

**TOWN OF YARROW POINT  
COUNCIL MEETING MINUTES**

**June 8, 2010**

**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 David Cooper called the meeting to order at 7:03 p.m.

**MEMBERS PRESENT:**

**Mayor:** David Cooper

**Mayor Pro-Tem:** Lisa Mushel

**Councilmembers:** Carl Scandella  
Tim Dillon  
Bruce Jones  
Roger Myklebust (Excused)

**Staff:** Steve Wilcox – Town Building Official  
Mona Green – Town Planner  
Stacia Schroeder – Town Engineer  
John Joplin – Fiscal Coordinator  
Wayne Stewart – Town Attorney  
Sara McMillon – Town Clerk-Treasurer  
Kyle Kolling – Clyde Hill Police

**Guests:** Kelly Almeleh, Yarrow Point  
Carolyn Whittlesey, Yarrow Point  
David Bostic, Tiger Excavation  
John McGlenn, Yarrow Point  
Ray Jensen, Yarrow Point  
Chris Zervas, Yarrow Point  
Mary Elmore, Yarrow Point  
Jim & Laurie Bugbee, Yarrow Point  
Mick Deal, Hunts Point

**APPEARANCES:**

None.

## **MINUTES:**

*MOTION:* Councilmember Lisa Mushel made a motion to approve the minutes of the regular Town Council meeting May 11, 2010, as presented. Councilmember Tim Dillon seconded the motion.

Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

## **CONSENT CALENDAR:**

Councilmember Scandella asked about an \$8,000 charge from Northwest Civil Solutions for the sport court project. Town Engineer Stacia Schroeder said these charges were for tasks related to preparing plans and other documents for bidding, the bid opening, verification of bids, preparation of materials for the Council packet and meetings with the Mayor concerning the sport court project.

Councilmember Mushel asked for an explanation of an item relating to the installation of grass on NE 47<sup>th</sup> Street. Fiscal Coordinator John Joplin said this item was paid for out of the capital improvement budget as part of the right of way restoration project the Council approved.

*MOTION:* Councilmember Lisa Mushel motioned to approve the Consent Calendar as presented including the payment approval report dated June 4, 2010 approving payments as shown totaling \$49,519.35. Councilmember Carl Scandella seconded the motion.

Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

## **STAFF REPORTS:**

*Fiscal Coordinator John Joplin* – Mr. Joplin reported that he found numerous examples of cities that have set up a fund for private donations. Yarrow Point is permitted to accept private donations. In the Consent Calendar, the Council may have seen a report showing the details of every payment approved this month. This report demonstrates that every check has been accounted for however, it may be confusing. The Council previously asked for a report on expense reduction measures. Due to the length of this evening's agenda, staff could not prepare it in time.

*Town Engineer Stacia Schroeder* – Mrs. Schroeder reported that the City of Bellevue will soon conduct a study to discover the condition of sewer lines in Yarrow Point. A Town standards manual will be created in conjunction with the SR520 project. Councilmember Scandella asked about the status of lighting for the Town Fountain. This work is a line item on the Transportation Improvement Plan (TIP) and can proceed with Council approval of the TIP, Mrs. Schroeder responded.

*Town Planner Mona Green* – Mrs. Green stated that the Town will be reimbursed by the SR520 project for development of the standards manual and for any work that the Town's consultant staff puts into the project. She reported that the Town recently received a grant from the State for

a tree inventory project for trees on public property. The Park Board will be spearheading most of the inventory work.

**REGULAR BUSINESS:**

***AB 10-019 – Public Hearing: Ordinance Adopting New Six Year Transportation Improvement Program***

Town Engineer Schroeder read a memo she wrote that was included in the Council packet:

“State law requires municipalities to annually prepare and adopt a six year Transportation Improvement Program (TIP). The adopted program is to be submitted to the State Department of Transportation and the Puget Sound Regional Council. Each year the Town Engineer prepares a proposed TIP document for public comment and Council consideration. This year’s TIP covers the period 2011-2016 and is presented in the ordinance and exhibit that follows. A notice of public hearing was published and posted for this agenda item. The proposed TIP includes a roadway restoration project and street grinding and asphalt overlays on NE 41<sup>st</sup>, 37<sup>th</sup>, and 36<sup>th</sup> and on 92<sup>nd</sup> Avenue NE.”

Mrs. Schroeder explained some of the cost estimates to the Council. The project considered a priority for 2010 is the “right of way restoration project”, which includes road striping, regulatory and street sign replacement, crack sealing and pothole repair. Fountain lighting and replacing gravel with grass on NE 47<sup>th</sup> Street is also included. The TIP plans for one overlay project per year through 2016. Mayor David Cooper noted that the Town will pay off a loan for the pathway on 92<sup>nd</sup> Avenue by the beginning of 2014. The Town can then secure another loan for improvements.

Mayor Cooper opened the public hearing on the TIP at 7:32 p.m. Resident and Park Board member Kelly Almeleh asked if the fountain lighting would be completed in time for the Fourth of July celebration. Mrs. Schroeder responded that work could begin immediately and if all goes as planned should be complete by the Fourth of July. No one else from the public approached the Council and the public hearing was closed at 7:34 p.m.

*MOTION:* Councilmember Carl Scandella motioned to approve Ordinance No. 611 adopting the Transportation Improvement Program for 2011 through 2016 as presented. Councilmember Bruce Jones seconded the motion.

Councilmember Mushel said she would like the minutes to reflect specifically the projects the Town will proceed with during 2010 and the amount of money involved. Town Clerk Sara McMillon stated that she would include this information in the Minutes.

Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

The Yarrow Point TIP includes a “Right of Way Restoration” project to be completed during 2010. The total project cost is estimated at \$34,600. With 10% added for engineering, the

estimate is \$38,060. With 20% contingency, the estimate is \$45,672. This project includes the following improvements:

- Road Striping on 92<sup>nd</sup> and 95<sup>th</sup> \$3,000
- Street Name and Regulatory Signs \$5,000
- Crack Sealing and Pothole \$20,000
- Gravel to Grass on 47<sup>th</sup> and 42<sup>nd</sup> \$3,600
- Fountain Lighting \$3,000

***AB 10-020 – Preliminary Review of Capital Improvement Program***

Mr. Joplin reported that an overview of the Capital Improvement Program (CIP) is not required at this time, but he wanted the Council to have an idea of where the Town stands financially. It must be adopted before approval of next year’s budget. A couple of years ago the Town was collecting over \$300,000 in Real Estate Excise Tax (REET). REET revenue continues to decline. This year the Town has collected only \$100,000. About \$1,000 a month is being generated that can be used for capital improvements.

Mr. Joplin said \$30,000 from the King County Parks Levy can be used for a regional trail system or acquisition of open space. Yarrow Point would also need to contribute money for any project paid for with levy funds. Mr. Joplin said he is conservatively projecting that in future years the Town will collect about \$100,000 in REET. Mayor Cooper added that Hunts Point is currently receiving no REET revenue. People assume that the economy will improve, but conditions could decline further, he said. The Town soon will not be able to move forward with any capital improvements without loans, grants or other funding, Mr. Joplin said.

If Yarrow Point’s outlook is negative, the Town should not have approved spending money for striping, signage and fountain lighting, Councilmember Mushel said. Councilmember Tim Dillon said some maintenance expenses are necessary for running the Town. The Town should be looking at bigger costs such as the amount paid for police service. A large portion of Yarrow Point’s budget is dedicated to this cost. Mr. Dillon said the Council should make decisions that preserve the quality of life in the Town.

Mrs. Mushel said for as long as she can remember, the Town has not executed any of the projects outlined on the TIP. Mayor Cooper said the Town has a number of infrastructure needs. If the Town continues to delay capital improvement projects, eventually the identified needs will become critical.

***AB 10-021 – Award of Contract for Construction of Town Sport Court***

Town Engineer Schroeder read a summary concerning the sport court she prepared prior to the meeting:

“The Town of Yarrow Point began research and design efforts for a sport court nearly two years ago in mid-2008. Several citizens expressed interest in creating a gathering place for community residents and as the discussion progressed, a public sport court appeared to fit the request. In

December 2008, the Town entered into a contract with JGM Landscape Architects, Inc. to prepare a design/build package for bidding in early spring 2009. ADA access to the court provided challenges during the initial design period. The original project, bid twice in 2009, received only one official bid which exceeded the engineer's estimate. Late in 2009 the Town Council approved the 2010 Budget including \$110,000 for the sport court project. A simplified sport court package was re-bid in April 2010.

At the conclusion of a successful storm water project, the Town of Yarrow Point received four bids for the Sport Court. The engineer's construction estimate (based on the enclosed plans) was \$85,038. After verification, bids received ranged from \$93,622.84 to \$134,661.31. Tiger Construction and Excavation, Inc. submitted the low bid. The remaining bids received are shown on the enclosed Bid Comparison Chart. Pacific Ace, LLC and Construction International, Inc. came in at roughly 25.6% and 31.4% higher than the low bid, respectively.

The total project cost includes not only construction, but design, permitting, bidding, building permit and site development permit fees, special inspections and construction administration. Cumulative totals of these 2010 costs spent-to-date as well as those anticipated to finish the project are shown on the enclosed Budget/ Schedule Projection (05/05/10). Including a 10% contingency, the final cost for the Sport Court is budgeted to be \$130,523. Under the current schedule, project completion would occur by the end of August."

Mrs. Schroeder said the rebounding system can be used for lacrosse practice.

In response to a question from Councilmember Jones, Mayor Cooper said the idea for a sport court was initially conceived in 2008. A survey concerning parks improvements was distributed that year. The results of this survey were included in the Council packet. He said at that time, the nation's economy was stable. The Town did not anticipate the crisis, and a sport court seemed reasonable.

Councilmember Dillon stated that before talking to residents, he was of the opinion that all capital projects should be put on hold until the economy improves. However, he said he is now in favor of moving forward with the new sport court facility. Yarrow Point needs a place where children can get together. He said he envisions the sport court as a place where Town events can be held. Feedback from the community has been supportive of the project.

If the Town does not have sufficient funds, the project could be placed on hold until private donations are collected, Mr. Dillon said. Councilmember Mushel stated that she would like to fund the project with a combination of private donations and public funds. Yarrow Point's financial condition is uncertain, so the project will need to be a partnership. Residents contribute to other Town activities and amenities such as the Fourth of July Celebration and the Wetherill Nature Preserve.

Mayor Cooper said some citizens have expressed a desire to donate to the Town. Councilmember Bruce Jones said he would be willing to contribute. The Council discussed different fundraising techniques. Mayor Cooper said a fundraising committee could be organized.

Resident Carolyn Whittlesey addressed the Council. She said her concern with raising private funds is that she wants everyone to feel equal. She doesn't want any children to feel as if their parents did not give enough. Resident Doug Waddell said he is ok with the idea of raising private funds, but he thinks a goal of 50% private donation funding is too much to expect. Twenty percent would be more realistic. If the project moves forward the Town should have a contingency plan.

Resident Peter Braman said when he approached the Town two years ago asking for a public sport court, people told him it could be done but would probably take forever. Two years is like forever. Mr. Braman said he would really like to see the sport court constructed. He said he would donate to the new Town Fund. Residents receive money from the former Water District, and Mr. Braman said he would be willing to give his portion to the Donations Fund.

Mr. Braman said his children attend private schools, so they don't have the opportunity to get to know kids in the neighborhood who attend public school. A sport court would provide a gathering place for young people. Children have to travel elsewhere for recreation, he said. The Town should raise funds if there aren't currently sufficient funds to do it. Councilmember Mushel said the original cost estimate was \$25,000. The cost has ballooned into \$130,000.

A Yarrow Point youth said young people have to go to Medina or elsewhere to recreate, and it is hard to get a ride. Many young people in Yarrow Point play lacrosse. The sport court would help them to practice. The sport court also would be a benefit all-around.

Resident Kelly Almeleh said plans for a sport court may have officially started moving forward in 2008, but an active use for Morningside Park was mentioned in the 1993 Park Plan. The project was proposed in 2007, and the Park Board was informed that \$50,000 was available in 2008.

Mrs. Almeleh said she is in favor of it for many reasons. Her family owns a sport court at their residence. They use the court for many different types of entertaining and socializing. She knew of someone who moved to Yarrow Point for a brief time while their house was completed in Medina. That person mentioned that there is no place for kids to get together in Yarrow Point. There are many reasons why the court would add value to the community. The project cost is not extremely high. Yarrow Point has spent money on project planning already. She said she would love to see it move forward.

Nick Deal, a Hunts Point resident, said he brought a check to the meeting to write out to the Town of Yarrow Point. He has coached 26 youth teams. Hunts Point shares its park with Yarrow Point, and he would like to see more facilities in the area. Mr. Deal said he attended the meeting to give money. He can get more from his neighbors, he said.

Resident Chris Zervas spoke. Children in Yarrow Point do not have a place to recreate. The Road End Beach is the only place for them to go. The Town needs more parks facilities. If the Town has to raise some money, it should, but he would like to see a new sport court. Resident Lori Bugbee said she grew up in a community with a park about a block away from her home. Putting

in a sport court adds value to property in the Town and would increase revenue. She said she is in favor of moving forward.

Resident Teri Lien said she agrees with everyone in the room. She understands that the Council has a responsibility to make fiscally sound decisions. The Town could come up with different options to pay for it if it does not have the money. She said it's not a question of whether or not residents want it. The question is how to find money to pay for it. The sport court would be a benefit to everyone, now and in the future. Resident Scott Penner said some ideas for generating funds could be devised.

The Council discussed the fundraising goal. Town Attorney Wayne Stewart said the money has been budgeted and is available at this point in time. If the Town wants to attempt a fundraising campaign, that is secondary in nature to moving ahead with the project. Councilmember Jones said his support of the project is contingent on putting together a fundraising effort. Mr. Stewart said fundraising is a subsequent issue. The Council must decide if the Town will or will not approve the contract with the low bidder, Tiger Excavation.

Mayor Cooper said Town staff can work with the Council to form a committee. That committee could decide how the Donations Fund will be set up. Councilmember Carl Scandella said he has the sense that the Town would like to go ahead with the sport court project, so he is willing to commit the funds. A fundraising endeavor could be undertaken during the Fourth of July event.

Councilmember Mushel asked Mr. Stewart what wording to use in the motion. Mr. Stewart said language concerning fundraising efforts should not be included. The motion should be to award a contract to Tiger Excavation in an amount not to exceed a certain number of dollars above the bid. When the motion is stated that way, people will have no motivation to donate.

Mayor Cooper said the Council could vote to reject the bid and then attempt to solicit donations. The bid is only good for another 30 days. Authorizing the contract with Tiger means that the Town is proceeding without knowing for sure if private donations will materialize. Councilmember Scandella said the project is worth doing even if no donations are received. The Town can't sign a contract, but then say the project will only go forward if donations are received. The money for the project is budgeted. He said many people in attendance have pledged funds.

Mayor Cooper said the Town has been dipping into reserve funds. The Town is overall spending more than it is taking in. The Town has deferred projects like road overlays for years, Councilmember Jones said. Mr. Joplin said by moving forward with a sport court project, other projects will be deferred for a long time. Councilmember Mushel said the Town should pay for needed items before unnecessary amenities. Residents support the project, so the Town should build the sport court and then accept donations to pay for it.

*MOTION:* Councilmember Lisa Mushel motioned to authorize the Mayor and Town Attorney to enter into a contract with Tiger Construction and Excavation to construct a sport court as shown on the approved drawings, to a budgeted cost of up to \$130,523. Councilmember Bruce Jones seconded the motion.

Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

***AB 10-022 – Public Hearing: Ordinance Establishing Process for Care, Maintenance, Preservation or Removal of Trees on Public Property***

Town Planner Mona Green said Ordinance No. 612 is the final step needed for Yarrow Point to qualify as a Tree City. It provides for the care, maintenance and removal of trees on public property. The former tree committee and the planning commission are recommending approval of the Ordinance. Members of the Council reviewed the ordinance last month, and this month's version is only slightly different. The ordinance language replaces "Town Arborist" with "an arborist appointed by the Mayor."

Mayor Cooper opened the public hearing on the proposed ordinance at 8:49 p.m.

Resident John McGlenn urged the Council to adopt the ordinance. He said the ordinance is a step in the right direction. Resident Ray Jensen said he was a member of the tree committee. Protecting trees in Yarrow Point is something that must be done. Trees have been an important feature of the community for years. The ordinance helps preserve Yarrow Point's existing character. This ordinance is the first step.

Resident Carolyn Whittlesey said she would like to see the ordinance passed. She said she is in favor of protecting trees, but is also in favor of protecting private property rights.

Mayor Cooper closed the public hearing at 8:51 p.m.

*MOTION:* Councilmember Lisa Mushel motioned to approve Ordinance No. 612 adopting a tree code for trees on public property as presented. Councilmember Bruce Jones seconded the motion.

Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

***AB 10-023 – Ordinance Amending Title 15 of the Municipal Code – Buildings & Construction***

*MOTION:* Councilmember Lisa Mushel motioned to approve Ordinance No. 613 as presented. Councilmember Bruce Jones seconded the motion.

Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

***AB 10-024 – Proposed Animal Services Interlocal Agreement with King County***

Town Attorney Wayne Stewart said signing a contract with King County is the only option for animal services currently available. The City of Bellevue is working on a subregional model, but it is not yet complete. Mr. Stewart recommended the Council authorize the contract with King County with the stipulation that an escape clause be added that allows the Town to terminate the contract within 60 days of written notice.

The Town formerly did not need to pay for animal services because revenue was to come from pet licensing. However, licensing revenue has not been adequate to fund the program. This new contract enables cost recovery by charging municipalities based on use and population. King County officials have stated that the service level will improve.

Mayor Cooper said that due to low usage, Yarrow Point has subsidized the system for years. Under the new contract, King County estimates the Town will need to contribute about \$500 a year in addition to revenue from licensing. Councilmember Mushel suggested that the Town does not need animal services. Without some way of responding humanely to a vicious animal or other similar circumstance, the Town and its citizens may be put at risk, Mr. Stewart said.

Councilmember Tim Dillon said even with the County's disappointing service level, if the Town signs the contract it will not be exposed to liability. No better option is available at this time, Mr. Scandella said.

*MOTION:* Councilmember Bruce Jones motioned to authorize the Mayor and Town Attorney to enter into a 2.5 year contract with King County for animal services with a 60-day termination clause added. Councilmember Tim Dillon seconded the motion.

Vote: 3 For, 1 Against, 0 Abstain. Motion carried. Councilmember Mushel voted against the motion.

#### ***AB 10-025 – Ordinance Increasing Utility Tax Rate to 6%***

Mayor David Cooper read the summary of this agenda item into the record:

“At the March Council study session information was presented demonstrating the increasing decline in General Fund reserves. In April, Town staff presented some ways to reduce costs and bring in additional funds to reverse the downward trend. The Town can increase the utility tax for electric, gas or telephone to 6% with a vote of the Council. Rates for other utilities such as water, sewer and cable television can be increased to over 6% with Council approval.

As presented last month, Town staff proposes to increase the tax rate from 5% to 6% for electric energy, gas, telephone, cable television, garbage collection, water and sewer. These increases would generate approximately an additional \$30,000 more than budgeted.

The Town's original ordinance authorizing a tax refers to a business and occupation tax and requires a business license. This regulation was approved in 1977. Subsequent amending ordinances refer to a utility tax. Staff recommends repealing all previous utility tax ordinances and adopting an updated ordinance.

The new utility tax ordinance contains a referendum clause as recommended by Municipal Research and Services Center of Washington. This is because a utility tax may be considered a business and occupation tax for which a referendum procedure is statutorily required, both when the tax is first imposed and when it is increased. If a citizen files a referendum petition with enough signatures, then a vote of the people is required for any utility tax rate action.”

Mayor Cooper said he has had extensive discussions with Clyde Hill officials concerning utility tax. The Clyde Hill Council reviews the rate on an annual basis to balance the budget. Yarrow Point can also review the rate yearly. Councilmember Mushel asked how the Town is progressing on cost reduction measures. Mr. Joplin said a report could not be prepared in time for this meeting.

Councilmembers discussed the possibility that the Town is not receiving all of the sales tax it should be getting from construction projects. If the Town required a business license, it might be a useful tool. Other cities in the area require a business license. Councilmember Mushel said she is not comfortable increasing taxes until she is confident that the Town has done what it needs to do to cut costs and increase revenue through improved enforcement.

Mr. Joplin said he is uncertain if sales tax money is really misrouted. The state's software clearly identifies specific locations where funds should go to. Mr. Stewart disagreed. He said business owners struggle with sales tax paperwork and bookkeeping. The Town should look into the issue, Mayor Cooper said. Many cities view misrouting of sales tax revenue as an item of concern. The City of Milton has contracted with a company that finds additional revenue and takes a percentage as payment.

Councilmember Scandella said out of respect for constituents, the Town should investigate ways to cut expenses before increasing taxes.

*MOTION:* Councilmember Lisa Mushel motioned to table the item until the July agenda. Councilmember Tim Dillon seconded the motion.

Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

***AB 10-026 – Ordinance Authorizing Payment of Obligations by Check and Designating Town's Public Depository***

Fiscal Coordinator John Joplin explained that a warrant is something that was introduced during the Depression and is no longer widely used. Even if adequate money is not in the bank when a warrant is cashed, the bank will honor the warrant. Mr. Joplin proposed that the Town begin using checks as is most common today. The Council would now approve the checks rather than the payments themselves, but would not notice any difference.

Mr. Joplin also proposed using Banner Bank as the Town's official depository instead of Bank of America. Because Banner Bank was founded in Washington, it has a strong local presence. Account representatives are available immediately, often for a face to face meeting. At the Banner branch located in Kirkland one of the representatives is highly familiar with governmental operations because he used to work as a Treasurer for Benton County, Mayor Cooper said.

One of the Town's financial strengths is that unlike most jurisdictions, it has a very low amount of debt. By 2013, the Town will have paid off its loan that was taken out to pay for the pathway

project. Mr. Joplin said one of the calculations the Town must provide to the State determines how much indebtedness the Town could take on. Based on this calculation, the Town could take on a substantial amount of debt. The Town also has reserves that are invested.

*MOTION:* Councilmember Bruce Jones motioned to approve Ordinance No. 614 as presented. Councilmember Scandella seconded the motion.

Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

**OTHER REPORTS:**

Mayor Cooper said he would be attending an Association of Washington Cities conference at the end of the month at no cost due to a small cities scholarship.

Councilmembers Mushel and Jones reported that they would not be able to attend the August meeting.

**ADJOURNMENT:**

*MOTION:* Councilmember Lisa Mushel motioned to adjourn at 9:50 p.m. Councilmember Tim Dillon seconded the motion.

Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

APPROVED:

\_\_\_\_\_  
David Cooper, Mayor

ATTEST:

\_\_\_\_\_  
Sara McMillon, Clerk-Treasurer