



**CITY OF EDGEWOOD  
REGULAR COUNCIL MEETING AGENDA**

Tues., January 24, 2017 – 7:00 pm. ♦ City Hall – 2224 104<sup>th</sup> Avenue East ♦ Edgewood, WA

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**1. CALL TO ORDER**

Pledge of Allegiance, Roll Call, Additions/Deletions

**2. AUDIENCE COMMENT**

**3. MAYOR'S REPORT**

**4. CONSENT AGENDA**        *S J consent agenda includes items that are routine in nature and are adopted by one motion. Should Council wish to discuss a consent agenda item, the item would be removed from the consent agenda and discussed under Council Business.*

The following items are presented for Council approval:

**A.** Regular City Council Meeting Minutes of January 10, 2017

**B.** Study Session Meeting Minutes of January 17, 2017

**C. AB 17-003**, a motion approving December 2016 (Period 13) and January 2017 Budgeted Expenditures as follows: Nationwide Retirement Solutions Check Numbers 10590-10591 in the amount of \$4,454.78; IRS 941 ACHs; Deferred Compensation Program; Dept. of Retirement Systems and Payroll Direct Deposit in the amount of \$46,362.37; and Vendor Check Numbers 21773-21807 with EFT Payments in the amount of \$576,391.86. Total distributions submitted for review & authorization in the amount of \$627,209.01.

**5. COUNCIL BUSINESS**

**A. AB 17-0488**        *S motion to accept a second reading and adoption of Ordinance No. 17-0488, regulating the use of the Right-of-Way, for Public and Private Utilities; adding an alternative, annual permitting process for work within the City right of way; adding cost reimbursement provisions; clarifying when application for right of way permits are required; referencing the city's fee resolution as established by the City Council, amending Sections 12.06.010, 12.06.020, 12.06.070, 12.06.070, 12.06.080, 12.06.090, 12.06.095, 12.06.100, 12.06.110 and 12.06.120 of the Edgewood Municipal Code and establishing an effective date*

**6. COUNCIL COMMENTS**

**7. EXECUTIVE SESSION**

**8. ADJOURN**



**CITY OF EDGEWOOD  
REGULAR COUNCIL MEETING SUMMARY**

Tues., January 10, 2017 – 7:00 p.m. ♦ City Hall – 2224 104<sup>th</sup> Avenue East ♦ Edgewood, WA

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**1.  CALL TO ORDER**

Mayor Eidinger called the meeting to order at 7:00pm. Student, Brittany Carey from Puyallup High School led the attendees in the Pledge of Allegiance.

**ROLL CALL**

**Present:** Mayor Daryl Eidinger (Not voting), Councilmember Donna O'Ravez, Councilmember Mark Creley, Councilmember Luke Meyers, Deputy Mayor Tyron Christopherson, Councilmember Stephanie Shook, Councilmember Rosanne Tomin, Councilmember Nate Lowry.

**Staff Present:** Assistant City Administrator Dave Gray, Assistant City Administrator Aaron Nix, City Clerk Rachel Pitzel, Community Development Director Kevin Stender, Police Chief Micah Lundborg, Carol Morris, City Attorney.

**Additions/Deletions to the Agenda**

There were no additions or deletions to the agenda.

**2. PRESENTATION**

**Prosecuting Attorney, Mark Lindquist**

Mr. Lindquist briefed Council on the following: High Offender Priority Program; Elder Abuse Unit; Gang Unit and Human Trafficking.

**3. PUBLIC HEARING**

**Chapter 12.06 Right of Way Franchises and Permits for public and private utilities; adding an alternative, annual permitting process for work within the City right of way; cost reimbursement provisions; when application of right of way permits are required**

Mayor Eidinger briefed read the rules for the hearing.

Mayor Eidinger opened the public hearing at 7:14pm.

Assistant City Administrator Aaron Nix gave an update on Chapter 12.06 Right of Way Franchises and permits for public and private utilities and noted the revisions. Noted there are limitations as far as permitting process and turn-around time for telecommunications franchises.

Mayor Eidinger asked for public comments. There were no comments made. There were no additional staff comments.

Mayor Eidinger closed the public hearing at 7:17pm.

**4. AUDIENCE COMMENT**

There were no audience comments.

**5. MAYOR'S REPORT**

Mayor Eidinger spoke about the following:

- Staffing changes;
- Chief Micah Lundborg has started on January 2<sup>nd</sup>;

- Carol Morris introduction;
- Outdoor Movie Night dates: July 21<sup>st</sup> and August 11<sup>th</sup>;
- Recap on work on Jovita;
- Attended South Sound Chamber breakfast;
- Chief and Mayor met with local school principals to talk about school safety;
- Thanked Old Coots on Scoots for helping to take down the Christmas decorations.

ACA Nix discussed Phase I of Westridge; noted Phase II to begin early summer. He also stated that there will be a lot of code updates coming Council's way in the near future.

Community Development Director discussed a code enforcement issue.

Chief Lundborg briefed on the following:

- Discussed learning his new role and expectations;
- Meeting with business owners and the public;
- Crime incidents.

CM Meyers asked for an update on the IED incident at Good Samaritan Hospital.

## 6. CONSENT AGENDA

*The consent agenda includes items that are routine in nature and are adopted by one motion. Should Council wish to discuss a consent agenda item, the item would be removed from the consent agenda and discussed under Council Business.*

The following items are presented for Council approval:

- A. Regular City Council Meeting Minutes of December 13, 2016
- B. Study Session Meeting Minutes of December 20, 2016
- C. Study Session Meeting Minutes of January 3, 2017
- D. **AB17-002**, a motion approving December 2016 (Period 13) and January 2017 Budgeted Expenditures as follows: Nationwide Retirement Solutions Check Numbers 10586-10589 in the amount of \$8,607.08; IRS 941 ACHs; AWC Employee Benefit Trust; Deferred Compensations Program; Dept. of Retirement Systems; Employment Security Department; Dept. of Labor & Industry and Payroll Direct Deposit in the amount of \$112,919.89; and Vendor Check Numbers 21731-21772 with EFT Payments in the amount of \$394,347.77. Total distributions submitted for review & authorization in the amount of \$515,874.74.

**Motion:** As Read, **Action:** Approve, **Moved by** Councilmember Rosanne Tomy, **Seconded by** Deputy Mayor Tyron Christopherson. **Motion passed unanimously (7-0).**

## 7. COUNCIL BUSINESS

- A. **AB 17-0354**, a motion to approve Resolution No. 17-0354, authorizing the Mayor to execute an agreement for City Attorney Services with Carol Morris of Morris Law, P.C. as City Attorney

Assistant City Administrator Gray briefed on the agenda item.

**Motion:** As Read, **Action:** Approve, **Moved by** Councilmember Stephanie Shook, **Seconded by** Councilmember Rosanne Tomy. **Motion passed unanimously (7-0).**

- B. AB 17-0355**, a motion to approve Resolution No. 17-0355, authorizing the Mayor to declare the Sharp MX6240N Color MFP Copier as surplus, and administer the donation or sale of the item

Assistant City Administrator Gray briefed on this agenda item.

**Motion:** As Read, **Action:** Approve, **Moved by** Councilmember Donna O'Ravez, **Seconded by** Councilmember Stephanie Shook. **Motion passed unanimously (7-0).**

- C. AB 16-0485**, a motion to adopt (Version A or Version B) of Ordinance No. 16-0485, granting unto Mt. View-Edgewood Water Company, a non-profit corporation of the State of Washington, its successors and assigns, the right, privilege, authority and nonexclusive franchise, to construct, maintain, operate, replace and repair water system infrastructure, in, across, over, along, under, through and below the public rights-of-way of the City of Edgewood, providing for severability; and establishing an effective date

Councilmember Meyers recused himself from the meeting:

*“For the record, I am an official/employee of the Mt. View- Edgewood Water Co. as a Board Member. My compensation for this position is comprised exclusively of a fixed salary; I receive no bonus or any other contingent payment from this organization. I understand further that the total amount received by MTVE for the City under the franchise does not exceed \$1,500/month or \$18,000/year.*

*Based upon these facts, and my consultation with the City Attorney, I am recusing myself from any participation in the Council’s discussions and vote on this subject, and I will leave the Council Chamber for the duration of the Council’s deliberations. I would ask the City Clerk to note this disclosure in the minutes, as required by law. For the record, I have refrained - and will continue to refrain - from attempting to influence the votes of other Councilmembers.”*

Assistant City Administrator Nix briefed on this agenda item.

Public comment from Don Nelson who is the President of MTVE and noted they are okay with either version of the franchise agreement.

**Motion:** Adopt Version A Franchise agreement, **Action:** Approve, **Moved by** Deputy Mayor Tyron Christopherson, **Seconded by** Councilmember Rosanne Tomy. **Motion passed unanimously (6-0).**

## 8. COUNCIL COMMENTS

Mayor Eidinger asked if the Council if they would like to cancel the 31<sup>st</sup> study session.

**9. EXECUTIVE SESSION**

There was no executive session.

**10. ADJOURN**

Mayor Eidinger adjourned the meeting at 7:55 pm.

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Rachel Pitzel, City Clerk

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Daryl Eidinger, Mayor



**CITY OF EDGEWOOD  
COUNCIL STUDY SESSION SUMMARY**

Tues., January 17, 2017 – 7:00 PM ♦ City Hall – 2224 104<sup>th</sup> Avenue East ♦ Edgewood, WA

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**1.  CALL TO ORDER**

Mayor Eiding called the meeting to order at 7:00pm and Councilmember O’Ravez led attendees in the Pledge of Allegiance.

**ROLL CALL**

**Present:** Mayor Daryl Eiding (Not voting), Councilmember Donna O’Ravez, Councilmember Mark Creley, Councilmember Luke Meyers, Deputy Mayor Tyron Christopherson, Councilmember Rosanne Tomyn, Councilmember Nate Lowry. **Excused:** Councilmember Stephanie Shook.

**Staff Present:** Assistant City Administrator Dave Gray, Assistant City Administrator Aaron Nix, City Clerk Rachel Pitzel, Community Development Director Kevin Stender.

**2. COUNCIL BUSINESS**

**A. Presentation / Discussion** – Puyallup School District, Brian Devereux

Community Development Director Kevin Stender noted he did not ask Mr. Devereux to bring a presentation, but to be here to be able to answer any questions that Council may have on the project of Northwood Elementary School. Mr. Devereux explained the project and the materials that were in the packet for Council.

Discussion followed between staff and the Council.

**B. Review/Discussion** – School Impact Fees

Community Development Director Kevin Stender and Assistant City Administrator Aaron Nix briefed Council on this agenda item and discussed the breakdown of the current and proposed fees for single family and multi-family development.

Discussion followed between staff and the Council.

**Council action:** Council recommended staff to keep the single family residential fee at the current MFO (Maximum Fee Obligation) rate of \$3,500 per unit, which is consistent with surrounding jurisdictions set fee and the County’s CPI determination; and raise the multi-family residential MFO to \$2,000 per unit, which is consistent with the request of the various jurisdictions from their Capital Facilities Plans; and to set a public hearing on this issue.

**C. Review/Discussion** – Traffic Impact Fees

Assistant City Administrator Aaron Nix and Community Development Director Kevin Stender briefed Council on this agenda item.

Discussion followed between staff and the Council.

**Council action:** Council recommended staff to look at the Traffic Impact Fee Schedule at the next Study Session.

**D. Review/Discussion** – Chapter 12.06 ROW Franchises and Permits for public private utilities

Assistant City Administrator Aaron Nix briefed Council on this agenda item.

Discussion followed between staff and the Council.

Councilmember Lowry asked if section 12.06.095(D) Notice, could reflect two (2) business days during business hours - instead of the 48 hour notice.

### **3. OTHER COUNCIL ISSUES**

Mayor Eidinger reminded Deputy Mayor Christopherson and the rest of Council that Saturday, January 21<sup>st</sup> will be our very first “Connect over Coffee” here at City Hall 9:30am-11:30am.

Mayor Eidinger recapped the Social Media Seminar that was held last Friday, January 13.

Councilmember Meyers discussed a Lidar portal link from the Department of Natural Resources Division; he noted it would be beneficial to add to the website: <http://lidarportal.dnr.wa.gov/> .

### **4. ADJOURN**

Mayor Eidinger adjourned the meeting at 8:35pm.

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Rachel Pitzel, City Clerk

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Daryl Eidinger, Mayor



**CITY OF EDGEWOOD  
REQUEST FOR COUNCIL ACTION  
Agenda Bill No.: 17-003**

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**Date Action Requested:** January 24, 2017

**Title:** **AB 17-003**, a motion approving December 2016 (Period 13) and January 2017 Budgeted Expenditures as follows: Nationwide Retirement Solutions Check Numbers 10590-10591 in the amount of \$4,454.78; IRS 941 ACHs; Deferred Compensation Program; Dept. of Retirement Systems and Payroll Direct Deposit in the amount of \$46,362.37; and Vendor Check Numbers 21773-21807 with EFT Payments in the amount of \$576,391.86. Total distributions submitted for review & authorization in the amount of \$627,209.01.

**Attachments:** Payment Distribution Review & Authorization, Voucher Directory

**Submitted By:** Dave Gray, Assistant City Administrator, Finance

**Approved For Agenda By:** Mayor Daryl Eiding

**Prepared For Agenda By:** Rachel Pitzel, City Clerk

**Recommendation:** Move to Approve AB17-003

**Discussion:** Approval of Claims and Payroll Expenditures.

**Alternatives:** 1) Do not approve. 2) Refer to Council Study Session for Further Review.

**Fiscal Impact:** An increase in the sum of \$627,209.01 to authorized Budgeted Expenditures.



Number	Name	Print Date	Amount
<b>US Bank PAYROLL ACCOUNT DISTRIBUTION</b>			
<b>10589 Last Number Issued Previous Authorization</b>			
<u>10590</u>	Nationwide Retirement Solutions-401	1/13/2017	\$4,417.28
<u>10591</u>	Nationwide Retirement Solutions-Council	1/13/2017	\$37.50
		<b>Total</b>	<b>\$4,454.78</b>
<u>DCP 1/15/17</u>	Deferred Compensation Program	1/13/2017	\$1,158.78
<u>Direct Deposit Run -</u>	Payroll Vendor	1/13/2017	\$33,253.54
<u>DRS 1/15/17</u>	Dept of Retirement Systems	1/13/2017	\$6,453.44
<u>IRS 941 1/15/17</u>	IRS 941	1/13/2017	\$5,496.61
		<b>Total</b>	<b>\$46,362.37</b>
		<b>Grand Total</b>	<b>\$50,817.15</b>

Number	Name	Print Date	Amount
<b>CLAIM VOUCHER ACCOUNT DISTRIBUTION</b>			
<b>21772 Last Number Issued Previous Authorization</b>			
<u>21773</u>	City of Fife	1/24/2017	\$8,939.22
<u>21774</u>	City of Sumner	1/24/2017	\$992.00
<u>21775</u>	Copiers Northwest	1/24/2017	\$68.78
<u>21776</u>	East Pierce Fire & Rescue	1/24/2017	\$6,437.60
<u>21777</u>	Foster Pepper PLLC	1/24/2017	\$995.00
<u>21778</u>	Gray & Osborne, Inc	1/24/2017	\$15,811.10
<u>21779</u>	Lakehaven Water & Sewer District	1/24/2017	\$82.56
<u>21780</u>	Landau Associates	1/24/2017	\$17,708.48
<u>21781</u>	McCarthy & Causseaux	1/24/2017	\$1,618.83
<u>21782</u>	PanGEO, Inc.	1/24/2017	\$3,438.48
<u>21783</u>	Philips Publishing Group	1/24/2017	\$4,887.83
<u>21784</u>	Pierce County Budget & Finance PW	1/24/2017	\$70,167.04
<u>21785</u>	Puget Sound Energy	1/24/2017	\$1,444.73
<u>21786</u>	Reimer, Michael	1/24/2017	\$70.00
<u>21787</u>	RW Scott	1/24/2017	\$373,183.83
<u>21788</u>	Sewall Wetland Consulting, Inc.	1/24/2017	\$1,400.00
<u>21789</u>	Shred-it	1/24/2017	\$586.96
<u>21790</u>	Smarsh, Inc.	1/24/2017	\$171.55
<u>21791</u>	State Auditor's Office	1/24/2017	\$2,420.60
<u>21792</u>	State Treasurer's Office	1/24/2017	\$428.00
<u>21793</u>	Walter Ann Designs	1/24/2017	\$1,444.08
<u>EFT Payment 1/18/2017</u>	Shell	1/24/2017	\$278.67
<u>EFT Payment 1/18/2017</u>	US Bank Corporate Payment System	1/24/2017	\$9,878.31
<u>21794</u>	A & R Services dba Angela Rojo	1/24/2017	\$785.00
<u>21795</u>	All Purpose Door Repair, Inc.	1/24/2017	\$248.34
<u>21796</u>	Century Link	1/24/2017	\$209.55
<u>21797</u>	City of Edgewood	1/24/2017	\$6,500.00
<u>21798</u>	Code Publishing Inc.	1/24/2017	\$430.41
<u>21799</u>	DLT Solutions LLC	1/24/2017	\$7,549.23
<u>21800</u>	Flags A' Flying & Banners Too!	1/24/2017	\$199.23
<u>21801</u>	Form Source, Inc.	1/24/2017	\$288.93
<u>21802</u>	Int'l Inst.of Municipal Clerks	1/24/2017	\$185.00
<u>21803</u>	Outdoor Escapes LLC	1/24/2017	\$82.05
<u>21804</u>	Pierce County Budget & Finance PW	1/24/2017	\$29,716.90
<u>21805</u>	Puget Sound Clean Air Agency	1/24/2017	\$6,734.00
<u>21806</u>	Puget Sound Regional Council	1/24/2017	\$387.55
<u>21807</u>	Wa. Assoc. of Bldg. Officials	1/24/2017	\$95.00
<u>EFT Payment 1/18/2017</u>	Wells Fargo Financial Leasing	1/24/2017	\$85.53
<u>EFT Payment 1/18/2017</u>	Wells Fargo Vendor Fin Serv	1/24/2017	\$441.49
		<b>Grand Total</b>	<b>\$576,391.86</b>

<b>Total Claims Voucher Distribution</b>	<b>\$576,391.86</b>
<b>Total Distribution Submitted for Review &amp; Authorization</b>	<b>\$627,209.01</b>
<b>Authorization Adjustments:</b>	<b>\$0.00</b>
<b>Total Distribution Net of Prior Authorized Adjustments</b>	<b>\$627,209.01</b>

**Claims Voucher Approval:** I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein, that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation, and that the claim is a just, due and unpaid obligation against the City of Edgewood, and that I am authorized to authenticate and certify to said claim.

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Mayor, Daryl Eidinger

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Council Member



# Voucher Directory

Vendor	Number	Reference	Account Number	Description	Amount
<b>A &amp; R Services dba Angela Rojo</b>	<b>21794</b>			<b>2017 - January - 2nd Council Meeting</b>	
		<b>413</b>			
			<b>January Services</b>		
			001-018-000-518-30-41-01	Professional Services	\$785.00
				Monthly Janitorial Svs. for Jan 2017	
		<b>Total 413</b>			<b>\$785.00</b>
	<b>Total 21794</b>				<b>\$785.00</b>
<b>Total A &amp; R Services dba Angela Rojo</b>					<b>\$785.00</b>
<b>All Purpose Door Repair, Inc.</b>	<b>21795</b>			<b>2017 - January - 2nd Council Meeting</b>	
		<b>23131</b>			
			<b>January Services</b>		
			001-018-000-518-30-48-03	Maintenance/Repairs - Buildings	\$248.34
				Basement Door Repair	
		<b>Total 23131</b>			<b>\$248.34</b>
	<b>Total 21795</b>				<b>\$248.34</b>
<b>Total All Purpose Door Repair, Inc.</b>					<b>\$248.34</b>
<b>Century Link</b>	<b>21796</b>			<b>2017 - January - 2nd Council Meeting</b>	
		<b>253-952-3537 889B 12/22-1/22/17</b>			
			<b>12/22/16-1/22/17 Services</b>		
			001-018-000-518-30-42-01	Telecommunications Charges	\$107.97
				Fax and Fire Alarm Line	
		<b>Total 253-952-3537 889B 12/22-1/22/17</b>			<b>\$107.97</b>
		<b>253927-2018 680B 12/25-1/25/17</b>			
			<b>12/25/16-1/25/17 Services</b>		
			001-018-000-518-30-42-01	Telecommunications Charges	\$101.58
				Elevator Alarm Line	
		<b>Total 253927-2018 680B 12/25-1/25/17</b>			<b>\$101.58</b>
	<b>Total 21796</b>				<b>\$209.55</b>
<b>Total Century Link</b>					<b>\$209.55</b>
<b>City of Edgewood</b>	<b>21797</b>			<b>2017 - January - 2nd Council Meeting</b>	
		<b>011017-COE</b>			
			<b>SEPA Review-Flood Code Update</b>		
			410-000-000-531-38-41-01	Professional Service	\$3,250.00
		<b>Total 011017-COE</b>			<b>\$3,250.00</b>

Vendor	Number	Reference	Account Number	Description	Amount
		011217-COE			
				<b>SEPA Checklist-Traffic Impact Fee Study</b>	
			001-058-000-558-60-41-23	Professional Serv-GMA	\$3,250.00
		<b>Total 011217-COE</b>			<b>\$3,250.00</b>
	<b>Total 21797</b>				<b>\$6,500.00</b>
<b>Total City of Edgewood</b>					<b>\$6,500.00</b>
<b>Code Publishing Inc.</b>					
	21798			<b>2017 - January - 2nd Council Meeting</b>	
		55193			
				<b>2017 Web Hosting</b>	
			001-014-000-514-30-42-06	Website Services	\$350.00
				EMC Web Hosting	
		<b>Total 55193</b>			<b>\$350.00</b>
		55225			
				<b>January Services</b>	
			001-014-000-514-30-41-01	Professional Services	\$80.41
				EMC Updates	
		<b>Total 55225</b>			<b>\$80.41</b>
	<b>Total 21798</b>				<b>\$430.41</b>
<b>Total Code Publishing Inc.</b>					<b>\$430.41</b>
<b>DLT Solutions LLC</b>					
	21799			<b>2017 - January - 2nd Council Meeting</b>	
		S1346851			
				<b>January Purchases</b>	
			001-014-000-518-80-49-03	Computer Subscriptions	\$7,549.23
				AutoCAD	
		<b>Total S1346851</b>			<b>\$7,549.23</b>
	<b>Total 21799</b>				<b>\$7,549.23</b>
<b>Total DLT Solutions LLC</b>					<b>\$7,549.23</b>
<b>Flags A' Flying &amp; Banners Too!</b>					
	21800			<b>2017 - January - 2nd Council Meeting</b>	
		74682			
				<b>January Purchases</b>	
			001-018-000-518-30-31-01	Office & Operational Supplies	\$199.23
				US Flag	
		<b>Total 74682</b>			<b>\$199.23</b>
	<b>Total 21800</b>				<b>\$199.23</b>
<b>Total Flags A' Flying &amp; Banners Too!</b>					<b>\$199.23</b>
<b>Form Source, Inc.</b>					
	21801			<b>2017 - January - 2nd Council Meeting</b>	
		850917			
				<b>January Purchases</b>	
			001-021-000-521-20-31-01	Office & Operational Supplies	\$60.61

























**CITY OF EDGEWOOD  
REQUEST FOR COUNCIL ACTION  
Agenda Bill No.: 17-0488**

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**Date Action Requested:** January 24, 2017

**Title:** Ordinance 17-0488, Right of Way Code Permitting/Franchising Revisions

**Attachments:** Ordinance #17-0488 and Study Session Staff Report January 17, 2017

**Submitted By:** Aaron C. Nix, ACA – Municipal Services

**Approved For Agenda By:** Daryl Eidinger, Mayor

**Prepared For Agenda By:** Aaron C. Nix, ACA – Municipal Services

**Recommendation:** Move to adopt Ordinance No. 17-0488, an Ordinance of the City of Edgewood amending sections of Edgewood Municipal Code Chapter 12.06, Right of Way Franchises and Permits for Public and Private Utilities, adding an alternative annual permitting process for work within the city right of way, cost reimbursement provisions, when application for right of way permits are required and establishing an effective date.

**Discussion:** Staff have outlined pathways to the City Council on previous occasions, their desire of creating a modified, streamlined permitting process as it pertains to less intrusive work by Utilities within non-critical areas within the City's Right of Way in order to cut down on the amount of work required by these Utilities and the amount of oversight required on the part of the City. In meeting these desires, City Staff, in collaboration with the City Attorney have attempted to draft language that meets the intent of the City Council and provides a mechanism for cost recovery, with minimal fiscal impact to the Applicant and the City. The City Council held a Public Hearing on the Draft Ordinance at their January 10, 2017 Council meeting and received no written or verbal comment on the proposed changes to EMC 12.06 – Right of Way Franchises and Permits for Public and Private Utilities. A subsequent Study session was held on January 17, 2017 in order for the Council to do additional work on the Ordinance and prepare it for adoption at a subsequent Council meeting. One modification was made in regard to noticing timing, as requested by Councilor Lowry, the issue of telecommunication/cable franchise agreements addressed and a final review completed by City Attorney Carol Morris completed.

**Alternatives:** 1) Do not adopt. 2) Forward to Study Session for further review

**Fiscal Impact:** The alternative permitting process allows a mechanism in which the City will be able to collect fees on a cost recovery basis, as hours are allocated in order to provide services to this alternative form of permitting. A cash reserve balance will be established and drawn upon as services are rendered and replenished as dictated by code.

## **ORDINANCE NO. 17-0488**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, REGULATING THE USE OF THE RIGHT-OF-WAY, FOR PUBLIC AND PRIVATE UTILITIES; ADDING AN ALTERNATIVE, ANNUAL PERMITTING PROCESS FOR WORK WITHIN THE CITY RIGHT OF WAY; ADDING COST REIMBURSEMENT PROVISIONS; CLARIFYING WHEN APPLICATION FOR RIGHT OF WAY PERMITS ARE REQUIRED; REFERENCING THE CITY'S FEE RESOLUTION AS ESTABLISHED BY THE CITY COUNCIL, AMENDING SECTIONS 12.06.010, 12.06.020, 12.06.070, 12.06.070, 12.06.080, 12.06.090, 12.06.095, 12.06.100, 12.06.110 AND 12.06.120 OF THE EDGEWOOD MUNICIPAL CODE AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, current City of Edgewood municipal code regulates permits for public and private utilities within the City's right of way in Chapter 12.06 of Edgewood Municipal Code; and

**WHEREAS**, this City Council has been made aware of the potential time/cost burden placed on a local water purveyor as it pertains to the traditional right of way permitting process, as it pertains to routine, maintenance of service related infrastructure, outside areas of significant public use within the right of way within the City of Edgewood; and

**WHEREAS**, it is the Council's desire to continue to regulate activities within the City's right of way, in the protection of health and life safety in the public interest, but to do so for less critical items in a more streamlined, effective manner, that otherwise are not being reported, observed or recorded due to the limitations associated with the current permitting system; and

**WHEREAS**, the Council of the City of Edgewood desires to provide this flexibility, protect the City's infrastructure, report all activities/work within the City's right of way and provide a cost recovery mechanism in order to help the City meet these objectives, and

**WHEREAS**, this Ordinance was presented to the City Council for first reading on January 10, 2017; and

**WHEREAS**, this Ordinance was presented to the City Council for second reading on January 17, 2016; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**Section 1. Findings.** The recitals above are hereby adopted as legislative findings in support of this ordinance. The City Council further adopts by reference previously held study session staff reports and the agenda bill dated January 17<sup>th</sup>, 2017 as additional findings.



**Section 2.** Section 12.06.010 of the Edgewood Municipal Code is hereby amended to provide in its entirety as follows:

**12.06.010 Purpose.**

The purpose of this chapter is to regulate the use of the public right of way, to establish standards for the granting of city right-of-way franchises for public and private utilities, and to ensure consistency of such franchises with the city comprehensive plan, sound engineering and design standards, health and sanitation regulations, and the public interest. The provisions of this chapter shall apply to all franchisees unless otherwise specified; provided, that, should the provisions of a specific franchise conflict with the provisions of this chapter, the provisions of the franchise shall control.

**Section 3.** Section 12.06.020 of the Edgewood Municipal Code is hereby amended to provide in its entirety as follows:

**12.06.020 Franchises required.**

Persons and private or municipal corporations are required to obtain a right-of-way franchise approved by the Edgewood city council in order to use the right-of-way for the construction and maintenance of waterworks, gas pipes, telephone, telegraph, and electric lines, sewers, ~~cable TV~~, petroleum products, and any other such public and private utilities, except that:

A. The Edgewood department of public works and any entity under contract with Edgewood shall be exempt from this requirement.

B. The waterworks, specifically including without limitation any pipelines owned and/or operated by any municipal utility for which a valid recorded easement or use right has been granted by the city council, shall be exempt from this requirement.

C. A service provider of “cable television service,” “personal wireless services,” and “telecommunications service”, as these services are defined in chapter 35.99 RCW, shall be required to follow the procedures adopted by the City for franchises, master use permits and/or the issuance of use permits for these services in the City’s right-of-way, as required by chapter 35.99 RCW.

€ D. In lieu of a franchise, site-specific facilities may be authorized through a right of way use agreement approved by the City Council.

**Section 4.** Section 12.06.060 of the Edgewood Municipal Code is hereby amended to provide in its entirety as follows:

**12.06.060 Application.**

Applications for right-of-way franchises shall be submitted in the form approved by the Public Works Director ~~city engineer~~ to the Edgewood department of public works.

**Section 5.** Section 12.06.070 of the Edgewood Municipal Code is hereby amended to provide in its entirety as follows:

**12.06.070 Franchise fees.**

There is established a ~~\$500 nonrefundable~~ fee for each franchise application, as established by resolution within the fee schedule, described in EMC 3.35.010. Said fee will provide reimbursement to the city of Edgewood for the administrative costs and expenses associated with processing the application. The fee shall be payable in its entirety at the time each separate application for a new franchise or franchise renewal, amendment, supplement, or assignment is filed with the department of public works. Each applicant shall reimburse the city for public notice advertising and publication costs incurred in respect to each application in addition to the established \$500.00 fee. Further, to the fullest extent allowed by law, all grantees shall reimburse the city for all direct and indirect costs and expenses over and above the established \$500.00 fee incurred by the city in connection with any grant, modification, amendment, renewal, or transfer of any franchise, within 30 days after written demand thereof.

**Section 6.** Section 12.06.080 of the Edgewood Municipal Code is hereby amended to provide in its entirety as follows:

**12.06.080 Review of applications.**

The Edgewood department of public works shall be responsible for the administration and enforcement of franchises, ~~and right-of-way permits~~ and alternative annual utility right-of-way permits.

**Section 7.** Section 12.06.090 of the Edgewood Municipal Code is hereby amended to provide in its entirety as follows:

**12.06.090 Utility right-of-way permit or alternative annual utility right of way permit required.**

Persons and private or municipal corporations are required to obtain a utility right-of-way permit or an alternative annual utility right of way permit, approved by the Edgewood Public Works Director ~~engineer~~ for construction and maintenance of utility facilities in the public right-of-way of city roads, as outlined in EMC 12.06.020, except as noted in EMC 12.06.130-120 and 12.06.160.

**Section 8.** A new section 12.06.095 is hereby added to the Edgewood Municipal Code, which shall read as follows:

**12.06.095 Alternative, annual utility right-of-way-permit.**

A. PURPOSE. It is the intent of this section to establish an alternative, streamlined permitting process under which franchisee may obtain a single, annual permit collectively authorizing repetitive, marginally intrusive activities by utilities within the city right-of-way that individually are of very short duration, do not entail disruption to traffic or pedestrian flows, and are objectively minor in nature. Such activities include:

1. Minor utility service adjustments or repair located within the right of way, but outside the paved roadway, shoulder, sidewalk and/or ditchlines.
2. Other, similarly minor and marginally-intrusive activities within the right of way, as may be approved by the Public Works Director.

B. DURATION. An alternative annual utility right of way permit will be valid for a maximum of one calendar year and will serve as a blanket, collective authorization for all of the activities referenced above and as further approved by the Public Works Director.

C. COST REIMBURSEMENT. The permittee shall reimburse the city for all of the City's direct and indirect costs and expenses in review, inspection and documentation of activities with this permit, establishing an initial cash reserve balance in the amount of \$1,000, to be drawn upon as staff, consultant and/or legal expenses are for these activities, at hourly rates established

within the city of Edgewood's adopted Fee Schedule. Said cash reserve balance shall be replenished when the balance reaches a level below \$200, within 30 days after written notice thereof by the Finance Director.

D. NOTICE. The permittee shall provide no less than two (2) business working days written notice to the Public Works Director before performing any of the activities authorized under an alternative annual utility right of way permit. Said notice shall include the nature, commencement date, location, duration and anticipated completion date of the activities. Once the activity is completed, the permittee shall notify the City of work completion and readiness for final inspection by the City.

E. REQUIREMENTS; CONDITIONS. Except as otherwise provided under this section, all other applicable requirements of this chapter shall apply with respect to alternative annual utility right of way permits. Without limitation of the foregoing, the Public Works Director may impose such reasonable conditions of approval upon any such permit as deemed necessary or appropriate by the Director in order to protect the public health, safety and welfare.

**Section 9.** Section 12.06.100 of the Edgewood Municipal Code is hereby amended to provide in its entirety as follows:

**12.06.100 Application.**

Applications for utility right-of-way permits and alternative annual utility right-of-way-permits shall be submitted to the Edgewood department of public works in the form approved by the ~~engineer~~ Public Works Director.

**Section 10.** Section 12.06.110 of the Edgewood Municipal Code is hereby amended to provide in its entirety as follows:

**12.06.110 Utility right-of-way permit fees.**

All permit applications to perform work on any city-owned and maintained public road surface shall be accompanied by an \$50.00 application fee, as indicated within the most current version of the City's Fee Schedule. In addition, any excavation work on any city-owned and maintained public road surface shall be accompanied with a cash deposit as identified below:

On chip sealed surfaces where estimated pavement cuts are less than 180 square feet, a cash deposit toward the final fee of a sum equal to \$4.60 per square foot, times the estimated paved surface on each excavation to be made is required. For estimated pavement cuts greater than 180 square feet on chip sealed surfaces, the cash deposit shall be the sum equal to \$828.00, plus an additional \$828.00 per 100 lineal feet, or portion of trench length exceeding the first 100 feet.

On full depth asphalt or concrete surfaces where estimated pavement cuts are less than 960 square feet, a cash deposit is required toward the final fee of a sum equal to \$4.00 per square foot, times the estimated paved surface on each excavation to be made. For estimated pavement cuts greater than 960 square feet, the cash deposit shall be the sum equal to \$3,840 per 100 lineal feet or portion of the trench length exceeding the first 100 feet.

**Section 11.** Section 12.06.120 of the Edgewood Municipal Code is hereby amended to provide in its entirety as follows:

**12.06.120 Permit Exception. ~~Exemption from all permit fees.~~**

A. Any utility performing work as a result of a city construction or maintenance shall be exempt from any applicable permit fee. ~~Any utility performing emergency work shall be exempt from any applicable permit fee.~~

B. A right-of-way use permit shall not be required of utilities or franchised utilities when responding to emergencies that require work in the right-of-way, including without limitation water or sewer main breaks, gas leaks, downed power lines or similar emergencies; provided, that the department shall be notified by the responding utility or city contractor verbally or in writing, as soon as practicable following onset of an emergency. Nothing herein shall relieve a responding utility or city contractor from the requirement to apply for a right-of-way use permit within 48 hours after beginning emergency work in the right-of-way.

**Section 12. Severability.** Should any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

**Section 13. Effective Date.** A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

**ADOPTED BY THE CITY COUNCIL ON JANUARY 24<sup>th</sup>, 2017**

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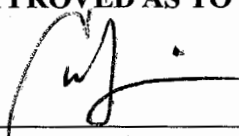
Mayor Daryl Eiding

**ATTEST/AUTHENTICATED:**

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City Clerk Rachel Pitzel

**APPROVED AS TO FORM:**



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Carol Morris, City Attorney

***Date of Publication: January 26, 2017***

***Effective Date: January 31, 2017***



**CITY OF EDGEWOOD  
STAFF REPORT  
STUDY SESSION AGENDA ITEM: ROW CODE REVISIONS  
(EMC 12.06)**

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**Date:** January 17, 2017

**Title:** DRAFT Right of Way Code Ordinance 17-0488

**Attachments:** Proposed, Draft Revisions

**Submitted By:** Aaron C. Nix, Assistant City Administrator, Municipal Services

**Approved For Agenda By:** Daryl Eidinger, Mayor

**Discussion:** Staff have expressed to the City Council on previous occasions the desire to meet the Council's intention of creating a modified, streamlined permitting process as it pertains to less intrusive work by Utilities within non-critical areas within the City's Right of Way in order to cut down on the amount of work required by these Utilities and the amount of oversight required on the part of the City. In meeting these desires, City Staff, in collaboration with the City Attorney have attempted to draft language that we believe meets the intent of the City Council and provides a mechanism for cost recovery, with minimal fiscal impact to the Applicant and the City. The City Council held a Public Hearing on the Draft Ordinance at their January 10, 2017 Council meeting and received no written or verbal comment on the proposed changes to EMC 12.06 – Right of Way Franchises and Permits for Public and Private Utilities.

**Recommendation:** No formal recommendation at this point as this is a City Council Study Session item. The Mayor and Staff are looking towards the City Council to discuss these proposed modifications, receive input and guidance on next steps in ensuring equity and fairness to all utilities that utilize the City's Right of Way in providing services to the residents of Edgewood.

**Fiscal Impact:** Under the City's current code, any work within the City's Right of Way by a Utility is required to obtain a Right of Way Permit. This can be after the fact in an emergency situation, but in these cases, permittees are exempt from having to pay permit fees for under these circumstances. In the case of the City's past Franchise Agreement with MTVE, Right of Way permits were not required to be obtained by MTVE in cases in which work occurred outside the asphalt roadway section, but within the City's Right of Way. In cases in which work did occur within the asphalt section of the road, permits were required for paper trail purposes only. In order to ensure better tracking of the activities within the City's right of way, maintain public safety and infrastructure and ensure adequate financial tracking, as mandated by best accounting practices, code modifications are necessary, as requested by the, Mayor, City Council and Staff in order

to provide for a streamlined permitting process and provide adequate cost recovery for services provided.

STUDY SESSION STAFF REPORT - 1/17/17