

CITY COUNCIL AGENDA
City Hall, 833 South Spruce Street
7:00 p.m. July 11, 2019

CALL TO ORDER:

Mayor Sexton
Council Members: Aslett, J. DeGloria, R. DeGloria, Edmundson, Loving, and Stavig
Staff: Berner, Blaine, Dempsey, Erickson, Ganz, Hampton, Harrison, Hawes, Brad Johnson,
L. Johnson, Jongsma, Luvera, Morrison, Moser, Nelson, Peterson, Pulst, Rabenstein,
Schwetz, Stewart, Toth, Ward, and Young.

MINUTES:

[City Council Meeting June 27, 2019](#)

AUDIT OF BILLS:

PUBLIC COMMENTS:

COUNCIL COMMENTS:

MAYOR'S UPDATE:

PROCLAMATION:

SPECIAL PRESENTATION:

- 1) Swearing in of Police Officer
- 2) Swearing in of Councilmember Scott K. Green

COMMITTEE & BOARD REPORTS:

OFFICERS REPORTS: TBD

UNFINISHED BUSINESS:

CONSENT AGENDA:

NEW BUSINESS:

- 1) [Sole Source Equipment Purchase for Sewer Operations](#)
- 2) [2019 Budget Amendment # 1](#)
- 3) [Comprehensive Plan Update – Preliminary Adoption of Revised Land Use Element](#)
- 4) [Comprehensive Plan Update – Preliminary Adoption of Revised Housing Element](#)
- 5) [Police Department Rifle Replacement – Phase 1](#)
- 6) Hearing Examiner and Permit Appeals – Discussion Item Only

FUTURE WORKSHOP:

- 1) WORKSHOP Thursday **July 18, 2019** 5:30 p.m.
City Hall, 833 S Spruce Street

EXECUTIVE SESSION:

- An Executive Session may be held to discuss Personnel, Litigation, and/or Land Acquisition.

ADJOURNMENT:

MEETINGS:

- 1) HISTORICAL PRESERVATION BOARD: Tuesday **July 9, 2019** 2:00 p.m.
Parks & Recreation, 900 E Fairhaven Ave
- 2) PUBLIC SAFETY COMMITTEE: Tuesday **July 9, 2019** 4:00 p.m.
Public Safety Building, 311 Cedar Street
- 3) PARKS ADVISORY BOARD: Tuesday, **July 9, 2019** 5:30 p.m.
Parks & Recreation, 900 E Fairhaven Ave
- 4) AUDIT & FINANCE COMMITTEE: Thursday **July 11, 2019** 4:00 p.m.
City Hall, 833 S Spruce Street
- 5) PUBLIC WORKS COMMITTEE: Tuesday **July 16, 2019** 4:00 p.m.
City Hall, 833 S Spruce Street



FUTURE COUNCIL AGENDA

- **2020 Budget SPECIAL Council Workshop July 18, 2019 – 6PM**

Presentation of Non-Represented Employee Compensation Survey Results

City Council Meeting of July 25, 2019

Sewer Line Replacement Contract – Burlington Blvd/Oak Street

Ordinance – Budget Amendment #2 – refinement of 2019 budgeted expenditures

Wastewater Treatment Plant – Sharon Avenue Cured-In-Place Pipe Contract

City Council Meeting of August 8, 2019

Wastewater Treatment Plant – Pine/Greenleaf Alley Sewer Line Replacement Contract

Public Hearing - Parks and Recreation City Code Updates

Potential Ordinance – Creating Computer Rental and Replacement Fund #502

EMS Hub District Interlocal with Skagit County

City Council Meeting of August 22, 2019

Agreement with Skagit Valley College – EMT Student Ride-Alongs

July 2019

July 2019							August 2019						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
7	8	9	10	11	12	13	4	5	6	7	8	9	10
14	15	16	17	18	19	20	11	12	13	14	15	16	17
21	22	23	24	25	26	27	18	19	20	21	22	23	24
28	29	30	31				25	26	27	28	29	30	31

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Jun 30 - Jul 6	Jun 30	Jul 1	2	3	4	5	6
			6:00pm Library Board (Library)		CITY HALL CLOSED		
Jul 7 - 13	7	8	9	10	11	12	13
			2:00pm 3:00pm Historical Preservati 4:00pm Public Safety Committee (Public 5:30pm Parks Board (Parks & Rec Dept)		4:00pm Audit & Finance Committee (6:00pm 7:00pm Council Workshop (Council 7:00pm Council Meeting		
Jul 14 - 20	14	15	16	17	18	19	20
			4:00pm Public Works Committee (Engineering Conf Room)	1:00pm SKAT Board (Burlington City Hall) 5:30pm 7:00pm Planning Commission (Council Chambers)	5:30pm 8:00pm Council Workshop (Council Chambers)		
Jul 21 - 27	21	22	23	24	25	26	27
				9:00am 10:00am Downtown Burlington Association (Visitor Information Center/Chamber of	4:00pm Audit & Finance (City Hall) 7:00pm Council Meeting		
Jul 28 - Aug 3	28	29	30	31	Aug 1	2	3

August 2019

August 2019							September 2019						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
4	5	6	7	8	9	10	1	2	3	4	5	6	7
11	12	13	14	15	16	17	8	9	10	11	12	13	14
18	19	20	21	22	23	24	15	16	17	18	19	20	21
25	26	27	28	29	30	31	22	23	24	25	26	27	28
							29	30					

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	Jul 28	29	30	31	Aug 1	2	3
Jul 28 - Aug 3							
	4	5	6	7	8	9	10
Aug 4 - 10		5:30pm Parks Board (Parks & Rec Dept) - Judy Sheahan	6:00pm Library Board (Library)		4:00pm Audit & Finance Committee (City Hall) 7:00pm Council Meeting		
	11	12	13	14	15	16	17
Aug 11 - 17			4:00pm Public Safety Committee (Public Safety Building)		6:00pm 8:00pm Budget & Finance Council Workshop (Council Chambers)	8:30am 9:00am United Way Board Meeting (Council Chambers)	
	18	19	20	21	22	23	24
Aug 18 - 24			4:00pm Public Works Committee (Engineering Conf Room)	1:00pm SKAT Board (Burlington City Hall) 5:30pm 7:00pm Planning Commissio 7:00pm 9:00pm Planning Commissio	4:00pm Audit & Finance (City Hall) 7:00pm Council Meeting		
	25	26	27	28	29	30	31
Aug 25 - 31				9:00am 10:00am Downtown Burlington Association (Visitor Information Center/Chamber of			



ITEM #: 1

CHECK ONE:

NEW BUS. X

OLD BUS. _____

AGENDA ITEM

Council Date: July 11, 2019 Subject: [Sole Source Equipment Purchase for](#)

Submitted By: Marv Pulst, Public Works Director [Sewer Operations](#)

Attachments: Proposed Resolution Public Hearing Required: YES () NO (X)

HISTORY AND SUMMARY

This proposed resolution would authorize the purchase of Bioxide for Sanitary Sewer operations. Evoqua Water Technologies sells Bioxide as a means to eliminate the odor, corrosion and safety problems associated with hydrogen sulfide in sewage. Bioxide is a unique, proven product because it achieves sewage odor control naturally, rather than chemically. As a result, Bioxide both removes dissolved hydrogen sulfide and prevents its formation.

ALTERNATIVES CONSIDERED

Evoqua Water Technologies is the only authorized dealer for Bioxide in our area, and any advertisement for bids would result in a single bid from them.

CURRENT AND FUTURE BUDGET RAMIFICATIONS

This type of action is within the expected range of routine maintenance activities budgeted for annually within the sewer fund.

LEGAL ASPECTS – LEGAL REVIEW

Burlington Municipal Code 2.84.450 permits sole source procurement where goods are only available from one supplier or a certain brand name is better suited to the city's needs.

STAFF RECOMMENDATION

Staff recommends approval of resolution for sole source purchase of Bioxide since one supplier is available.

SUGGESTED COUNCIL MOTION LANGUAGE

Motion to approve a sole source resolution for the purchase of bioxide for sewer operations and authorize the Mayor's signature.



ITEM #: 2

CHECK ONE:

NEW BUS. X

OLD BUS. _____

AGENDA ITEM

Council Date: July 11, 2019 Subject: [2019 Budget Amendment #1](#)

Submitted By: Greg Young, City Administrator

Attachments: Ordinance Amending the 2019 Budget

Public Hearing Required: YES () NO (X)

Budget Amendment #1 Excel Worksheet

Budget Amendment #1 – Detail Backup of Accrual to
Cash Invoices for General Fund

Budget Amendment #1 – Detail of ER&R Revenue

Transfer In Amendment

HISTORY AND SUMMARY

The City has gone through a multi-month finance effort to reverse the accounting entries related to moving from purely Cash-Basis to a Modified Accrual-Basis for 2017 and 2018. This has resulted in two recommended changes to our 2019 accounting records which are reflected on 2019 Budget Amendment #1 – First, certain accounting entries booked in 2018 are now booked into 2019. This has changed our ending 2018 fund balances (and thus beginning 2019 balances). The second change is a revision to budgeted revenue transfers into the ER&R Fund to a) partially offset the cost of the cash purchase of the Quint and b) provide sufficient revenue for budgeted ER&R purchases in 2019.

Note that this will be the first of two or more budget amendments for 2019 – this first one gets our beginning balances correct, puts expense in the proper year, and adequately funds ER&R. The next budget amendment (scheduled for July 25th meeting) will be to bring forward reductions in various General Fund line items to better align our 2019 budget to historically accurate expenditure amounts.

ALTERNATIVES CONSIDERED

With the desire to move back to the more appropriate Cash Basis of accounting prescribed by the State Auditor's Office, there was no viable alternative other than the city going through the recent finance efforts resulting in the 2019 Budget Amendment #1.

CURRENT AND FUTURE BUDGET RAMIFICATIONS

This 2019 Budget Amendment will 1) replace the estimated (budgeted) 2019 beginning fund balances with the actual beginning balances for all funds of the city, 2) puts past expenditures into their proper year, and 3) adjust revenue transfers into the ER&R Fund to provide adequate funding and ending balances.

Also, as stated in the History section, we will be bringing Budget Amendment #2 to our meeting of July 25th which will be a reduction in General Fund budgeted expenses – we believe that Budget Amendment #2 will reduce 2019 authorized expenditures by an amount much greater than the changes proposed in Budget amendment #1.

LEGAL ASPECTS – LEGAL REVIEW

By state law, cities of our size use the Cash-Basis of accounting as prescribed by the Washington State Auditor's Office. The efforts this year to reverse the Accrual-Based accounting entries will return us to an accounting system used in the past by Burlington and by other cities of similar size. This will bring year-to-year budgeting into accordance with state law and Auditor's guidance.

STAFF RECOMMENDATION

After review of the recommended budget amendments, pass 2019 Budget Amendment #1

SUGGESTED COUNCIL MOTION LANGUAGE

"I move to approve to approve the Ordinance for the 2019 Budget Amendment #1"



ITEM #: 3

CHECK ONE:

NEW BUS. X

OLD BUS. _____

AGENDA ITEM

Council Date: July 11, 2019 Subject: [Comprehensive Plan Update – Preliminary Adoption of Revised Land Use Element](#)

Submitted By: Community Development, Brad Johnson

Attachments: 1 – Planning Commission Recommendation Public Hearing Required: YES () NO (X)
2 – Draft Land Use Element
3 – Development Capacity Report
4 – Proposed Resolution

HISTORY AND SUMMARY

Cities are required by the Washington State Growth Management Act (GMA) to adopt a comprehensive plan. Cities are also required to review and update their comprehensive plans on an eight year cycle. Burlington last completed an update in 2005 and was required to complete another update by June of 2016. The City’s comprehensive plan update is behind schedule and must be completed as soon as possible.

By law a city’s comprehensive plan must include a number of “elements” including; land use, housing, capital facilities, utilities, transportation, economic development, and parks. These elements are essentially chapters and each one addresses a specific topic. The Planning Department has completed a draft Land Use Element for Council’s consideration. The draft Land Use Element is intended to codify current city practices, and to reflect comments made by the Planning Commission, City Council, City departments and the public. The draft Land Use Element also incorporates decisions previously made by the Planning Commission on land use, housing, and critical areas.

ALTERNATIVES CONSIDERED

1. Do nothing: Under this alternative the City would not update its comprehensive plan. Decisions would be made without the benefit of a coherent long term strategy and the City would be ineligible State grants and other funding sources.
2. Develop an alternative land use strategy: The draft Land Use Element contains a strategy for addressing legal requirements and accommodating growth in the most cost effective, least disruptive way possible. It calls for concentrating commercial and residential growth in centrally located areas, primarily along the Burlington Boulevard corridor. Alternatives would either not

comply with State law or would involve distributing growth more broadly throughout the City's existing neighborhoods.

CURRENT AND FUTURE BUDGET RAMIFICATIONS

This action involves adopting a resolution in support of a draft document. Final adoption of the comprehensive plan will occur at a later date. This action will not have any direct impact on the City's budget. By adopting an updated comprehensive plan the City will again be eligible for State grants and funding sources. The proposed Land Use Element is intended to control future City expenses by concentrating growth in areas where infrastructure, services, and utilities already exist. Also, the Land Use Element promotes residential development in commercial areas. This action is intended to increase the number of customers available to support the City's retail and service businesses, thereby stabilizing or increasing sales tax revenue.

LEGAL ASPECTS – LEGAL REVIEW

This is a preliminary action only and is not subject appealable.

STAFF RECOMMENDATION

Adopt a resolution in support of the draft Land Use Element

SUGGESTED COUNCIL MOTION LANGUAGE

1. Adopt the resolution: ***"I make a motion to adopt the Planning Commission's recommendation dated February 20, 2019 and authorize the Mayor to sign the attached resolution"***.
2. Remand the Planning Commission's recommendation for further work: ***"I make a motion to remand the Planning Commission's recommendation for further work and direct the Planning Commission to address the following concerns"***. (If Council chooses this option they should identify specific areas of concern for the Planning Commission to address)



ITEM #: 4

CHECK ONE:

NEW BUS. X

OLD BUS. _____

AGENDA ITEM

Council Date: July 11, 2019 Subject: [Comprehensive Plan Update – Preliminary Adoption of Revised Housing Element](#)

Submitted By: Community Development, Brad Johnson

Attachments: 1 – Planning Commission Recommendation Public Hearing Required: YES () NO (X)
2 – Draft Housing Element
3 – Housing Report
4 – Proposed Resolution

HISTORY AND SUMMARY

Cities are required by the Washington State Growth Management Act (GMA) to adopt a comprehensive plan. Cities are also required to review and update their comprehensive plans on an eight year cycle. Burlington last completed an update in 2005 and was required to complete another update by June of 2016. The City's comprehensive plan update is behind schedule and must be completed as soon as possible.

By law a city's comprehensive plan must include a number of "elements" including; land use, housing, capital facilities, utilities, transportation, economic development, and parks. These elements are essentially chapters and each one addresses a specific topic. The Planning Department has completed a draft Housing Element for Council's consideration. The draft Housing Element is intended to codify current city practices, and to reflect comments made by the Planning Commission, City Council, City departments and the public. More specifically the draft Housing Element is intended to address the issues outlined in a report on housing conditions dated October 15, 2018.

ALTERNATIVES CONSIDERED

1. Do nothing: Under this alternative the City would not update its comprehensive plan. Decisions would be made without the benefit of a coherent long term strategy and the City would be ineligible State grants and other funding sources.
2. Develop an alternative housing strategy: The draft Housing Element contains a strategy for addressing legal requirements and accommodating growth in the most cost effective, least disruptive way possible. It calls for reconciling the City's capacity to accommodate additional residential growth with projected market conditions by permitting additional attached housing development in centrally located areas, primarily along the Burlington Boulevard corridor. Market

rate housing prices would be controlled by ensuring the City's policies and regulations do not artificially constrain the production of needed housing types. Alternatives to this strategy would likely involve greater public sector involvement in the provision of housing.

CURRENT AND FUTURE BUDGET RAMIFICATIONS

This action involves adopting a resolution in support of a draft document. Final adoption of the comprehensive plan will occur at a later date. This action will not have any direct impact on the City's budget. By adopting an updated comprehensive plan the City will again be eligible for State grants and funding sources. The Housing Element is intended to control future City expenses by concentrating housing growth in areas where infrastructure, services, and utilities already exist. Residential development will be encouraged in commercial areas which may increase the number of customers available to support the City's retail and service businesses, thereby stabilizing or increasing sales tax revenue.

LEGAL ASPECTS – LEGAL REVIEW

This is a preliminary action only and is not subject appealable.

STAFF RECOMMENDATION

Adopt a resolution in support of the draft Housing Element.

SUGGESTED COUNCIL MOTION LANGUAGE

1. Adopt the resolution: ***“I make a motion to adopt the Planning Commission’s recommendation dated February 20, 2019 and authorize the Mayor to sign the attached resolution”.***
2. Remand the Planning Commission’s recommendation for further work: ***“I make a motion to remand the Planning Commission’s recommendation for further work and direct the Planning Commission to address the following concerns”.*** (If Council chooses this option they should identify specific areas of concern for the Planning Commission to address)



ITEM #: 5

CHECK ONE:

NEW BUS. X

OLD BUS. _____

AGENDA ITEM

Council Date: July 11, 2019 Subject: [Police Department Rifle Replacement – Phase 1](#)

Submitted By: Mike Luvera, Police Chief

Attachments: Summary of multiple quotes with compiled final price Public Hearing Required: YES () NO (X)

HISTORY AND SUMMARY

In 2018 we completed the replacement purchase and issuance of handguns. In 2019 we budgeted \$18,000 dollars as phase 1 for the replacement of rifles. This submission reflects the replacement of 14 rifles and associated equipment. The purchase will include rail mounts, optics and slings. Some of these rifles are approximately 15 years old and have gone beyond industry standards.

ALTERNATIVES CONSIDERED

We elected to do firearm replacement in phases. This way future replacement can be spread out over several budget cycles.

CURRENT AND FUTURE BUDGET RAMIFICATIONS

This is the first of an anticipated three phase cycle in order to complete the rifle replacement. Funding each phase will be similar but it is noted that rifle and equipment purchase costs can increase and trade in values are driven by the market at the time.

LEGAL ASPECTS – LEGAL REVIEW

Purchases and trade-in done through a Federally Licensed dealer, Adamson, who is familiar with law enforcement purchases. Adamson is the company that we used to purchase our handguns and have proven to be very reliable.

STAFF RECOMMENDATION

Authorize the purchase of patrol rifles as has been budgeted for 2019. Summary of the firearm and associated costs are attached. Firearms will be purchased through Adamson Police Supply and the other equipment through other police supply companies.

SUGGESTED COUNCIL MOTION LANGUAGE

“I move to approve the purchase of police rifles and associated rifle equipment in the amount of \$12,925 dollars”



ITEM #: 6

CHECK ONE:

NEW BUS. X

OLD BUS. _____

AGENDA ITEM

Council Date: July 11, 2019 Subject: Hearing Examiner and Permit Appeals –

Submitted By: Greg Young, Interim City Administrator Discussion Item Only

Attachments: None Public Hearing Required: YES () NO (X)

HISTORY AND SUMMARY

The City has adopted the use of a Hearings Examiner to take testimony, accept evidence and develop the legal record (subject to appeal) for certain permits. Class 1 and Class 2 permits are approved administratively by staff (subject to appeal to superior court) and Class 3 Permits (conditional use permits) are approved (or denied) by the Hearings Examiner subject first to appeal to the City Council and then potentially appealable to Superior Court.

It is understood that the Council wished to retain the appeal role in Class 3 permits to allow aggrieved citizens a “local option” prior to taking their claims to court.

As we have recently experienced with an appeal of a conditional use permit for a church on Fairhaven, the Council was required to hold a “closed record appeal” that did not allow new testimony or evidence and relied solely on the records (written and verbal) developed by the Hearings Examiner during his deliberations. As was noted during the appeal to Council, only if the Council felt that the Hearings Examiner erred in his legal interpretation of City Code, could they alter the outcome. In the end, no legal error was identified and the Council upheld the Hearings Examiner decision.

Staff feels that both the Council and appellants left the proceedings frustrated and unsatisfied. We would like to discuss the current process by which we allow appeals of Hearings Examiner permit decisions to the City Council and explore if it achieves the local-review function as originally intended.

It may be more appropriate to remove the Council from a process that seldom changes the Hearings Examiner permit decision, in some instances potentially holds out false hope for those wishing to change the Hearings Examiner interpretation of City Code, and limits the Council's review to those arguments and pieces of evidence already reviewed by the Hearings Examiner.

ALTERNATIVES CONSIDERED

The Council can 1) ask staff to bring back changes to City Code that removes the Council from this appeal role or 2) keep existing City Code unchanged, or potentially 3) cease the use of the Hearings Examiner.

CURRENT AND FUTURE BUDGET RAMIFICATIONS

None identified

LEGAL ASPECTS – LEGAL REVIEW

Staff feels that the reasons for adopting the Hearings Examiner process, from a legal standpoint, were sound as these types of quasi-judicial proceedings are best conducted by someone who has formal legal training. Since it is the formal record, compiled during the Hearings Examiner proceedings that could potentially end up in court for review, the Hearings Examiner is well positioned to complete this task. Since adopting the Hearings Examiner process, staff feels that it has lessened the legal liability of the City and better ensured that fair and legally defensible decisions have been made.

STAFF RECOMMENDATION

Staff recommends that the Council take this opportunity to discuss the intended vs. actual outcomes stemming from their involvement these types of appeals.

SUGGESTED COUNCIL MOTION LANGUAGE

Since this is intended to be a discussion only, no formal motion will be required. Staff will move it whatever direction the Council desires.