposed Ordinance No. 596 – Amending Title 9 of Town Code – Public Peace, Morals and Welfare

Mr. Stewart explained that Title 9 would be changed to bring it into conformity with State Code. Some sections would be eliminated and some replaced with updated wording. This section is necessary for the Town’s operations, he said.

Mr. Valaas asked why the section regarding peddlers and solicitors was removed, and Mr. Stewart responded that this type of regulation was found to be unconstitutional. Peddlers can be prosecuted for trespassing. The Town could also require registration.

Resident Pietromonaco asked why in section 9.91.060, the Town Code refers to an “auto” instead of a “vehicle.” Mr. Stewart said the word “auto” is what is used in state code. Changing the word would not be a substantive, necessary change. Councilmember Mushel agreed that it is strictly a matter of semantics. Mrs. Pietromonaco asked if the Town ever deviates from state code, and Councilmember Mushel responded that the Town does not in all cases adopt state code as it is written.

MOTION: Councilmember Andy Valaas motioned to approve Ordinance No. 596 amending Title 9 of Yarrow Point Municipal Code as presented. Councilmember Carl Scandella seconded the motion.

Vote: 3 For, 0 Against, 0 Abstain. Motion carried.

AB 09-015 – Review of Proposed Ordinance No. 597 – Repealing Title 13 of Town Code – Public Utilities

Mr. Stewart reported that Title 13 no longer has any legal effect since it is outdated. This title would be eliminated. Mr. Scandella asked for more detail on what this title contains. It has regulations regarding things like Senior Citizens utility tax relief and sewer connections that the Town has no authority to grant.

Councilmember Valaas said he understands the title is outdated, but he wanted to wait for some further clarification on the Town’s utility taxes.

Ordinance No. 597 was not passed.

AB 09-016 – Review of Proposed Ordinance No. 598 – Amending Title 19 of Town Code – Environmental Policy and Procedures

Town Attorney Stewart reported that nothing substantive would be changed in Title 19. The specific amount of a fee was removed due to its inclusion in the Town’s fee resolution. Planner Mona Green was made the staff member in charge of SEPA reviews, which is her current role.

MOTION: Councilmember Carl Scandella motioned to approve Ordinance No. 598 amending Title 19 of Yarrow Point Municipal Code as presented. Councilmember Andy Valaas seconded the motion.

Vote: 3 For, 0 Against, 0 Abstain. Motion carried.

AB 09-017 – Report on Status of Federal Stimulus Funding

Town Engineer Schroeder reported that she has been working with Mayor Cooper to put forward Town projects that could be eligible for federal economic stimulus funds. At first, a number of agencies and groups were putting together lists of projects for the federal government to consider. No one knew how the funds would be dispensed.

The Town submitted a list of capital improvement projects to the U.S. Conference of Mayors at the end of November 2008. A King County project evaluation committee compiled a list, and this committee reported to a Puget Sound Regional Council committee. Only one of the Town's proposed projects, the 92nd Avenue overlay, qualified for this list. However, Mrs. Schroeder said she does not anticipate the Town will receive funding for the overlay project. Most of the projects funded will be "signature block projects," or larger, more critical needs.

Mrs. Schroeder reported that the Town worked to get on as many lists as possible, including a list compiled by the Association of Washington Cities and Representative Ross Hunter. A sport court and the town fountain project were included on the lists, which generated some media attention and controversy. The Town has since removed these projects from the lists.

Economic stimulus legislation was approved in February. A state Web site lists project criteria and informs officials about where the funds are being distributed. It is possible that some of the Town's projects will qualify. Deadlines are tight, she said. The intent is to distribute 50 percent of the funds within the first 120 days, and the last 50 percent during the remainder of the year. It appears that the funds will be distributed through traditional funding mechanisms.

Mrs. Schroeder also reported on a county opportunity fund grant that the Town recently received for storm water improvements.

AB 09-018 – First Quarter Financial Report – Fiscal Coordinator John Joplin

Fiscal Coordinator John Joplin addressed the Council. He reported that sales tax revenue and utility tax revenue intake has been about the same as last year. However, there is a downward trend for Real Estate Excise Tax revenue. He said he thought he would be reporting that there have been no sales in Yarrow Point so far this year, but in February there were two home sales totaling \$3.5 million.

About \$666,000 is available for projects, but the Town has a loan it is paying back, which means that there is only \$276,000 in discretionary funds. If capital is not building up, this could be a major problem in the future, Mr. Joplin reported. He said he will be formulating a long term capital projection.

Resident Pietromonaco asked if the Town will proceed with plans for a sport court. Councilmember Mushel responded that the Town is collecting construction bids, but the Council has not made a final decision. Mrs. Schroeder reported that bids are competitive.

The amount of money the Town took in during 2007 was substantial, and this year revenue will be down. It would be wise for the Town to be prudent during the economy's downward slide. Eventually the Town may need to consider special levies for capital improvement projects.

Councilmember Valaas briefly discussed prioritization of storm water improvement projects. Councilmember Mushel noted that the Park Board is aware of the Town's capital needs.

ADJOURNMENT:

MOTION: Councilmember Andy Valaas motioned to adjourn at 9:35 p.m.
Councilmember Carl Scandella seconded the motion.

Vote: 3 For, 0 Against, 0 Abstain. Motion carried.

APPROVED:

ATTEST:

Lisa Mushel, Mayor Pro-Tem

Sara McMillon, Clerk-Treasurer