



AGENDA

SHORELINE CITY COUNCIL SPECIAL MEETINGS

Monday, December 11, 2017

Shoreline City Hall
17500 Midvale Avenue North

TOPIC/GUESTS: 5:00 p.m. Joint Meeting with Council of Neighborhoods
6:00 p.m. Reception for Outgoing Deputy Mayor Shari Winstead

SHORELINE CITY COUNCIL REGULAR MEETING

Monday, December 11, 2017
7:00 p.m.

Council Chamber · Shoreline City Hall
17500 Midvale Avenue North

| | <u>Page</u> | <u>Estimated Time</u> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|---------------------------|
| 1. CALL TO ORDER | | 7:00 |
| 2. FLAG SALUTE/ROLL CALL | | |
| 3. REPORT OF THE CITY MANAGER | | |
| 4. COUNCIL REPORTS | | |
| 5. PUBLIC COMMENT | | |
| <i>Members of the public may address the City Council on agenda items or any other topic for three minutes or less, depending on the number of people wishing to speak. The total public comment period will be no more than 30 minutes. If more than 10 people are signed up to speak, each speaker will be allocated 2 minutes. Please be advised that each speaker's testimony is being recorded. Speakers are asked to sign up prior to the start of the Public Comment period. Individuals wishing to speak to agenda items will be called to speak first, generally in the order in which they have signed. If time remains, the Presiding Officer will call individuals wishing to speak to topics not listed on the agenda generally in the order in which they have signed. If time is available, the Presiding Officer may call for additional unsigned speakers.</i> | | |
| 6. APPROVAL OF THE AGENDA | | 7:20 |
| 7. CONSENT CALENDAR | | 7:20 |
| (a) Approving Minutes of Regular Meeting of October 16, 2017 | <u>7a1-1</u> | |
| Approving Minutes of Special Meeting of November 14, 2017 | <u>7a2-1</u> | |
| (b) Approving Expenses and Payroll as of November 22, 2017 in the Amount of \$2,534,157.68 | <u>7b-1</u> | |
| (c) Adopting Resolution No. 421 - Amending Resolution No. 411 to permit the sale of the surplus Shoreline Police Station at N 185 th Street by Real Estate Broker Sale | <u>7c-1</u> | |
| (d) Adopting Resolution No. 422 - Amending the Council Rules of Procedure Relating to Dinner Meeting Room Location and Public Comment/Testimony Visual Aids | <u>7d-1</u> | |
| (e) Adopting Ordinance No. 809 – Amending Shoreline Municipal Code Chapter 3.55 to Allow for Real Estate Broker Sale as a Method of Sale for Surplus Real Property | <u>7e-1</u> | |

- (f) Authorizing the City Manager to Execute a Contract with the Center for Human Services in the Amount of \$341,738 to Provide Services for the Youth Outreach Leadership and Opportunities Program 7f-1

8. ACTION ITEMS

- (a) Adopting Ordinance No. 772 – Authorizing an Additional Vehicle License Fee of Twenty Dollars to Preserve, Maintain and Operate the Transportation Infrastructure of the City of Shoreline, Including Funding for Sidewalk Repairs and Retrofits 8a-1 7:20

9. STUDY ITEMS

- (a) Discussing Ordinance No. 810 Amending Ordinance No. 781 Granting a Non-Exclusive Franchise to MCIMetro Access Transmission Services Corp., dba Verizon Access Transmission Services, to Construct, Operate, and Maintain a Telecommunications Fiber Optic System Within City Rights-of-Way, Excluding the Aurora Avenue N Corridor 9a-1 7:35

10. ADJOURNMENT

7:50

The Council meeting is wheelchair accessible. Any person requiring a disability accommodation should contact the City Clerk's Office at 801-2231 in advance for more information. For TTY service, call 546-0457. For up-to-date information on future agendas, call 801-2236 or see the web page at www.shorelinewa.gov. Council meetings are shown on Comcast Cable Services Channel 21 and Verizon Cable Services Channel 37 on Tuesdays at 12 noon and 8 p.m., and Wednesday through Sunday at 6 a.m., 12 noon and 8 p.m. Online Council meetings can also be viewed on the City's Web site at <http://shorelinewa.gov>.

CITY OF SHORELINE
SHORELINE CITY COUNCIL
SUMMARY MINUTES OF REGULAR MEETING

Monday, October 16, 2017
7:00 p.m.

Council Chambers - Shoreline City Hall
17500 Midvale Avenue North

PRESENT: Mayor Roberts, Deputy Mayor Winstead, Councilmembers McGlashan, Scully, Hall, and Salomon

ABSENT: Councilmember McConnell

1. CALL TO ORDER

At 7:00 p.m., the meeting was called to order by Deputy Mayor Winstead who presided.

2. FLAG SALUTE/ROLL CALL

Deputy Mayor Winstead led the flag salute. Upon roll call by the City Clerk, all Councilmembers were present, with the exception of Mayor Roberts and Councilmember McConnell.

Councilmember Scully moved to excuse Mayor Roberts for personal reasons and Councilmember McConnell for city business. The motion was seconded by Councilmember McGlashan and passed unanimously, 5-0.

3. REPORT OF CITY MANAGER

Debbie Tarry, City Manager, provided reports and updates on various City meetings, projects and events.

4. COUNCIL REPORTS

There were no Council Reports.

5. PUBLIC COMMENT

There was no one in the audience who wished to provide Public Comment.

6. APPROVAL OF THE AGENDA

The agenda was approved by unanimous consent.

7. CONSENT CALENDAR

Upon motion by Councilmember McGlashan and seconded by Councilmember Hall and unanimously carried, 5-0, the following Consent Calendar items were approved:

- (a) Approving Minutes of Regular Meeting of September 11, 2017 and of Special Meeting of September 25, 2017**
- (b) Authorizing the City Manager to Approve the Conditional Certificate of Property Tax Exemption for Paceline Apartments**
- (c) Authorizing the City Manager to Enter into a Grant Agreement with the Port of Seattle for \$54,990 for Economic Development Projects**
- (d) Adopting Ordinance No. 800 - Granting the Ronald Wastewater District a Non-Exclusive Franchise to Construct, Maintain, Operate, Replace and Repair a Sanitary Sewer System within Public Rights-of-Way**
- (e) Authorizing the City Manager to Execute an Amendment in the Amount of \$64,407 for the Professional Services Contract with Brown and Caldwell for the 2017 Surface Water Master Plan Update**

8. STUDY ITEMS

- (a) Discussing the Proposed 2018 Budget - Department Presentations

Sara Lane, Administrative Director, presented the 2018 Budget and CIP Review Schedule. She announced that the Budget is available on the City's website, at Shoreline Libraries, and City Hall. She said all Department budgets will be presented tonight with the exception of Public Works which is scheduled for review on October 23, 2017. She explained how the Department Budget Sections are structured, and shared that all budgets reflect a 2.7% increase in Cost of Living Adjustments (COLA), personnel benefits, and budget scrubbing for 2017 one-time additions, adjustments, and actual spending. She reviewed the City's Continuous Improvement and Process Improvements efforts.

Ms. Lane stated that the City Council's Budget totals \$248,652, has a Full-Time Employee (FTE) Count of 7, represents .53% of the General Fund Budget, and that there are no significant changes.

Ms. Lane stated that the City Manager's Budget totals \$3,972,745, has a FTE Count of 19, and represents 8.54% of the General Fund Budget. She explained that the budget increase represents staffing support for the Light Rail Station Projects.

John Norris, Assistant City Manager, shared that the City Clerk's Office, Communications, Economic Development, Highland Park Center, Intergovernmental Relations, the Light Rail Station Project, and Property Management are divisions and programs housed under the City Manager's Office. He presented the following 2018 Budget Changes:

One-Time Requests:

- Pilot Internship Program: \$14,432 (July-Dec 2018)
- Support for Council's Sustainability Goals: \$30,000 ongoing
 - (2018 Emphasis: Salmon Safe Certification \$80,000 which includes \$50,000 one-time)
- Training –Web Accessibility Training: \$25,000

FTE-Extra Help Conversion:

- 0.50 FTE Public Disclosure Specialist: \$41,500

Sound Transit Staffing Agreement Funded:

- FTE Construction Inspector: \$86,700 ongoing / \$30,400 one time

Councilmember Hall asked if the Construction Inspector Position is funded through the City's agreement with Sound Transit. Mr. Norris responded in the affirmative.

Ms. Lane stated that the Human Resources Budget totals \$499,237, has a FTE Count of 3, and represents 1.07% of the General Fund Budget.

Mr. Norris presented the following 2018 Budget Changes:

One-Time Request:

- Manager & Supervisor Training:\$10,000

Ongoing Request:

- Employee Appreciation Event: \$3,000

Ms. Lane stated the Community Services Budget totals \$1,724,820, has a FTE count of 8.78, and represents 3.71% of the General Fund Budget.

Rob Beem, Community Services Manager, shared that Human Services, the Customer Response Team (CRT 24 Hour Customer Service), Neighborhoods, the Diversity Inclusion Program, Emergency Management Planning, and Code Enforcement are divisions and programs housed under the Community Services Department. Mr. Beem presented the following 2018 Budget Changes:

One-Time Request:

- Diversity Inclusion Training: \$30,000

Ongoing Request:

- Human Services –Grants to Other Agencies : \$29,500

Councilmember Scully said he worries about human service crises occurring over the next five years. He encouraged staff to be aggressive in resource and budget requests to keep ahead of future issues and stated his willingness to fund opioid and homelessness issues. He questioned why CRT's Citizen Satisfaction Survey results declined to 67%. Mr. Beem replied that the Survey was changed to an online format, instead of a mailer, and that there was not a robust response. He said staff turnover also resulted in longer response completion times.

Councilmember Scully proposed that the graffiti removal satisfaction rate can achieve better than a 40% rating. Mr. Beem responded that those results are tabulated biennially and that graffiti

comes in waves and takes a lot of effort to respond to. Councilmember Scully said the data shows graffiti issues need more attention.

Ms. Lane stated the City Attorney's Office Budget totals \$861,437, has a FTE Count of 3, and represents 1.85% of the General Fund Budget. She shared that Legal Services and Prosecuting Attorney, including a Domestic Violence Coordinator, are services supported by the City Attorney's Office. Ms. Lane then presented the following 2018 Budget Changes:

One-Time Request:

- Legal Support for Ronald Wastewater and light rail station - \$90,000

Ongoing Request:

- \$12,000 to address additional days in court

Councilmember Scully asked clarifying questions about the City Attorney's Office Budget, and if an additional in-house attorney is needed to manage the workload. Margaret King, City Attorney, responded that there have been multiple ligations, Sound Transit negotiations, and other Sound Transit related tasks that have increased the workload. She said they are currently tracking the work to determine how much should be completed in-house and how much is related to special skill areas.

Ms. Lane stated the Police Department Budget totals \$11,976,037, has a FTE Count of 53 contracted employees, and represents 25.69% of the General Fund Budget. She noted that the RADAR Budget and forfeiture contributions to the Police Station project are being carried over from the 2017 budget.

Shawn Ledford, Police Chief, shared the Criminal Investigations Units, Community Outreach, Nurturing Trust Workshops, Patrol, the Special Emphasis Unit, and Traffic Enforcement are divisions and programs housed under the Police Department. He presented the following 2018 Budget Changes:

Ongoing:

- Police Services Contract increase of 3.9%, which includes the addition of a K-9 Unit (Deputy and police dog)

Councilmember McGlashan asked if the City is currently charged for the use of a K-9 Unit, and if other agencies can be charged to use the City's new Unit. Chief Ledford responded that the City currently pays for the use of a K-9 Unit. He said Shoreline cannot charge cities with mutual aid agreements, but can charge if there is no agreement. Chief Ledford reviewed Police Dispatch Calls for Services and Self-initiated Police Activities, and pointed out that although volumes are increasing, the number of Shoreline Police Officers have remained the same, negatively impacting Police response time. He recommended increasing Police staffing as the population increases. He presented 2016 City Cost Comparisons and said the cost per capita is \$225.

Councilmember Hall asked if the construction of the new Police Station at City Hall will result in operating savings. Ms. Lane replied that the City owns the building the Police currently occupies and that proceeds from its sale will go towards construction costs.

Councilmember Salomon asked why the City of Seattle allocates more Police Officers per capita. Chief Ledford responded that Seattle has higher night and day time populations, more people visiting the area, and more crime.

Ms. Lane stated the Criminal Justice Budget totals \$3,133,059, is 6.74% of the General Fund Budget, and has no dedicated FTE's.

Alex Herzog, Management Analyst, stated the Budget is made up of Jail, Public Defender, and Municipal Court contracted services, and presented the following 2018 Budget Changes:

Slight net decrease due to:

- Projected leveling off of jail days for 2018
- Projected increase in citation levels over 2017
- Leveling off of Court costs

Mr. Herzog shared that the City contracts with the South Correctional Entity (SCORE), King County, and Yakima Jails. He reviewed annual jail days used and costs. He said the City anticipates increased infraction revenue for 2018 which will result in a decrease in net Criminal Justice costs.

Councilmember Hall recalled the City's past use of the Snohomish County Jail due to its proximity and easier transport and asked if there is any chance of using it again. Mr. Herzog replied that the City was approached by Snohomish County Jail last year about their services, but stated that their video court does not have the capacity of SCORE's and would make housing inmates in predisposition status difficult. The Snohomish County Jail also lacks SCORE's flexibility, and the daily bed rates are significantly higher.

Councilmember McGlashan said he is impressed with the savings the City is achieving using SCORE, but expressed concern that a Police Officer is taken off the street for transport. He asked if this is a factor in the increased Police response times. Councilmember Scully said there might be a benefit to paying more for the use of a closer jail for pre-sentencing defendants in order to keep an officer on the street. Mr. Herzog responded that the Yakima Jail provides transport services and said those fees are included in the contract cost. Chief Ledford added that using SCORE does take an officer off the street for a significant amount of time, and in certain situations, factors into the decision making on whether to book or release someone.

Ms. Lane stated that the Parks, Recreation and Cultural Services (PRCS) Budget totals \$6,564,286, has a FTE Count of 31.4, and represents 14.12% of the General Fund Budget. Eric Friedli, PRCS Director, said Administration, Athletic Field and Maintenance Operations, Aquatics, Cultural Services, General Recreation Programs, Parks and Open Space, Public Art, Recreation Facility Rental, and Youth and Teen Development make up the PRCS Department. Mr. Friedli reviewed program revenue trends and presented the following 2018 Budget Changes:

One-Time:

- Strategy to Support Aging Adults in Shoreline: \$45,000

- Tree Canopy Assessment: \$15,000 (to be included every five years)

Best Starts for Kids Grant \$543,000 for 3 Years –Youth Outreach Leadership Opportunities

- Staff recommended amendment:
 - 0.175 FTE increase of PRCS Supervisor 1 -Recreation for grant/program management
 - \$42,000 Extra Help funding for program staffing
 - \$136,000 other program costs

Ms. Lane stated that the Planning and Community Development (PCD) Budget totals \$3,675,999, has a FTE Count of 24.50, and represents 7.63% of the General Fund Budget.

Ray Allshouse, Building Official, shared that PCD services include Administrative Services, Building and Inspections, City Planning, Code Abatement, Code Enforcement, and Permit Services. He presented permit volume history and revenue trends, and said development revenues are expected to double in 2018. He presented the following 2018 Budget Changes:

School District Permit Funding:

- 1.0 FTE Combination Inspector: \$78,300 ongoing / \$26,900 one-time
- Plans Examination and Inspection Services for School District Project Needs: \$300,000

Councilmember Hall asked if the new TRAKiT Permit System will provide Council with regular updates on how the City is keeping up with growing development demands and help the City avoid falling behind the demand. Mr. Allshouse responded that is the plan and that they are currently working out the basic functions.

Ms. Lane stated the Administrative Services Department (ASD) Budget totals \$5,494,143, has a FTE Count of 27.02, and represents 14.75% of the General Fund Budget. Ms. Lane stated the Director's Office, Budget Office, Central Services, Financial Planning and Accounting Services, Grant Research, Information Technology, and Non-Program Citywide Expenses are housed under ASD. She presented the following 2018 Budget Changes:

FTEs

- Extra Help Conversion
 - FTE GIS Technician: \$90,500
 - 0.50 FTE IT System Specialist: \$51,200
- Project Funded Backfill
 - FTE Term-Limited Staff Accountant: \$103,800

One Time Investments supporting the Technology Strategic Plan for 2018:

- Telephone System Upgrade: \$10,000
- CIP Project Management Tool: \$30,000
- Vehicle Cellular Boosters: \$24,475
- Emergency Operations Center (EOC) IT Improvements: \$11,000

Councilmember McGlashan pointed out that there is a discrepancy in the numbers on the PowerPoint presentation's pie chart and the ones on page 142 of the Budget Notebook. Ms. Lane responded that staff will reconcile the numbers and reflect the findings in the Budget Matrix.

Councilmember Scully questioned why cellular boosters for City vehicles are needed. Councilmember Salomon said he does not understand why it costs so much and why the City cannot get a better deal. Ms. Lane responded that the current method is not working, and said staff evaluated equipment and costs for higher power services.

Ms. Lane stated the Citywide Budget totals \$2,483,511, has no FTEs, and reviewed the non-program contingencies it supports. She presented the following 2018 Budget Changes:

Contingency Items:

- Reserve Policy:
 - Operational Contingency: \$838,338
 - Insurance Contingency: \$255,000

Councilmember Hall asked where the Citizen Satisfaction Survey Budget resides. Ms. Lane replied that it resides under the City Manager's Budget.

Ms. Lane concluded with a review of the Budget Workshop Schedule and said adoption of the Budget is scheduled for November 20, 2017.

9. EXECUTIVE SESSION

At 8:16 p.m. Mayor Roberts arrived to the meeting.

At 8:17 p.m., Deputy Mayor Winstead recessed into Executive Session for a period of 20 minutes as authorized by RCW 42.30.110(1)(i) to discuss with legal counsel potential litigation to which the City, or a member acting in an official capacity is, or is likely to become, a party, and announced that the Council is potentially expected to take final action. Staff attending the Executive Session included City Manager Debbie Tarry, Assistant City Manager John Norris, and City Attorney Margaret King. The Executive Session ended at 8:36 p.m., and Deputy Mayor Winstead reconvened the Council Meeting.

Mayor Roberts moved to authorize the City Manager and the Mayor to sign on to the amicus brief of the County of Santa Clara in the case of Masterpiece Cake shop vs. Colorado Civil Rights Commission before the United States Supreme Court. The motion was seconded by Councilmember McGlashan.

Mayor Roberts explained that the brief supports the City of Shoreline's interests in laws preventing discrimination against its residents.

The motion passed unanimously, 6-0.

10. ADJOURNMENT

At 8:40 p.m., Deputy Mayor Winstead declared the meeting adjourned.

Jessica Simulcik Smith, City Clerk

DRAFT

CITY OF SHORELINE
SHORELINE CITY COUNCIL
SUMMARY MINUTES OF SPECIAL MEETING

Tuesday, November 14, 2017
5:45 p.m.

Conference Room 104 - Shoreline City Hall
17500 Midvale Avenue North

PRESENT: Mayor Roberts, Councilmembers McGlashan, Scully, Hall, and Salomon

ABSENT: Deputy Mayor Winstead and Councilmember McConnell

STAFF: Debbie Tarry, City Manager; John Norris, Assistant City Manager; Jessica Simulcik Smith, City Clerk; and Bonita Roznos, Deputy City Clerk

GUESTS:

At 5:48 p.m., the meeting was called to order by Mayor Roberts.

Mayor Roberts thanked City Manager Debbie Tarry and City Clerk Jessica Simulcik Smith for coordinating the cancellation and rescheduling of the November 13, 2017 City Council Meetings due to the power outage.

Councilmembers discussed the following Council Operations Items:

Council Strategic Planning Workshop Timing, Location and Focus

Councilmembers confirmed that the Strategic Planning Workshop can take place at the end of February or the beginning of March 2018. They expressed interest in having the Workshop at an offsite location with a limited cost. They supported having staff look into holding the Workshop at the Brightwater Center, touring the facility, having an evening team building activity on Day 1, and holding Day 2 at City Hall.

Councilmembers requested that the Workshop include a focus on promoting business and retail in Shoreline, revisiting and updating City Council Goal #1, and developing general policy options for economic development. They agreed having Allegra Calder, BERK's Consultant, facilitate the Workshop.

2018 Proclamations

Councilmembers agreed with the Proclamation List as presented, and suggested presenting a proclamation in support of Resolution No. 401 Declaring the City of Shoreline to be an Inviting, Equitable, and Safe Community.

2018 Planning Commission Vacancies and Appointment Process

Councilmembers discussed the four potential Planning Commission vacancies. They agreed with the staff's plan to announce the recruitment process at the December 7, 2017 Planning Commission Meeting, an application deadline of January 12, 2018, to work with the newly

elected Mayor in January 2017 to form a Council Subcommittee, and to conduct the interview and selection process in time to confirm appointments at the February 26, 2017 City Council Meeting.

Council Rules of Procedure Amendments

Councilmembers agreed to change Council Rules of Procedure to assign Shoreline City Hall Conference 303 as the official meeting room for the Council Workshop Dinner Meetings.

Councilmembers agreed to the following amendment to Council Rules of Procedures to Subsection 6.10 of Section 6 – Public Testimony:

During the "Public Comment" portion of the meeting, speakers will not be permitted to present testimony via electronic methods (e.g. PowerPoint). Speakers may utilize visual aids. Paper copies of all materials may be submitted to the City Clerk to distribute to the Council.

Purpose of Council Reports

Councilmembers agreed to keep the Council Rule of Procedure 5.3(A)(4) Council Reports as it is and limit comments to information that has a nexus to City business.

Continued Use of the City Council's Voicemail Service

Councilmembers agreed to discontinue the use of the voicemail service, and instead, receive city business calls on their city-issued telephone. They asked if there is a way to receive a text message informing them a voice message has been received. Mr. Norris responded that they will explore if a text message can be received indicating receipt of a voicemail message.

Discontinuation of the City's Agenda Line

Councilmembers agreed that the Agenda Line provides little value proportionate to the staff time required to manage the line, and supports staff's recommendation that it be discontinued. The City Clerk's staff will provide the public that contact the City via telephone with information on forthcoming Council agendas.

At 6:45 p.m., Councilmember Hall arrived to the meeting.

Public Hearing Public Comments

Councilmembers discussed the Public Hearing format, and agreed to keep the Public Hearing process and agenda order as it is.

Agenda Planner Review

There were no changes to the Agenda Planner.

At 6:52 p.m. the meeting was adjourned.

Bonita Roznos, Deputy City Clerk

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Approval of Expenses and Payroll as of November 22, 2017
DEPARTMENT: Administrative Services
PRESENTED BY: Sara S. Lane, Administrative Services Director

EXECUTIVE / COUNCIL SUMMARY

It is necessary for the Council to formally approve expenses at the City Council meetings. The following claims/expenses have been reviewed pursuant to Chapter 42.24 RCW (Revised Code of Washington) "Payment of claims for expenses, material, purchases-advancements."

RECOMMENDATION

Motion: I move to approve Payroll and Claims in the amount of \$2,534,157.68 specified in the following detail:

***Payroll and Benefits:**

| Payroll Period | Payment Date | EFT Numbers (EF) | Payroll Checks (PR) | Benefit Checks (AP) | Amount Paid |
|-------------------|--------------|------------------|---------------------|---------------------|--------------|
| 10/22/17-11/04/17 | 11/10/2017 | 75091-75309 | 15299-15330 | 68663-68668 | \$600,586.53 |
| | | | | | \$600,586.53 |

***Accounts Payable Claims:**

| Expense Register Dated | Check Number (Begin) | Check Number (End) | Amount Paid |
|------------------------|----------------------|--------------------|----------------|
| 11/16/2017 | 68573 | 68606 | \$220,225.89 |
| 11/16/2017 | 68607 | 68659 | \$1,156,319.65 |
| 11/16/2017 | 68660 | 68660 | \$6,799.43 |
| 11/17/2017 | 68661 | 68662 | \$85,001.07 |
| 11/17/2017 | 68669 | 68676 | \$465,225.11 |
| | | | \$1,933,571.15 |

Approved By: City Manager **DT**

City Attorney **MK**

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

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|----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| AGENDA TITLE: | Adoption of Resolution No. 421 – Amending Resolution No. 411 to Permit the Sale of the Surplus Shoreline Police Station at N 185 th Street by Real Estate Broker Sale |
| DEPARTMENT: | City Manager’s Office City Attorney’s Office |
| PRESENTED BY: | Dan Eernisse, Economic Development/Real Estate Manager Julie Ainsworth-Taylor, Assistant City Attorney |
| ACTION: | <input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing |

PROBLEM/ISSUE STATEMENT:

The current Shoreline Police facility on N 185th Street (the 185th Police Station) has long been recognized as sub-standard. Following an extensive feasibility study, Council directed that a new police station be incorporated into the City Hall campus. At its May 1, 2017 meeting, Council authorized the City Manager to enter into contracts to construct the new facility. The new facility is currently under construction and it is anticipated that Shoreline Police will completely vacate the 185th Police Station by May 2018. Council has directed that the eventual sales proceeds from the disposition of the 185th Police Station should be utilized to fund the new facility.

On May 22, 2017, the City Council passed Resolution No. 411 declaring the 185th Police Station as surplus and authorizing its sale. The staff report for this Council action can be found at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2017/staffreport052217-8a.pdf>.

At the time of Resolution No. 411’s passage, there were only three options for the sale of surplus property: sealed bid, auction, or negotiated sale (limited to use when aggregating abutting properties). Thus, the City Council authorized the 185th Police Station to be sold by sealed bid.

The City Council was recently presented with proposed Ordinance No. 809 which proposes to amend Shoreline Municipal Code Chapter 3.55, the municipal code provisions setting forth the procedures for the disposition of surplus real property, to include an option for sale of such property by a real estate broker. Council discussed proposed Ordinance on November 27, 2017 and had no concerns with staff bringing it back for adoption on the consent calendar. The staff report for this discussion can be reviewed at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2017/staffreport112717-8c.pdf>. Tonight, proposed Ordinance No. 809 is scheduled for adoption.

The sale of the 185th Police Station by a real estate broker should facilitate and realize a greater value than through a sealed bid process; especially given the current real estate market. Use of this method still requires the surplus property to be listed at the appraised value of \$2.1 million. Proposed Resolution No. 421 (Attachment A) amends Resolution No. 411 so that the City Manager is authorized to sell the 185th Police Station using a licensed real estate broker.

RESOURCE/FINANCIAL IMPACT:

The use of a real estate broker would require payment of a commission for such services. Ordinance No. 809 contains provisions requiring this commission to be comparable to the market rate within Shoreline. However, use of a broker should realize a higher sale value than via a sealed bid so as to offset the commission.

RECOMMENDATION

Staff recommends that Council adopt Resolution No. 421. This resolution would become effective after the effective date of Ordinance No. 809.

ATTACHMENTS:

Attachment A: Proposed Resolution No. 421

Approved By: City Manager **DT** City Attorney **MK**

RESOLUTION NO. 421

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, AMENDING RESOLUTION NO. 411 TO AUTHORIZE THE SALE OF THE SHORELINE POLICE STATION (1206 N. 185TH STREET) BY REAL ESTATE BROKER.

WHEREAS, on May 22, 2017, via the adoption of Resolution No. 411, the City Council declared real property located at 1206 N. 185th Street, the current site of the Shoreline Police Station, to be surplus; and

WHEREAS, with Resolution No. 411 the City Council further authorized the sale and disposition of the real property by Sealed Bid; and

WHEREAS, with the adoption of Ordinance No. 809, the option of using a licensed real estate broker for the sale of surplus real property was authorized; and

WHEREAS, the City Council has determined that utilizing a licensed real estate broker for the disposition of the surplus Police Station real property will facilitate and realize a greater return for the City;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, HEREBY RESOLVES:

Section 2 of Resolution No. 411, the Authorization to Sell and Dispose of Surplus Real Property, is amended to read as follows:

The City Manager is hereby authorized to sell and dispose of the real property ~~by Sealed Bid~~ by a licensed real estate broker as provided in SMC 3.55.011(B)(1) and subject to the procedures and requirements set forth in SMC 3.55.012.

This Resolution shall take effect and be in full force one (1) calendar day after the effective date of Ordinance No. 809. If Ordinance No. 809 is not adopted or otherwise does not take effect, than this Resolution shall be considered null and void.

ADOPTED BY THE CITY COUNCIL ON DECEMBER 11, 2017.

Mayor Christopher Roberts

ATTEST:

Jessica Simulcik Smith
City Clerk

Council Meeting Date: December 11, 2017

Agenda Item: 7(d)

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

| | |
|----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| AGENDA TITLE: | Adoption of Resolution No. 422 - Amending the Council Rules of Procedure Relating to Workshop Dinner Meeting Room Location and Public Comment/Testimony Visual Aids |
| DEPARTMENT: | City Manager's Office |
| PRESENTED BY: | Jessica Simulcik Smith, City Clerk |
| ACTION: | <input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing |

PROBLEM/ISSUE STATEMENT:

On November 14, Council held a dinner meeting focused on Council operations, including a discussion about the Council's Rules of Procedure. Following this discussion, Council requested that the Rules of Procedure be amended as directed at the dinner meeting and be brought back for Council action on a future consent calendar agenda.

Proposed Resolution No. 422 (Attachment A) would amend the Council Rules of Procedure by amending the following the rules:

- Section 5.5 – to change the room location of Workshop Dinner Meetings.
- Section 6 – Public Testimony: to add a new subsection regarding the public's use of visual aids to support their public comment/testimony at meetings.

RESOURCE/FINANCIAL IMPACT:

There are no resources or financial impacts in amending the Council Rules of Procedure.

RECOMMENDATION

Staff recommends that Council adopt proposed Resolution No. 422.

Approved by:

City Manager **DT**

City Attorney **MK**

BACKGROUND

The City Council's Rules of Procedure were initially adopted by Council Resolution No. 183 on February 11, 2002, and have been amended multiple times, most recently in February 2016 (Resolution No. 381). In order to amend the Council Rules of Procedure, the Council adopts a Resolution that outlines the proposed rule changes.

At Council's November 14, dinner meeting, Council discussed two amendments. The Memo for this meeting can be accessed from the City's website by following this link: <http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/dinner/111417Dinner.pdf>

Following this discussion, Council requested that the Rules of Procedure be amended as directed at the dinner meeting and be brought back for Council action on a future consent calendar agenda.

DISCUSSION

The following changes were discussed and agreed to by Council. These changes are reflected in the proposed rules in Exhibit A of Resolution No. 422. They are as follows:

- **Change Workshop Dinner Meeting Room Location**

By statute, regular meetings of a government body must be held in accordance with a schedule that is fixed by ordinance, resolution, bylaw, or other rule. When a meeting is held on a day, time, or location that is different than the fixed schedule, the clerk of the elected body must notice the meeting as a "Special Meeting".

The Council's regular meeting schedule is adopted by Resolution in the Council's Rules of Procedure. Council Rule 5.3 sets the schedule for Regular Meetings, and Rule 5.5 sets the schedule for Workshop Dinner Meetings. Rule 5.5 currently states that the regular room location for Workshop Dinner Meetings is Council Conference Room 104. Given that almost all Workshop Dinner Meetings that are intergovernmental in nature or require audio/visual support (PowerPoint) are held in a larger 3rd Floor conference room, there is Council consensus to make City Hall Conference Room 303 the "regular" location for Workshop Dinner Meetings. If Council passes proposed Resolution No. 422, when a Workshop Dinner Meeting is held in any room other than Conference Room 303, it would need to be noticed as a Special Meeting.

- **Public Comment Testimony Visual Aids**

This amendment was suggested by Council to help manage how the public may support their public comment testimony by using visual aids. This proposed rule would allow commenters to use visual aids at the speaker's podium during public comment (i.e., hold signs, objects, etc.), but makes it clear that commenters may not use PowerPoint and may not approach the dais to pass out materials or ask the Clerk to pass an object to the Council. Only hardcopies of materials may be

submitted to the City Clerk to distribute to the Council. This proposed amendment would be a new subsection (Subsection 6.10) of Section 6 – Public Testimony of the Council Rules.

RESOURCE/FINANCIAL IMPACT

There are no resources or financial impacts in amending the Council Rules of Procedure.

RECOMMENDATION

Staff recommends that Council adopt proposed Resolution No. 422.

ATTACHMENTS:

Attachment A: Proposed Resolution No. 422

Attachment A, Exhibit A: Amended Council Rules of Procedure

RESOLUTION NO. 422

**A RESOLUTION OF THE CITY OF SHORELINE, WASHINGTON,
AMENDING COUNCIL RULES OF PROCEDURE RELATING TO
WORKSHOP DINNER MEETING ROOM LOCATION AND
PUBLIC COMMENT/TESTIMONY VISUAL AIDS**

WHEREAS, Chapter 35A.12.120 RCW gives the City Council of each code city the power to set rules for conducting its business within the provisions of Title 35A RCW; and

WHEREAS, the City Council has amended its rules of procedure multiple times, most recently on February 29, 2016 by Council Resolution No. 381; and

WHEREAS, the City Council has reviewed its rules of procedure and wishes to amend provisions of the rules; and

WHEREAS, the amendments the City Council seeks to make pertain to the location of regularly scheduled workshop dinner meetings, and the public's use of visual aids to supplement their comment/testimony at a meeting; and

WHEREAS, the City Council wishes to make these changes effective immediately; now therefore

**THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON
HEREBY RESOLVES:**

Section 1. Amendments. The Council Rules of Procedure are amended as set forth in Exhibit A attached hereto.

PASSED BY THE CITY COUNCIL ON DECEMBER 11, 2017

Mayor Christopher Roberts

ATTEST:

Jessica Simulcik Smith
City Clerk

**RULES OF PROCEDURE
Resolution No. 183**

TABLE OF CONTENTS

SECTION 1. AUTHORITY

1.1 Intent of Policies 1
1.2 Effect/Waiver of Rules 1

SECTION 2. COUNCIL ORGANIZATION

2.1 Swearing In 1
2.2 Election of Mayor and Deputy Mayor 1
2.3 Duties of Officers 2
2.4 Appointments to Boards and Commissions 3
2.5 Filling a Council Vacancy 3

SECTION 3. AGENDA PREPARATION

3.1 Role of City Clerk 4
3.2 Placement of Items on the Agenda 4
3.3 Format for Staff Reports 4
3.4 Agenda Item Priority 4
3.5 Readings for Ordinances 5

SECTION 4. CONSENT CALENDAR

4.1 Establishment of Consent Calendar 5
4.2 Adoption of Consent Calendar 5
4.3 Removal of Item from Consent Calendar 5

SECTION 5. COUNCIL MEETINGS

5.1 Open Public Meetings 5
5.2 Meeting Cancellation 5
5.3 Regular Meetings 6
5.4 Community Group Presentations 6
5.5 Workshop Dinner Meetings 7
5.6 Executive Sessions 8
5.7 Special Meetings 8
5.8 Emergency Meetings 8
5.9 Meeting Place 8
5.10 Notice of Meetings, Public Hearings 8
5.11 Quorum 8
5.12 Attendance, Excused Absences 8
5.13 General Decorum 9

5.14 Forms of Address 9
5.15 Seating Arrangement 9
5.16 Dissents and Protests 9
5.17 Request for Written Motions 9
5.18 Confidentiality 9
5.19 Conflict of Interest, Appearance of Fairness 10
5.20 Adjournment 10
5.21 Responsibilities of City Clerk 10
5.22 Attendance of Officers or Employees 10

SECTION 6. PUBLIC TESTIMONY

6.1 Regular Meetings 10
6.2 Rules for Public Hearings 11
6.3 Group Representation 11
6.4 Quasi-Judicial Items, Public Comment During Election Season 11
6.5 Recognition by Chair 11
6.6 Identification of Speakers 11
6.7 Instructions for Speakers 11
6.8 Timekeeper, Donation of Speaking Time.. 11
6.9 Forms for Comment 11
6.10 Public Comment Protocols..... 12

SECTION 7. MOTIONS

7.1 Voice Votes 12
7.2 Motions that do not Receive or Require Seconds 12
7.3 Tie Votes 12
7.4 Nature of Motion 12
7.5 Discussion Following a Motion 12
7.6 Council Consensus 12
7.7 Withdrawal of Motions 12
7.8 Motion to Table..... 12
7.9 Motion to Postpone to a Time Certain 12
7.10 Motion to Postpone Indefinitely 12
7.11 Motion to Call for the Question 13
7.12 Motion to Amend 13
7.13 Repetition of the Motion Prior to Voting 13
7.14 Voting 13
7.15 Prohibition of Abstentions..... 13
7.16 Silence 13
7.17 Prohibition of Voting by Proxy 13
7.18 Close of Discussion 13
7.19 Motion to Reconsider 13
7.20 Questions of Interpretation 13

SECTION 8. ITEMS REQUIRING FOUR VOTES 14

SECTION 9. COUNCIL REPRESENTATION

9.1 Expression of Personal Opinion 14
9.2 Support of Official Positions 14
9.3 Correspondence 14
9.4 Use of City Letterhead..... 14
9.5 Controversial Communications 14
9.6 Direction to Staff..... 14

SECTION 10. SUSPENSION AND AMENDMENT OF RULES

10.1 Suspension of Rules 14
10.2 Amendment of Rules..... 14

Section 1. Authority.

- 1.1 These rules constitute the official rules of procedure for the Shoreline City Council. In all decisions arising from points of order, the Council shall be governed by the current edition of Robert's Rules of Order," a copy of which is maintained in the office of the Shoreline City Clerk.
- 1.2 These rules of procedure are adopted for the sole benefit of the members of the City Council to assist in the orderly conduct of Council business. These rules of procedure do not grant rights or privileges to members of the public or third parties. Failure of the City Council to adhere to these rules shall not result in any liability to the City, its officers, agents, and employees, nor shall failure to adhere to these rules result in invalidation of any Council act.

Section 2. Council Organization.

- 2.1 New Councilmembers shall be sworn in by a judge or the City Clerk.
- 2.2 Election of Mayor and Deputy Mayor.
 - A. The Council shall elect a Mayor and Deputy Mayor for a term of two years.
 - B. The motion to elect the Mayor and Deputy Mayor will be placed on the agenda of the first meeting of even-numbered years.
 - C. In the event the Mayor is unable to serve the remainder of the term, a new mayor shall be elected at the next meeting. In the event the Deputy Mayor is unable to serve the remainder of the term, a new Deputy Mayor shall be elected at the next meeting.
 - D. The election of the Mayor shall be conducted by the City Clerk. No one Councilmember may nominate more than one person for a given office until every member wishing to nominate a candidate has an opportunity to do so. Nominations do not require a second. The Clerk will repeat each nomination until all nominations have been made. When it appears that no one else wishes to make any further nominations, the Clerk will ask again for further nominations and if there are none, the Clerk will declare the nominations closed. A motion to close the nominations is not necessary. After nominations have been closed, voting for Mayor takes place in the order nominations were made. Only affirmative votes for Mayor shall be given and Councilmembers will be asked to vote by a raise of hands. As soon as one of the nominees receives a majority vote (four affirmative votes), the Clerk will declare him/her elected. No votes will be taken on the remaining nominees. If none of the nominees receives a majority vote, the Clerk will call for nominations again and repeat the process until a single candidate receives a majority vote. Upon election, the Mayor will conduct

the election for Deputy Mayor following the same process.

- E. A super majority vote (five votes) shall be required to approve a motion to remove the Mayor or Deputy Mayor from office for cause.

2.3 Duties of Officers.

- A. The Mayor, or in his or her absence, the Deputy Mayor, shall be the Presiding Officer of the Council and perform the duties and responsibilities with regard to conduct of meetings and emergency business. In the absence of both the Mayor and the Deputy Mayor, the Council shall elect one of the members to the Council to act as a temporary Presiding Officer.
- B. It shall be the duty of the Presiding Officer to:
 - 1. Call the meeting to order.
 - 2. Keep the meeting to its order of business.
 - 3. Control discussion in an orderly manner.
 - a. Give every Councilmember who wishes an opportunity to speak when recognized by the chair.
 - b. Permit audience participation at the appropriate times.
 - c. Require all speakers to speak to the question and to observe the rules of order.
 - 4. State each motion before it is discussed and before it is voted upon.
 - 5. Put motions to a vote and announce the outcome.
- C. The Presiding Officer shall decide all questions of order, subject to the right of appeal to the Council by any member.
- D. The Presiding Officer may at his or her discretion call the Deputy Mayor or any member to take the chair so the Presiding Officer may make a motion or for other good cause yield the Chair.
- E. The Mayor shall appoint Councilmembers to boards and committees that are not otherwise specified by the National League of Cities, Association of Washington Cities, or King County/Sound Cities Association.
- F. The Mayor shall appoint Councilmembers to Ad hoc City Council subcommittees such as interview panels. Prior to appointment the Mayor shall solicit interest from Councilmembers for their preferred appointments. The appointment list may be referred to the full Council pursuant to Rule 3.2(A) or (B).

2.4 Appointments to Boards and Commissions.

The Council will use the following process in managing the appointment of individuals to Boards and Commissions.

- A. In closed session, the ad hoc subcommittee of Council members gathers and reviews the applications, and determines which applicants will be interviewed.
- B. Subcommittee members inform the City Manager which applicants they plan to interview so that she/he can inform the other Council members. If any Council member feels strongly that someone not on the interview list should be interviewed, she/he may make this known to the City Manager to relay to the subcommittee.
- C. "Notice" is then given to the public that the subcommittee shall conduct interviews of the "finalists."
- D. In open public meetings, the subcommittee interviews the "finalists." Ground rules will govern the conduct of the meetings and be communicated to all participants. These ground rules will notify audience members that they will not be asked to comment during the meeting, and must not do or say anything that creates the impression that they support or oppose any candidate.
- E. In a closed meeting the subcommittee members review the findings from the interviews and reach consensus on whom to recommend that the full Council appoint.
- F. In a regular public meeting of the Council, the subcommittee's recommendations are made an agenda item and discussed by the Council. Each Councilmember will have the ability to support, oppose, or amend the list of candidates proposed by the ad hoc committee. The recommendations will not be part of the "consent agenda" to ensure a full and thorough vetting of the subcommittee's recommendations. The Council will vote to appoint new members to the board or commission.

2.5 Filling a Council Vacancy.

- A. If a vacancy occurs in the office of Councilmember, the Council will follow the procedures outlined in RCW 42.12.070. In order to fill the vacancy with the most qualified person available until an election is held, the Council will widely distribute and publish a notice of the vacancy, the procedure by which the vacancy will be filled, and an application form.

- B. The Council will draw up an application form to aid the Council's selection of the new Councilmember.
- C. Those candidates selected by Council will be interviewed by the Council during a regular or special Council meeting open to the public. The order of the interviews will be determined by drawing the names; in order to make the interviews fair, applicants will be asked to remain outside the Council Chambers while other applicants are being interviewed. Applicants will be asked to answer questions posed by each Councilmember during the interview process. The interview process will be designed to be fair and consistent. Each candidate will then be allowed two (2) minutes for closing comments. Since this is not a campaign, comments and responses about other applicants will not be allowed.
- D. The Council may recess into executive session to discuss the qualifications of all candidates. Nominations, voting and selection of a person to fill the vacancy will be conducted during an open public meeting.

Section 3. Agenda Preparation.

- 3.1 Upon direction by the City Manager, the City Clerk will prepare an agenda for each Council Meeting specifying the time and place of the meeting and setting forth a brief general description of each item to be considered by the Council. The agenda is subject to review by the Presiding Officer.
- 3.2 An item for a Council meeting may be placed on the agenda by any of the following methods:
 - A. Majority vote or consensus of the Council.
 - B. By any two Councilmembers, in writing or with phone confirmation, with signatures by fax allowed for confirmation of support, no later than 12:00 p.m. five (5) days prior to the meeting. The names of the requesting Councilmembers shall be set forth on the agenda.
 - C. By the City Manager.
 - D. By the Mayor or Deputy Mayor when acting in the absence of the Mayor.
- 3.3 Staff reports shall be in a standard format approved by the City Council.
- 3.4 Agenda items will be prioritized in the following order of importance: 1) items scheduled for statutory compliance; 2) advertised public hearings; 3) continued Items from a prior meeting and 4) items scheduled for convenience.

- 3.5 Ordinances scheduled for Council action will generally receive three readings (with the exception of items that have had a public hearing before the Planning Commission).
- A. The first reading will be the scheduling of the item on the Council Agenda Planner by title or subject. If reasonably possible the item should be listed on the Agenda Planner at least two weeks prior to the second reading. The Mayor or City Manager may authorize exceptions for items of an emergency or unexpected nature requiring immediate action.
 - B. The second reading will be scheduled for review and discussion by the City Council. Items of a routine nature may bypass this meeting and be scheduled directly to a Consent Calendar. In such cases Council shall by motion, waive the second reading as part of the adopting motion.
 - C. The third reading will be Council review and action at a subsequent meeting.

Section 4. Consent Calendar.

- 4.1 The City Manager, in consultation with the Presiding Officer, shall place matters on the Consent Calendar which: (a) have been previously discussed by the Council, or (b) based on the information delivered to members of the Council, by the administration, can be reviewed by a Councilmember without further explanation, or (c) are so routine or technical in nature that passage is likely.
- 4.2 The motion to adopt the Consent Calendar shall be non-debatable and have the effect of moving to adopt all items on the Consent Calendar.
- 4.3 Since adoption of any item on the Consent Calendar implies unanimous consent, any member of the Council shall have the right to remove any item from the Consent Calendar. Councilmembers are given an opportunity to remove items from the Consent Calendar after the motion is made and seconded to approve the agenda. If any matter is withdrawn, the Presiding Officer shall place the item at an appropriate place on the agenda for deliberation at the current or future Council Meeting.

Section 5. Council Meetings.

- 5.1 All Council Meetings shall comply with the requirements of the Open Meetings Act (RCW Section 42.30). All Regular Meetings, Special Meetings, and Workshop Dinner Meetings of the Council shall be open to the public.
- 5.2 Any Council Meeting may be canceled by a majority vote or consensus of the Council. The Mayor or Deputy Mayor may cancel a Council Meeting for lack of agenda items.

5.3 The Council shall hold **Regular Meetings** on Mondays of each week at 7:00 p.m. in the Council Chamber of the Shoreline City Hall, located at 17500 Midvale Avenue N, Shoreline, Washington. Should any meeting date occur on a legal holiday, the meeting shall be canceled. There will be no Regular Meetings between December 15th and the end of the year.

A. Order of Business for Regular Meetings. The order of business shall be as follows:

Regular Meeting (7:00 p.m.)

1. Call to Order
2. Flag Salute, Roll Call
3. Report of the City Manager
4. Council Reports
5. Public Comment, as set forth in Section 6.1(A)
6. Approval of the Agenda
7. Consent Calendar
8. Action Items: The following procedures shall be used:
 - a. Introduction of item by Clerk staff
 - b. Presentation by staff
 - c. Public Hearings, if any noticed (Hearings should commence at approximately 7:20 p.m.)
 - d. Council motion to move adoption of legislation
 - e. Council discussion and possible action
9. Study Items: The following procedure shall be used:
 - a. Staff reports
 - b. Council discussion
10. Executive Session, if needed
11. Adjournment

5.4. The Council shall make available at one meeting of each month, a **Community Group Presentation**. The order of business shall omit Council Reports and include Community Presentations following the Consent Calendar. The intent of the presentations is to provide a means for non-profit organizations to inform the Council, staff and public about their initiatives or efforts in the community to address a specific problem or need. The presentations are available to individuals who are affiliated with a registered non-profit organization. In order to schedule the presentation, two Councilmembers under Rule 3.2(B) must sponsor the request. The presentations shall be limited to 30 minutes, with approximately 15 minutes for the presentation and 15 minutes for questions. Guidelines for presentations include:

A. Each organization or agency may complete a request form and submit it to the Shoreline City Manager's Office. The blank form shall be available on the City's website and from the City Clerk's Office.

- B. For planning purposes, the presentation must be scheduled on the agenda planner at least four (4) weeks in advance of the meeting date requested.
- C. Information and sources used in the presentation should be available in hard copy or electronically for reference.
- D. Up to three (3) members of the organization are invited to participate.
- E. The presentation must support the adopted position/policy of the organization.
- F. The presentation should be more than a general promotion of the organization. The information presented should be about specific initiatives/programs or planning that the organization is doing which is relevant to Shoreline citizens and government.
- G. Presentations shall not include:
 - 1. Discussion of ballot measures or candidates.
 - 2. Issues of a partisan or religious nature.
 - 3. Negative statements or information about other organizations, agencies or individuals.
 - 4. Commercial solicitations or endorsements.
- H. Organizations which may have alternative, controversial positions or information will be scheduled at the next available Regular Meeting.

5.5 The Council shall hold **Workshop Dinner Meetings** on the second and fourth Monday of each month at 5:45 p.m. in ~~the Council Conference Room 303 (G-404)~~ of the Shoreline City Hall, located at 17500 Midvale Avenue N, Shoreline, Washington. Should any meeting occur on a legal holiday, the meeting shall be canceled. There will be no Workshop Dinner Meetings between December 15 and the end of the year.

- A. Workshop Dinner Meetings will be informal meetings for the purpose of meeting with other governmental agencies and officials such as the School District, utility districts, Fire District, neighboring city officials, regional organizations, Shoreline-Lake Forest Park Arts Council, Transit, etc., and other agencies and topics as deemed appropriate by the City Council or City Manager. Workshop Dinner Meetings may also be used by the Council to conduct Executive Sessions.
- B. No final votes may take place at Workshop Dinner Meetings, however, the Council may provide administrative direction to staff by consensus or vote. The agenda for these meetings will be appended to the Regular Meeting agenda and posted and distributed in the same manner as the Regular

Meeting agenda.

- 5.6 The Council may hold Executive Sessions from which the public may be excluded, for those purposes set forth in RCW 42.30.110 and RCW 42.30.140. Before convening an Executive Session, the Presiding Officer shall announce the purpose of the Session and the anticipated time when the Session will be concluded. Should the Session require more time, a public announcement shall be made that the Session is being extended.
- 5.7 **Special Meetings** may be held by the Council subject to notice requirements prescribed by State law. Special Meetings may be called by the Mayor, Deputy Mayor, or any four members of the City Council by written notice delivered to each member of the Council at least twenty-four hours before the time specified for the proposed meeting. The notice of such Special Meetings shall state the subjects to be considered, and no subject other than those specified in the notice shall be considered. The order of business for Special Meetings may follow Section 5.3(A). Public comment for Action Items will follow the procedure found in Section 6.1.
- 5.8 An **Emergency Meeting** is a special Council meeting called without the 24-hour notice. It deals with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of a 24-hour notice would make notice impractical and increase the likelihood of such injury or damage. Emergency meetings may be called by the City Manager or the Mayor with the consent of a majority of Councilmembers. The minutes will indicate the reason for the emergency.
- 5.9 **Special Meetings and Emergency Meetings** will be at a time and place as Council directs.
- 5.10 The City shall comply with the provisions of RCW 35A.12.160. The public shall receive notice of upcoming public hearings through publication of such notice in the City's official newspaper at least ten (10) days prior to the hearing.
- 5.11 At all Council Meetings, a majority of the Council (four members) shall constitute a quorum for the transaction of business. In the absence of a quorum, the members present may adjourn that meeting to a later date.
- 5.12 Members of the Council may be excused from attending a City Council meeting by contacting the Mayor prior to the meeting and stating the reason for his or her inability to attend. If the member is unable to contact the Mayor, the member shall contact the City Manager, who shall convey the message to the Mayor. Following roll call, the Presiding Officer shall inform the Council of the member's absence, state the reason for such absence, and inquire if there is a motion to excuse the member. This motion shall be nondebateable. Upon passage of such motion by a majority of members present, the absent member shall be

considered excused and the Clerk will make an appropriate notation in the minutes. Councilmembers who do not follow the above process will be considered unexcused and it shall be so noted in the minutes. A motion to excuse a Councilmember may be made retroactively at the next meeting.

5.13 General Decorum.

- A. While the Council is in session, the Councilmembers must preserve order and decorum. A member shall neither, by conversation or otherwise, delay or interrupt the proceedings or the peace of the Council, nor disrupt any member while speaking nor refuse to obey the orders of the Council or the Mayor, except as otherwise provided in these Rules.
- B. Any person making disruptive, impertinent, or slanderous remarks while addressing the Council shall be asked to leave by the Presiding Officer and barred from further audience before the Council for that meeting.

5.14 At all meetings except Workshop Dinner Meetings, the Mayor shall be addressed as "Mayor (surname)." The Deputy Mayor shall be addressed as "Deputy Mayor (surname)." Members of the Council shall be addressed as "Councilmember (surname)."

5.15 At all Meetings except Workshop Dinner Meetings, the Mayor shall sit at the center of the Council, and the Deputy Mayor shall sit at the right hand of the Mayor. Other Councilmembers are to be seated in a manner acceptable to Council. If there is a dispute, seating shall be in position order.

5.16 Any Councilmember shall have the right to express dissent from or protest against any ordinance or resolution of the Council and have the reason therefore entered in the minutes.

5.17 Motions shall be reduced to writing when required by the Presiding Officer of the Council or any member of the Council. All resolutions and ordinances shall be in writing.

5.18 Councilmembers should keep confidential all written materials and verbal information provided to them during Executive Sessions, to ensure that the City's position is not compromised. Confidentiality also includes information provided to Councilmembers outside of Executive Sessions when the information is considered to be exempt from disclosure under the Revised Code of Washington. If a Councilmember unintentionally discloses Executive Session discussion with another party, that Councilmember shall make full disclosure to the City Manager and/or the City Council in a timely manner.

- 5.19 Prior to commencement of discussion of a quasi-judicial item, the Chair will ask if any Councilmember has a conflict of interest or Appearance of Fairness Doctrine concern which could prohibit the Councilmember from participating in the decision-making process. If it is deemed by the Councilmember, in consultation with the City Attorney, that it is warranted, the Councilmember should step down and not participate in the Council discussion or vote on the matter. The Councilmember shall leave the Council Chambers while the matter is under consideration.
- 5.20 Council meetings shall adjourn no later than 10:00 p.m. The adjournment time established thereunder may be extended to a later time certain upon approval of a motion by a majority of the Council. Any Councilmember may call for a "Point of Order" to review agenda priorities.
- 5.21 The City Clerk or an authorized Deputy City Clerk shall attend all Council meetings. If the Clerk and the Deputy Clerk are absent from any Council meeting, the City Manager shall appoint a Clerk Pro Tempore. The minutes of the proceedings of the Council shall be kept by the City Clerk and shall constitute the official record of the Council.
- 5.22 Any City officer or employee shall have the duty when requested by the Council to attend Council Meetings and shall remain for such time as the Council may direct.

Section 6. Public Testimony.

6.1 Regular Meetings.

- A. Members of the public may address the City Council at the beginning of any Regular Meeting under "Public Comment." During the "Public Comment" portion of the meeting, individuals may speak to agenda items or any other topic except those scheduled for a Public Hearing. Individuals may speak for three (3) minutes or less, depending on the number of people wishing to speak. If more than 10 people are signed up to speak each speaker will be allocated two (2) minutes. The total public comment period under Agenda Item 5 (Public Comment) will be no more than 30 minutes. Individuals will be required to sign up prior to the start of the Public Comment period. Individuals wishing to speak to agenda items will be called to speak first, generally in the order in which they have signed. If time remains, the Presiding Officer will call individuals wishing to speak to topics not listed on the agenda generally in the order in which they have signed. If time is available, the Presiding Officer may call for additional unsigned speakers.
- B. If during a Regular Meeting an Action Item is before the Council for the first time and is not part of the consent agenda, public comment for that

item will follow the staff report but precede Council review. Individuals may speak for three (3) minutes or less, depending on the number of people wishing to speak. If more than 10 people are signed up to speak each speaker will be allocated two (2) minutes. The total public comment period for the agenda item will be no more than 30 minutes.

6.2 Public Hearings.

The following rules shall be observed during any Public Hearing:

- A. Individuals will be allowed three (3) minutes to speak.
 - B. The Presiding Officer may allow additional time for receipt of written testimony when needed.
 - C. Prior to closing the hearing the Mayor or Deputy Mayor shall inquire if there are any additional speakers other than those that have signed up and previously spoken, and if there are they shall be allowed to testify.
- 6.3 When large numbers of people are signed up to speak on the same topic, the Mayor may request that the group(s) select a limited number of speakers to cover their view and then ask all those who agree with that position to stand at the conclusion of each presentation.
- 6.4 Public testimony authorized in Section 6.1 may not include comments or information on any quasi-judicial matter pending before the City Council, or on any topic for which Council has closed the public record. During election season, which starts when a candidate officially files their candidacy with the State or a county election office and runs through the election, no person may use public comment to promote or oppose any candidate for public office.
- 6.5 No person shall be allowed to address the Council while it is in session without the recognition of the Presiding Officer.
- 6.6 Persons testifying shall identify themselves for the record as to name, city of residence and any organization represented.
- 6.7 An instruction notice for speakers will be available at the meeting. Speakers will be advised by the Presiding Officer that their testimony is being recorded.
- 6.8 The Clerk shall be the timekeeper for all public testimony. Time cannot be donated by one speaker to another.
- 6.9 Printed forms shall be made available at all Council Meetings to allow for written testimony to Council.

6.10 During the "Public Comment" portion of the meeting, speakers will not be permitted to present testimony via electronic methods (e.g. PowerPoint). Speakers may utilize visual aids. Hardcopies of all materials may be submitted to the City Clerk to distribute to the Council.

Section 7. Motions.

- 7.1 Unless otherwise provided for by statute, ordinance, resolution, or these Rules of Procedure, all votes shall be taken by voice, except that at the request of any Councilmember, a random roll call vote shall be taken by the City Clerk.
- 7.2 Prior to discussion of an Action Item, a Councilmember should make a motion, which is seconded by another Councilmember, on the topic under discussion. If the motion is not seconded, it dies. Some motions do not require a second: nominations, withdrawal of a motion, request for a roll call vote, and point of order.
- 7.3 In case of a tie vote on any motion, the motion shall be considered lost.
- 7.4 Motions shall be clear and concise and not include arguments for the motion.
- 7.5 After a motion has been made and seconded, Councilmembers may discuss their opinions on the issue prior to the vote. If they wish to do so, they may state why they will vote for or against the motion.
- 7.6 When the Council concurs or agrees with an item that does not require a formal motion, the Mayor will summarize the Council's consensus at the conclusion of the discussion.
- 7.7 A motion may be withdrawn by the maker of the motion, at any time, without the consent of the Council.
- 7.8 A motion to table is nondebatable. It requires a majority to pass. If the motion to table prevails, the matter may be "taken from the table" only by adding it to the agenda of a future meeting, at which time discussion can continue. If an item is tabled, it cannot be reconsidered at the same meeting.
- 7.9 A motion to postpone to a specific time is debatable, is amendable, and may be reconsidered at the same meeting. It requires a majority to pass. The motion being postponed must be considered at a later time in the same meeting or a specific future meeting.
- 7.10 A motion to postpone indefinitely is debatable, is not amendable, and may be reconsidered at the same meeting. It requires a majority to pass. The merits of the main motion may be debated.

Attachment A - Exhibit A

- 7.11 A motion to call for the question shall close debate on the main motion and is nondebatable. This motion must receive a second and fails without a two-thirds (2/3) vote. Debate is reopened if the motion fails.
- 7.12 A motion to amend is defined as amending a motion that is on the floor and has been seconded, by inserting or adding, striking out, striking out and inserting, or substituting.
- 7.13 When the discussion is concluded, the motion maker, Mayor, or City Clerk, shall repeat the motion prior to voting.
- 7.14 The City Council votes on the motion as restated. If the vote is unanimous, the Mayor shall state that the motion has been passed unanimously according to the number of Councilmembers present, such as "7-0" or "6-0." If the vote is not unanimous, the Mayor shall state the number of Councilmembers voting in the affirmative and the number voting in the negative and whether the motion passes or fails.
- 7.15 If a Councilmember has a conflict of interest or an appearance of fairness question under state law, the Councilmember may recuse themselves from the issue and shall leave the council chambers during discussion and voting on the issue. That Councilmember shall be considered absent when voting occurs.
- 7.16 If a member of the Council is silent on a vote, it shall be recorded as an affirmative vote. If a member of the Council abstains, it shall be recorded as an abstention and not included in the vote tally.
- 7.17 No vote may be cast by proxy.
- 7.18 Once the vote has been taken, the discussion is closed. It is not necessary for Councilmembers to justify or explain their vote. If they wish to make their positions known, this should happen during the discussion preceding the vote.
- 7.19 After the question has been decided, any Councilmember who voted in the majority may move for a reconsideration of the motion. The motion for reconsideration must be made at the same or next regular meeting.
- 7.20 The City Attorney, in consultation with the City Clerk, shall decide all questions of interpretations of these policies and procedures and other questions of a parliamentary nature which may arise at a Council meeting. All cases not provided for in these policies and procedures shall be governed by the current edition of Robert's Rules of Order. In the event of a conflict, these Council rules of procedures shall prevail.

Section 8. Items Requiring Four Votes.

The passage of any ordinance, grant or revocation of franchise or license, any resolution for the payment of money, any approval of warrants, and any resolution for the removal of the City Manager shall require the affirmative vote of at least a majority of the whole membership of the Council (four votes) [RCW 35A 13.170 and 35A.12.1201].

Section 9. Council Representation

- 9.1 Councilmembers who meet with, speak to, or otherwise appear before a community group or another governmental agency or representative must clearly state if his or her statement reflects their personal opinion or if it is the official stance of the City, or if this is the majority or minority opinion of the Council.
- 9.2 When Councilmembers represent the City or attend meetings in an official capacity as Councilmember, they must support and advocate the official City position on an issue, not a personal viewpoint.
- 9.3 Once the City Council has taken a position on an issue, all official City correspondence regarding the issue will reflect the Council's adopted position.
- 9.4 City letterhead shall not be used for correspondence of Councilmembers representing a dissenting point of view from an official Council position.
- 9.5 As a matter of courtesy, letters to the editor, or other communication of a controversial nature, which do not express the majority opinion of the Council, shall be distributed to the full Council so that Councilmembers may be made aware of the impending publication.
- 9.6 If the Council, in Executive Session, has given direction or consensus to City staff on proposed terms and conditions for any type of issue, all contact with the other party shall be done by the designated City staff representative handling the issue.

Section 10. Suspension and Amendment of Rules.

- 10.1 Any provision of these rules not governed by state law or City ordinance may be temporarily suspended by a majority vote of the Council.
- 10.2 It is the intent of the City Council that the rules of procedure be periodically reviewed as needed. These rules may be amended, or new rules adopted, by a majority vote of the Council, provided that the proposed amendments or new rules shall have been distributed to Council at least one week prior to such action.

Amended by Resolution No. 196
Amended by Resolution No. 205
Amended by Resolution No. 224
Amended by Resolution No. 244
Amended by Resolution No. 255
Amended by Motion, Dec. 7, 2009
Amended by Resolution No. 295
Amended by Resolution No. 296
Amended by Resolution No. 298
Amended by Resolution No. 299
Amended by Resolution No. 306
Amended by Resolution No. 310
Amended by Resolution No. 326
Amended by Resolution No. 334
Amended by Resolution No. 344
Amended by Resolution No. 380
Amended by Resolution No. 381
Amended by Resolution No. 422

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

| | |
|----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| AGENDA TITLE: | Adoption of Ordinance No. 809 – Amending Shoreline Municipal Code Chapter 3.55 to Allow for Real Estate Broker Sale as a Method of Sale for Surplus Real Property |
| DEPARTMENT: | City Attorney’s Office |
| PRESENTED BY: | Julie Ainsworth-Taylor, Assistant City Attorney |
| ACTION: | <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing |

PROBLEM/ISSUE STATEMENT:

Shoreline Municipal Code (SMC) Chapter 3.55 sets forth the procedures for the disposition of surplus real property owned by the City. When declaring property to be surplus, the City Council is required to determine which method the property is to be sold by – sealed bid, auction, or negotiated sale (when aggregating abutting properties). Allowing for the use of a licensed real estate broker will provide the City Council with another option for the disposition of surplus real property.

Proposed Ordinance No. 809 (Attachment A) provides for this code amendment. Council discussed this proposed ordinance on November 27, 2017 and directed staff to bring back the ordinance for Council action. Tonight, proposed Ordinance No. 809 is scheduled for adoption.

CITY RESOURCE/FINANCIAL IMPACT:

There is no immediate financial impact for the adoption of Proposed Ordinance No. 809. If the City Council elects this method for disposition of surplus property, the commission charged will be negotiated at that time.

RECOMMENDATION

Staff recommends that Council adopt proposed Ordinance No. 809.

Approved By: City Manager **DT** City Attorney **MK**

BACKGROUND and DISCUSSION

When declaring property to be surplus, the City Council is required to determine which method the property is to be sold by – sealed bid, auction, or negotiated sale (when aggregating abutting properties). Allowing for the use of a licensed real estate broker will provide the City Council with another option for the disposition of surplus real property that could facilitate and realize a greater value through the use of the services of a licensed real estate broker.

Many other governmental agencies in Washington permit surplus property to be sold via a real estate broker. The Washington State Department of Transportation and Washington School Districts may sell surplus real property via a broker (RCW 47.12; RCW 28A.335). Many cities utilize real estate brokers at times for disposing of property including the cities of Bellevue, Fife, Seattle, and Renton.

Proposed Ordinance No. 809 (Attachment A) would provide for this code amendment to allow surplus property to be sold via a real estate broker. In addition to allowing this method of sale, the proposed code would also set forth procedures that would need to be followed if this method of sale were to be used.

Council discussed proposed Ordinance No. 809 on November 27, 2017. The staff report for this Council discussion can be found at the following link: <http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2017/staffreport112717-8c.pdf>. Council did not have any questions or concerns about the proposed ordinance and directed staff to bring back the ordinance for Council action tonight.

RESOURCE/FINANCIAL IMPACT

There is no immediate financial impact for the adoption of Proposed Ordinance No. 809. If the City Council elects this method for disposition of surplus property, the commission charged will be negotiated at that time.

RECOMMENDATION

Staff recommends that Council adopt proposed Ordinance No. 809.

ATTACHMENTS

Attachment A – Proposed Ordinance No. 809

ORDINANCE NO. 809

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, AMENDING SHORELINE MUNICIPAL CODE CHAPTER 3.55 TO ADD REAL ESTATE BROKER SALE AS A METHOD OF SALE FOR SURPLUS REAL PROPERTY.

WHEREAS, on January 23, 2012, the City of Shoreline, by Ordinance No. 626, established Shoreline Municipal Code (SMC) Chapter 3.55 setting forth procedures for the disposition of surplus real property; and

WHEREAS, SMC 3.55.011(B) requires the City Council to determine by which of three methods real property is to be sold by sealed bid, at auction, or through negotiated sale; and

WHEREAS, SMC 3.55.012(C) limits the use of negotiated sale to situations dealing the with aggregation of abutting properties; and

WHEREAS, allowing for the sale of surplus real property by a licensed real estate broker will provide an additional option for facilitating and realizing a greater value through the use of the services of a broker.;

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

Section 1. Amendment to SMC Section 3.55.011 Surplus property declaration. SMC 3.55.011 is amended as follow:

A. Real property owned by the city may be declared surplus by the city council after the following procedures have been completed:

1. The city manager shall include the following information in the staff report to council for each parcel under consideration:
 - a. Description of the subject parcel's size, general location, and legal description;
 - b. Description of the circumstances under which the subject parcel was obtained;
 - c. Description of what funds were used to initially acquire the subject parcel;
 - d. Recommendation as to which fund the proceeds from its sale should be credited;
 - e. History of municipal use, if any, or uses for which it might be held;
 - f. Value of the subject parcel and whether further appraisal before sale is recommended and the type of appraisal required (see SMC 3.55.012(A)(2));
 - g. Whether the subject parcel is only usable by abutting owners or is marketable;

- h. Whether special consideration ought to be given to some other public agency that has a use for the subject parcel;
 - i. Whether the subject parcel should be sold at auction, by sealed bid, by a licensed real estate broker, or by negotiation;
 - j. Recommendation as to whether any special covenants or restrictions should be imposed in conjunction with sale of the subject parcel;
 - k. For land acquired for public utility purposes, whether the land is no longer required to provide continued public utility service.
2. A public hearing shall be held to consider the surplus declaration for the subject parcel. Notice of said hearing shall be published in the city's official newspaper and mailed to all property owners within 500 feet of the subject parcel not less than 10 days nor more than 25 days prior to the hearing.

B. Following the public hearing, the council shall determine whether the subject parcel shall be declared surplus. Any declaration of surplus property shall be made by resolution. The resolution shall also make the following determinations:

- 1. Whether the subject parcel should be sold by sealed bid, at auction, by a licensed real estate broker, or through negotiated sale;
- 2. Whether special covenants or restrictions should be imposed as a condition of the sale; and
- 3. The minimum acceptable price, in accordance with SMC 3.55.010(B) and 3.55.012.

Section 2. Amendment to SMC Section 3.55.012 Sale procedure. SMC 3.55.012 is amended as follows:

The following procedures and requirements shall apply to the sale of surplus property:

A. Determination of Value/Minimum Acceptable Price.

- 1. If the city has a sufficient and acceptable appraisal of the subject property, no additional appraisal shall be required.
- 2. If an acceptable appraisal is not available, the city manager shall obtain:
 - a. Limited opinion of value for properties under \$25,000;
 - b. Short form appraisal report for properties under \$50,000; or
 - c. Full narrative appraisal report.

B. Sale by Bid or Auction. In the event the subject parcel is to be disposed of by sealed bid or by auction, the following notification procedures shall be followed:

- 1. A notice of the city's intent to dispose of the subject parcel shall be conspicuously posted on the property no less than two weeks prior to the date set for the close of bids or the date set for the auction.

2. Notice shall be published in the city's official newspaper at least once each week for three consecutive weeks preceding the deadline for the submittal of sealed bids or the public auction. All notices shall include a description of the subject parcel, the procedure by which the subject parcel is to be disposed of, any earnest money deposits which must be made and the minimum price that will be accepted.

C. Negotiated Sale. If the subject parcel can only be put to its highest and best use when aggregated with an abutter's property because of its size, shape, topography, or other restriction, the subject parcel may be negotiated for sale to the abutter, provided:

1. The abutter is willing to purchase for the fair market value of the subject parcel as determined under subsection A of this section;

2. If more than one qualifying abutter expresses interest in purchasing the subject parcel, the city council may solicit sealed bids from all; and

3. A person shall not be deemed to be an abutter if a right-of-way separates his property from the subject parcel unless purchase will allow a higher and better use of the abutter's property.

D. Real estate broker sale. In the event the subject parcel is to be disposed of by real estate broker sale, the following procedures shall be follows:

1. The real estate broker shall be licensed in the State of Washington;

2. The property shall be listed for no less than the appraised fair market value or the price set by the council;

3. The property must be advertised on the open market for a minimum of two (2) weeks by the use of newspapers, real estate multiple listing services, or other commercially reasonable methods; and

4. The broker's commission rate will be no more than that otherwise charged in the Shoreline area for such services.

E. Earnest Money/Time to Closing.

1. Disposition by Sealed Bid or Auction. Where a subject parcel is sold by sealed bids or auction, any and all bids submitted must be accompanied by a bid deposit in the form of a cashier's check payable to the city of Shoreline in the amount of five percent of the bid or \$5,000, whichever is greater. Such deposit accompanying the successful bid shall be deposited into an administrative trust account until closing on the purchase of the parcel and payment of the remaining amount of the purchase price shall be made within 30 days. In the event the purchaser is unable to pay the remaining amount within the required time, the earnest money deposit shall become nonrefundable as liquidated damages; provided, however, that the purchaser may deposit an additional \$5,000 extension fee, in which case the time to make full payment shall be extended for an additional 30 days. In the event full payment is not made by the conclusion of the

additional period, all deposits shall be retained as liquidated damages for lost time and expense. The city council reserves the right to waive any irregularities in the bid process.

2. Disposition by Broker Sale or Negotiated Sale. Where property is sold by real estate broker sale or negotiated sale, the purchaser shall deposit earnest money into escrow in the amount of \$5,000 or five percent, whichever is greater, within three business days of execution of a purchase and sale agreement for the purchase of the subject parcel. Earnest money forfeitures and sale extensions under subsection (~~D~~E)(1) of this section shall apply.

~~E~~ F. Form of Conveyance. All conveyances shall be made by quitclaim deed.

~~F~~ G. Closing Costs. All closing costs, exclusive of deed preparation, shall be borne by the purchaser including, but not limited to, survey work, title insurance if desired, recording costs, and escrow fees if applicable

Section 3. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and/or the Code Reviser are authorized to make necessary corrections to this ordinance, including the corrections of scrivener or clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering and references.

Section 4. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any person or situation.

Section 5. Publication and Effective Date. A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON DECEMBER 11, 2017.

Mayor Christopher Roberts

ATTEST:

APPROVED AS TO FORM:

Jessica Simulcik Smith
City Clerk

Margaret King
City Attorney

Date of Publication:

Effective Date:

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

| | |
|----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| AGENDA TITLE: | Authorize the City Manager to Execute a Contract with the Center for Human Services in the Amount of \$341,738 for the Youth Outreach Leadership and Opportunities Program |
| DEPARTMENT: | Parks, Recreation and Cultural Services |
| PRESENTED BY: | Mary Reidy, Recreation Superintendent |
| ACTION: | <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Public Hearing <input type="checkbox"/> Discussion |

PROBLEM/ISSUE STATEMENT:

King County Best Starts for Kids (BSK) is a voter approved initiative designed to “help put every baby born and every child raised in King County on a path toward lifelong success”. The City of Shoreline’s Teen Program was awarded \$543,355 over three years in grant funding to the City for Youth Outreach Leadership and Opportunities (YOLO) program. The City Council approved the acceptance of this grant award at the November 11, 2017, Council meeting.

The YOLO program will provide much needed resources and opportunities at the City of Shoreline Teen Center and the Ballinger Homes King County Housing Authority complex with a focus on youth-led outreach efforts via employment opportunities for those youth. As part of the YOLO program, the Center for Human Services will provide relationship training, on-site mental health therapy services and will host the youth leaders at their Ballinger out-of-School Program. Tonight, Council is being asked to authorize the City Manager to enter into this service contract with the Center for Human Services.

RESOURCE/FINANCIAL IMPACT:

This 3-year service contract is \$341,738 and is funded by the BSK grant award. This is a three year funded project scheduled to be completed by December 31, 2020. Due to the nature of the service, the City Manager has approved a waiver to the normal request for proposal (RFP) process. As the proposed contract is over \$50,000, Council authorization is required in accordance with the City’s Purchasing Policies.

RECOMMENDATION

Staff recommends that the Council move to authorize the City Manager to execute an agreement with the Center for Human Services for \$341,738 to fund the Youth Outreach Leadership and Opportunities project.

ATTACHMENTS:

Attachment A – Scope of Work for Center for Human Services

Approved By: City Manager **DT** City Attorney: **MK**

**AGREEMENT FOR SERVICES
SCOPE OF SERVICES TO BE PERFORMED
AND PROGRAM PERFORMANCE MEASURES**

Scope of Services to be Provided by the Consultant during the term of this agreement: The Consultant shall work in collaboration with the Shoreline Teen Program to implement the King County Best Starts for Kids funded Youth Outreach Leadership and Opportunities (YOLO) program. The YOLO program will provide much needed resources and opportunities at the City of Shoreline Teen Center and the Ballinger Homes King County Housing Authority complex with a focus on youth-led outreach efforts via employment opportunities for those youth. The program includes three elements – employing youth leaders to promote the wide range of Shoreline Teen Programs, Relationship Training and an on-site mental health specialist.

1. Scope of Work

As part of this program, the Consultant will provide the following as it related to those program components:

- a) Youth Leaders. While the youth leaders will be City extra help employees, the Consultant will “host” leaders at their Ballinger Homes Out-of-School Program, as agreed upon with City staff.
- b) Relationship Training. A CHS mental health therapist will offer an open-ended, drop-in type training program for any youth who wants to participate. We will use the “Healthy Relationships 101” curriculum which is a course that teaches youth a dynamic set of social and communicative skills that cultivate character development and support thriving, healthy relationships in youths' lives. The following topics are included: • Effective Communication Tools • Bullying Prevention • Empathy • Healthy Boundaries • Media Influence on Relationships • Identifying and Avoiding Abusive Relationships • Communication Technology and Relationships • Texting and Interpersonal Communication • and others. The Relationships 101 curriculum will not be delivered to fidelity, so we can be flexible to the desires and needs of the youth and add/delete material and topics to the training as appropriate.
- c) On-site Mental Health Therapist. The Consultant will employ a mental health therapist that will be embedded into the service delivery teams at both locations. The therapist will “hang-out” with the kids at the Teen Center and at the Ballinger Homes OST Program to build rapport with the youth and gently solicit participants in the training program or other services. The therapist will be a caring adult outside of the youth’s families who serves as a role model. After rapport is established, the therapist may introduce the idea of participating in the trainings, and/or screening/assessment to youth who seem to be experiencing behavioral health issues. The therapist may provide on-site individual therapy or group therapy for those who want it, depending on the willingness of the youth. The therapist will also be in the position to refer youth to more intensive treatment or other services if necessary.

2. Program Requirements and Performance Measures.

- a. The Consultant agrees to provide, at minimum, 80 youth contact hours per month.
- b. Public Information

Whenever possible, the City of Shoreline and the Best Starts for Kids program will be recognized in Consultant publications and other informational mediums as a financial supporter of the program.

c. **Conflict of Interest**

- i. **Interest of Officers, Employees, or Agents:** No officer, consultant, elected or appointed official, employee, or agent of the Contractor or Agency who exercises any functions or responsibilities in connection with the planning and carrying out of the program, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from this activity, or have a financial interest in any contract, subcontract, or agreement with respect to this activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

- ii. **Public Information**

In all news releases and other public notices related to projects funded under this Agreement, the Contractor shall include information identifying the source of funds as the City of Shoreline and the King County Best Starts for Kids program.

- d. All records required by this agreement shall be retained by the Consultant for a minimum of seven (7) years, unless there is litigation, claims, audit, negotiation, or other actions involving the records, which has started before expiration of the seven-year period. The period of time shall commence on January 1 of the year following the year in which the final invoice was paid.

3. Payments.

Consultant will be paid on a reimbursement based system. Yearly costs are estimated as follows:

- 2018 \$107,586
- 2019 \$115,365
- 2020 \$118,787

4. Contract Administration.

- a. The Consultant will notify the City, in writing, within ten (10) days of any changes in program personnel or signature authority.
- b. The Consultant's main contact for the day-to-day operations of the program will be Beratta Gomillion.
- c. The City's main contact for the day-to-day contract administration will be Amanda Zollner.
- d. The Consultant will provide the City with a copy of their independent audit, when completed.

5. Reports and Reimbursement Requests.

The Consultant shall submit a Billing Voucher and Performance Measures Report on a monthly basis.

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

| | |
|----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| AGENDA TITLE: | Adoption of Ordinance No. 772 – Authorizing an Additional Vehicle License Fee of Twenty Dollars to Preserve, Maintain and Operate the Transportation Infrastructure of the City of Shoreline, Including Funding for Sidewalk Repairs and Retrofits |
| DEPARTMENT: | Public Works Administrative Services |
| PRESENTED BY: | Tricia Juhnke, City Engineer Sara Lane, Administrative Services Director |
| ACTION: | <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing |

PROBLEM/ISSUE STATEMENT:

There are approximately 75 miles of existing sidewalks throughout the City. These sidewalks were built at different times under different standards and are in need of repairs and retrofits. As a precursor to the development of the City’s American with Disabilities Act (ADA) Transition Plan, sidewalks throughout the City have been inspected for compliance with ADA standards. Preliminary review and analysis of the inspections indicate over \$110 million is needed for repairs, including replacement and retrofitting existing sidewalks and curb ramps to meet ADA standards. Current funding for sidewalk repair and maintenance is very limited. Historically, \$152,000 from the general fund has been used for this annual program and recent six- year Capital Improvement Plans have increased the funding to approximately \$200,000 per year starting in 2020.

At the City Council meeting on November 20, 2017, the Council discussed the ADA Transition Plan and associated sidewalk repair needs of the City. Subsequent to this, at the City Council meeting on November 27, 2017, the Council continued the discussion regarding sidewalk repair, including discussion of proposed Ordinance No. 772. This ordinance would increase the vehicle license fee (VLF) by \$20 per year to provide revenue to support the repair of existing sidewalks and address Strategy 5 of the 10 Year Financial Sustainability Plan by providing a funding source to replace general fund contributions to the Roads Capital Fund. Tonight, Council is scheduled to take action on proposed Ordinance No. 772.

FINANCIAL IMPACT:

The City’s current funding levels do not meet the need for repair and replacement of existing sidewalks. After evaluation of alternative revenue sources, increasing the VLF by \$20 has been recommended to provide a stable funding source. The increase in VLF would generate approximately \$780,000 in annual revenue based on the number of

vehicles currently registered in Shoreline. This revenue would also be used to implement a key strategy of the 10 Year Financial Sustainability Plan by eliminating the General Fund contribution to the Roads Capital Fund, allowing approximately \$680,000 to be directed to repair existing sidewalks annually.

RECOMMENDATION

Staff recommends that Council adopt proposed Ordinance No. 772.

Approved By: City Manager ***DT*** City Attorney ***MK***

INTRODUCTION

The need for additional funding for maintenance of existing sidewalks has been identified for several years. The City Council discussed options for increasing funding for sidewalk maintenance and repair during their 2016 Annual Strategic Planning Workshop and again during their 2017 Annual Strategic Planning Workshop along with a discussion on construction of new sidewalk and expanding the pedestrian system plan.

Currently, annual sidewalk repair and replacement is primarily funded through a General Fund contribution and supplemented with Roads Capital funding. The Capital Improvement Plan has identified this program as being underfunded.

BACKGROUND

The City Council discussed the City's ADA Transition Plan, associated sidewalk repair needs and alternatives for funding these needs on November 20, 2017. The staff report for this Council discussion can be found at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2017/staffreport112017-9a.pdf>.

The Council continued this discussion on sidewalk repair on November 27, 2017. This discussion also included a discussion of proposed Ordinance No. 772, which would increase the City's vehicle license fee (VLF) by \$20 per year to provide revenue to support the repair of existing sidewalks and address Strategy 5 of the 10 Year Financial Sustainability Plan. The staff report from this discussion can be found at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2017/staffreport112717-8b.pdf>.

As identified at the November 20th Council meeting, the need for funding for repair of existing sidewalks is significant with a preliminary cost estimate in excess of \$110 million dollars. An increase to the VLF has been recommended as a revenue source to support this work effort. Adoption of a \$20 VLF would generate approximately \$780,000, and provide a total of approximately \$680,000 per year that could be used repair of existing sidewalks.

Work is also underway for prioritization of new sidewalk improvements with Council discussion anticipated in the spring of 2018. This discussion will include additional revenue sources to construct new sidewalk and potentially accelerate the repair program.

DISCUSSION

At the City Council meeting on November 27th, Council asked for a recommendation from the Sidewalk Advisory Committee (SAC) regarding the use of a \$20 VLF for sidewalk repair and maintenance. The SAC met on November 30, 2017 and discussed the proposed VLF increase. Although there was not a unanimous direction from the SAC, the majority of the SAC members attending the November 30th meeting

recommended not approving a \$20 VLF at this time and instead recommended including the need for repair and replacement of existing sidewalks with future discussions on funding for new sidewalks. Key reasons for this recommendation include:

- The VLF is regressive and there is interest in sales tax instead of VLF.
- The VLF will not adequately fund the needs for repair of the existing sidewalks.
- Need for a comprehensive package for the citizens to review and potentially vote for approval.
- Timing of implementing the VLF now with the recent implementation of the increase to VLFs for the Sound Transit 3 ballot measure.
- Need for a more specific plan that shows prioritization of sidewalk repairs.
- Need for a clear and comprehensive communication plan for the citizens.
- Potential push back by voters if there is Councilmanic fee increase followed shortly with a voter approved package for new sidewalks.

ALTERNATIVES ANALYSIS

The following alternatives exist regarding proposed Ordinance No. 772:

1. **Approve Ordinance 772: Implement the \$20 VLF Effective January 1, 2018 (*Recommended*)** - This alternative will generate approximately \$780,000 annually in revenue of which approximately \$680,000 would be programmed towards the repair, replacement and retrofit of existing sidewalk. If implemented January 1, 2018, fees would begin being collected July 1, 2018.
2. **Do not approve Ordinance 772: Delay implementation of funding for sidewalks and include with an extensive discussion of funding for new sidewalks** - This is not recommended because there is a known need for funding of the sidewalk repair, retrofit, and maintenance program. State law provides limited funding mechanisms to address the City's transportation needs and one of those mechanisms is the vehicle license fee, of which the City Council has been granted authority through state law to legislatively implement up to a \$50 vehicle license fee. Delaying implementation of a VLF will delay the timeframe to program funding and begin making improvements and delays the maintenance of assets that are already the responsibility of the City.

COUNCIL GOALS ADDRESSED

This item addresses the following City Council Goals:

- Goal 1: Strengthen Shoreline's economic base to maintain the public services that the community expects; Action Step 3 – Implement the 10-year Financial Sustainability Plan to achieve sufficient fiscal capacity to fund and maintain priority public services, facilities, and infrastructure.
- Goal 2: Improve Shoreline's utility, transportation, and environmental infrastructure; Action Step 1 – Identify funding strategies, including grant opportunities, to implement the City's Transportation Master Plan including construction of non-motorized improvements.

RESOURCE/FINANCIAL IMPACT

The City's current funding levels do not meet the need for repair and replacement of existing sidewalks. After evaluation of alternative revenue sources, increasing the VLF by \$20 has been recommended to provide a stable funding source. The increase in VLF would generate approximately \$780,000 in revenue based on the number of vehicles currently registered in Shoreline. This revenue would also be used to implement a key strategy of the 10 Year Financial Sustainability Plan by eliminating the General Fund contribution to the Roads Capital Fund, allowing approximately \$680,000 to be directed to repair existing sidewalks annually.

RECOMMENDATION

Staff recommends that Council adopt proposed Ordinance No. 772.

ATTACHMENTS

Attachment A – Ordinance No. 772

ORDINANCE NO. 772

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, AUTHORIZING AN ADDITIONAL VEHICLE LICENSE FEE OF TWENTY DOLLARS, FOR A TOTAL ANNUAL VEHICLE LICENSE FEE OF FORTY DOLLARS.

WHEREAS, as provided in RCW 36.73, the Shoreline City Council formed a city-wide transportation benefit district known as the Shoreline Transportation Benefit District (“TBD”) in 2009; and

WHEREAS, in October 2015, via Ordinance No. 726, the Shoreline City Council assumed the rights, powers, functions, immunities, and obligations of the TBD and the Council became the governing board; and

WHEREAS, RCW 36.73.065(4) and SMC 3.60.030(A) authorizes the TBD, by majority vote of the governing board and without a public vote, to impose a vehicle license fee of up to \$40.00 provided a vehicle fee of \$20.00 has been imposed for a least 24 months; and

WHEREAS, in July 2009, as authorized by RCW 36.73.065, the TBD imposed a vehicle license fee of \$20.00; and

WHEREAS, the City Council, as the governing board, now finds it is in the best interest of the citizens of Shoreline to increase the annual vehicle license fee to \$40.00 for the purpose of preserving, maintaining, and operating the transportation infrastructure of the City of Shoreline, including to assist in the funding of multi-model improvements such as curbs, gutters, and sidewalks; and

WHEREAS, RCW 82.80.140(4) mandates that no fee may be collected until six (6) months after approval under RCW 36.73.065;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE DO ORDAIN AS FOLLOWS:

Section 1. Increased Annual Vehicle License Fee. The annual vehicle license fee of \$20.00 shall be increased to an annual fee of \$40.00, consistent with RCW 36.73.065 and SMC 3.60.030, and is to be collected by the Washington State Department of Licensing on qualifying vehicles as set forth in RCW 82.80.140 and chapters 36.73 and 46.16 RCW.

Section 2. Effective Date of Fee Collection. The increase vehicle license fee will not be collected sooner than six months after approval of this Ordinance as provided in RCW 82.80.140(4). The existing annual vehicle license fee of \$20.00 established in 2009 shall remain in effect and be collected by the Washington State Department of Licensing until the effective date of the increase vehicle license fee established by this Ordinance.

Section 3. Revenues. The revenues received by the \$20.00 increase shall be used only for transportation improvement projects contained in the City’s Transportation Plan or the operation, preservation, and maintenance of these facilities or programs.

Section 4. Directions to City Clerk. The City Council directs the City Clerk to notify the Washington State Department of Licensing of the vehicle fee established in Section 1 of this Ordinance and to request that the Department of Licensing take all steps necessary to implement collection of this fee in accordance with RCW 82.80.140.

Section 5. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and/or the Code Reviser are authorized to make necessary corrections to this ordinance, including the corrections of scrivener or clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering and references.

Section 6. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any person or situation.

Section 7. Publication and Effective Date. A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall take effect January 1, 2018, PROVIDED THAT, the increased vehicle license fee shall not become effective until six months after approval of this Ordinance.

PASSED BY THE CITY COUNCIL ON DECEMBER 11, 2017.

Mayor Christopher Roberts

ATTEST:

APPROVED AS TO FORM:

Jessica Simulcik Smith
City Clerk

Margaret King
City Attorney

Date of Publication:
Effective Date: January 1, 2018

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

| | |
|----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| AGENDA TITLE: | Discussing Ordinance No. 810 Amending Ordinance No. 781 Granting a Non-Exclusive Franchise to Verizon Access Transmission Services to Construct, Operate, and Maintain a Telecommunications Fiber Optic System Within City Rights-of-Way, Excluding the Aurora Avenue N Corridor |
| DEPARTMENT: | City Manager's Office |
| PRESENTED BY: | Alex Herzog, Management Analyst |
| ACTION: | <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing |

PROBLEM/ISSUE STATEMENT:

Earlier this year, the City received an application for a new right-of-way franchise from MCIMetro Access Transmission Services Corp., doing business as (dba) Verizon Access Transmission Services, for a telecommunication (fiber optic) system in Shoreline. Verizon seeks to provide competitive local exchange (voice and data) services, internet access, private line services, and cell network front- and backhaul services to an existing cell phone tower. Verizon may also make available dark fiber or other facilities to third parties, including conduit access and dark fiber. Verizon does not presently intend to provide cable television service and understands that a separate franchise may be required to provide these services.

At its May 8, 2017 regular meeting, Council held a public hearing on proposed Ordinance No. 781 and discussed its merits. Council expressed concerns about Verizon's initial plans to trench new fiber optic lines along Aurora Avenue N so soon after completion of the Aurora Avenue Project. Council asked staff to work with Verizon to find alternatives to trenching along Aurora Avenue N if possible.

On August 14, 2017, Council request that Staff include several provisions into proposed Ordinance No. 781 whereby, if not met, the ordinance would be considered null and void. These contingencies included:

- Both parties agreeing to negotiate a conduit lease agreement in good faith within the next 60 days;
- The lease agreement being written for presentation to Council within 60-days of Council passage of proposed Ordinance No. 781; and
- Council authorization to execute the conduit lease agreement within 60 days of presentation of the lease agreement.

Since August 2017, City and Verizon staff have made progress in negotiating a lease agreement for physical space in existing City-owned conduit that runs the length of Aurora Avenue N. However, these negotiations have not yet been finalized.

Tonight, Council will discuss proposed Ordinance No. 810 which would amend Ordinance No. 781 to allow Verizon to obtain a franchise for all parts of the City except for the Aurora Avenue N corridor, defined as the roadway with a 1,000 foot buffer on either side. Ordinance No. 810 would also remove the above mentioned contingencies that are contained in Section 4 and Section 19 of Ordinance No. 781. This approach would allow Verizon to begin work on a substantial portion of its facility construction in many parts of the City via franchise agreement, while providing more time for staff from both organizations to continue negotiating a lease agreement for City-owned conduit or develop an alternative solution.

RESOURCE/FINANCIAL IMPACT:

The full fiscal impact in adopting proposed Ordinance No. 810 is unknown, as Verizon has yet to market its telecommunication services to retail customers in Shoreline. As such, Verizon does not have the available information to determine what those revenues will be at this time.

Under Washington State law, the City is precluded from imposing franchise fees upon a “telephone business” as defined in RCW 82.16.010, and “service providers”, as defined in RCW 35.99.010, for use of the right-of-way. Given that Verizon warrants that their operations are those of a telephone business company and service provider as defined in these statutes, the City is not able to collect franchise fees based on gross revenue generated in Shoreline by Verizon on these activities. This being said, Verizon will be subject to the City’s utility tax as set forth in Chapter 3.32 of the Shoreline Municipal Code. The City may also assess full administrative costs for processing the franchise application and right-of-way permits for new system improvements.

Generally speaking, a new franchisee for fiber optic services in Shoreline promotes economic development by allowing utilization of unused capacity of an existing right-of-way by a new business. As well, adoption of this franchise makes telecommunication services more competitive for commercial properties in the City as the system is expanded. If City and Verizon staff are able to negotiate a conduit lease agreement, the City may potentially receive payment from Verizon for such based on the number of linear conduit feet leased.

RECOMMENDATION

No action is required at this time as this item is for discussion purposes only. When this item is brought back for Council action, staff recommends Council adopt proposed Ordinance No. 810, amending Ordinance No. 781, granting a non-exclusive franchise to Verizon Access Transmission Services, excluding the Aurora Avenue N corridor.

Approved By: City Manager **DT** City Attorney **MK**

BACKGROUND

RCW 35A.47.040 authorizes code cities to permit and regulate non-exclusive franchises for use of public streets for a variety of public and private utilities, including conduits and wires for the transmission and distribution of signals and other methods of communication. An ordinance granting a franchise must receive a majority vote of the full council.

As well, fiber optic telecommunications firms which use the City's rights-of-way for telecommunications systems are required to have a non-exclusive franchise with the City. Shoreline Municipal Code (SMC) section 12.25.030 states that "it shall be unlawful to construct, install, maintain or operate any facility in, on, above, or below the public right-of-way without a valid franchise agreement obtained pursuant to the provision of this chapter."

Earlier this year, the City received an application for a new right-of-way franchise from MCIMetro Access Transmission Services Corp., doing business as (dba) Verizon Access Transmission Services, for a telecommunication (fiber optic) system in Shoreline. Verizon would provide competitive local exchange (voice and data) services, internet access, private line services, and cell network front- and backhaul services to an existing cell phone tower. Verizon may also make available dark fiber or other facilities to third parties, including conduit access and dark fiber. Verizon does not presently intend to provide cable television service and understands that a separate franchise may be required to provide cable services.

Verizon initially plans to extend 'back-haul' fiber transport from its existing network access points to an active existing cell site and connect with existing network infrastructure as it enters and leaves Shoreline. Fiber optic communications lines will be placed both overhead on utility poles and underground (as necessary) within conduit. Verizon intends to use utility poles wherever possible and avoid underground construction except where required in some areas, such as Aurora Avenue N. Undergrounding of electric and communication facilities is regulated by SMC 13.20 *Electric and Communication Facilities*, and will be applicable to this franchisee.

Verizon will be installing infrastructure and facilities in many of Shoreline's neighborhoods, including Richmond Beach, Hillwood, Echo Lake, Ballinger, Meridian Park, Ridgecrest, Parkwood, North City, and Highland Terrace. Services offered may vary in each neighborhood. Verizon intends to deploy fiber optic strands attached to already-existing utility poles wherever possible, unless underground construction is required.

May 8, 2017 Council Meeting

At its May 8, 2017 meeting, Council held a public hearing on Ordinance No. 781 (Attachment B) and discussed its merits. Ordinance No. 781 provides a right-of-way franchise agreement to Verizon. Council expressed concerns about Verizon's initial plans to trench new fiber optic lines along Aurora Avenue N so soon after completion of

the Aurora Avenue Project. Council asked staff to work with Verizon to find alternatives to trenching along Aurora Avenue N if possible. Materials from the May 8, 2017 meeting are available on the City's website, here:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2017/staffreport050817-8b.pdf>.

August 14, 2017 Council Meeting

After the May 8 meeting, City and Verizon staff began negotiating a potential lease agreement for physical space in existing City-owned conduit that runs the length of Aurora Avenue N in Shoreline. The existing conduit has four innerducts and was installed during the Aurora Avenue Project. Staff analysis shows that after potentially leasing space in one innerduct, the City will retain enough physical space in the remaining ducts for likely future demand.

Staff returned to Council on August 14, 2017 for adoption of the franchise in accordance with requirements of RCW 35.99.030(10)(b). This statute required the City "to act upon a complete [franchise] application within one hundred twenty (120) days from the date a service provider files the complete application for the master permit to use the right-of-way." Staff calculated that Verizon submitted its full application on April 17, 2017, and therefore the deadline for acting upon the franchise was August 15, 2017.

At that meeting, staff proposed Council adopt Ordinance No. 781, which included several contingencies:

- Both parties agreeing to negotiate a conduit lease agreement in good faith within the next 60 days;
- The agreement being written for presentation to Council within 60-days of Council passage of Ordinance No. 781; and
- Council authorization to execute the conduit lease agreement within 60 days of presentation of the agreement.

As adopted, if one of these contingencies were not met, Ordinance No. 781 granting the franchise would be considered null and void.

Materials from the August 14, 2017 meeting are available on the City's website, here: <http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2017/staffreport081417-7f.pdf>.

DISCUSSION

Since the August 14, 2017 Council meeting, City and Verizon staff have been making progress negotiating the aforementioned conduit lease agreement. Staff hope to have this agreement finalized in the coming months. Verizon staff have also indicated that approximately 26 lateral east-west connections to their Aurora Avenue fiber may need to be installed to build out their network. City staff are working to determine how to address these connections to Verizon's system.

To account for the continued conduit lease negotiation and to address the issue of these lateral connections, staff propose that Council adopt Ordinance No. 810 (Attachment A), amending Ordinance No. 781 to allow Verizon to obtain a franchise for all parts of the City except for the Aurora Avenue N corridor, defined as the roadway with a 1,000 foot buffer on either side. Ordinance No. 810 would also remove the above mentioned contingencies that are contained in Section 4 and Section 19 of Ordinance No. 781. This approach would allow Verizon to begin work on a substantial portion of its facility construction in many parts of the City via franchise agreement, while providing more time for staff from both organizations to continue negotiating a lease agreement for City-owned conduit and address the lateral connections to Verizon's Aurora Avenue fiber.

Staff will return at a later date for Council consideration of execution of the conduit lease agreement and revision of the franchise agreement to include the Aurora Avenue N corridor once these issues have been finalized.

RESOURCE/FINANCIAL IMPACT

The full fiscal impact in adopting proposed Ordinance No. 810 is unknown, as Verizon has yet to market its telecommunication services to retail customers in Shoreline. As such, Verizon does not have the available information to determine what those revenues will be at this time.

Under State law, the City is precluded from imposing franchise fees upon a "telephone business" as defined in RCW 82.16.010, and "service providers", as defined in RCW 35.99.010, for use of the right-of-way. Given that Verizon warrants that their operations are those of a telephone business company and service provider as defined in these statutes, the City is not able to collect franchise fees based on gross revenue generated in Shoreline by Verizon on these activities. This being said, Verizon will be subject to the City's utility tax as set forth in Chapter 3.32 of the Shoreline Municipal Code. The City may also assess full administrative costs for processing the franchise application and right-of-way permits for new system improvements.

Generally speaking, a new franchisee for fiber optic services in Shoreline promotes economic development by allowing utilization of unused capacity of an existing right-of-way by a new business. As well, adoption of this franchise makes telecommunication services more competitive for commercial properties in the City as the system is expanded. If City and Verizon staff are able to negotiate a conduit lease agreement, the City may potentially receive payment from Verizon based on the number of linear conduit feet leased. Staff will return at a later date for Council consideration of execution of the conduit space lease agreement.

RECOMMENDATION

No action is required at this time as this item is for discussion purposes only. When this item is brought back for Council action, staff recommends Council adopt proposed

Ordinance No. 810, amending Ordinance No. 781, granting a non-exclusive franchise to Verizon Access Transmission Services, excluding the Aurora Avenue N corridor.

ATTACHMENTS

Attachment A: Proposed Ordinance No. 810

Attachment B: Ordinance No. 781

ORDINANCE NO. 810

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, AMENDING ORDINANCE NO. 781 TO AMEND SECTION 1, DELETE SECTION 4, AND AMEND SECTION 19 OF THE FRANCHISE GRANTED TO MCIMETRO ACCESS TRANSMISSION SERVICES CORP., D/B/A VERIZON ACCESS TRANSMISSION SERVICES.

WHEREAS, on August 14, 2017, the City of Shoreline, by Ordinance No. 781, granted a non-exclusive franchise to MCIMetro Access Transmission Services Corp., d/b/a Verizon Access Transmission Services (“Verizon”) of the right to construct, operate, and maintain a telecommunications fiber optic system within the City’s rights-of-way; and

WHEREAS, Section 1(A) of Ordinance No. 781 grants to Verizon a Franchise “in, under, on, across over, and through all City-owned rights-of-way” and refers to this as the “Franchise Area”; and

WHEREAS, pursuant to Section 4 of Ordinance No. 781, the Franchise was conditioned on the successful negotiation of a lease agreement for an underground conduit that the City owns within the public right-of-way commonly referred to as Aurora Avenue North; and

WHEREAS, pursuant to Section 19 of Ordinance No. 781, the Franchise was conditioned upon Section 4 and would not become effective until a conduit lease agreement was fully executed; and

WHEREAS, pursuant to RCW 35A.11.020 and 34A.47.040, the City has broad discretion to regulate the use of the right-of-way and to place such restrictions and conditions as it deems necessary including preventing interference with a main transportation corridor by requiring providers to use underground conduit; and

WHEREAS, subsequent to the adoption of Ordinance No. 781, the City and Verizon have engaged in discussions pertaining to the conduit lease agreement and have determined that the condition for such lease be removed and that the Franchise Area be modified so as not to include the Aurora Avenue North corridor and areas immediately adjacent to the corridor; and

WHEREAS, amending Ordinance No. 781 as provided herein will permit Verizon to engage in authorized franchise activities while the parties continue to engage in negotiations of a conduit lease agreement;

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

Section 1. Amendment to Section 1 Non-exclusive Franchise Granted Subject to Conditions. Section 1(A) is amended to read as follows:

- A. The City hereby grants to VERIZON, subject to the conditions prescribed in this ordinance (“Franchise Agreement”), the franchise rights and authority to construct, install, replace, repair, monitor, maintain, use and operate the equipment and facilities necessary for a telecommunications system in, under, on, across over, and through, all City-owned rights-of way, EXCEPT the entire length and width of that right-of-way commonly referred to as Aurora Avenue North, from N 145th Street to N 205th Street, and all rights-of-way 1,000 linear feet to the east and to the west of Aurora Avenue North, measured from the edge of the Aurora Avenue North right-of-way, hereinafter referred to as the “Franchise Area.” Facilities includes all wires, lines, cables, conduit, equipment, switches, and supporting structures located in the City’s right-of-way, utilized by VERIZON in operation of activities authorized by this Franchise Agreement.

Section 2. Deletion of Section 4 Conditional Approval of Franchise – Conduit Lease Agreement. Section 4 is deleted in its entirety.

Section 3. Amendment to Section 19 Effective Date – Subject to Conditions. Section 19 is deleted in its entirety and replaced with the following:

Section 19 – Acceptance and Effective Date. The City Clerk is hereby directed to promptly forward a certified copy of this Ordinance and Ordinance No. 781 to VERIZON. VERIZON shall have thirty (30) calendar days from the passage of this Ordinance to accept, unconditionally and in writing, the amendments set forth in this Ordinance and the terms and conditions set forth in the Ordinance No. 781. Acceptance shall be sent to the City Clerk and this Ordinance and Ordinance No. 781 shall become effective upon the date VERIZON’s Acceptance is received by the City Clerk. Failure of VERIZON to accept this Ordinance and Ordinance No. 781 within said period of time shall be deemed a rejection thereof by VERIZON and the rights and privileges granted shall absolutely cease and this Ordinance and Ordinance No. 781 will be considered null and void.

Section 4. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and/or the Code Reviser are authorized to make necessary corrections to this ordinance, including the corrections of scrivener or clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering and references.

Section 5. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any person or situation.

Section 6. Publication. A summary of this Ordinance consisting of the title shall be published in the official newspaper. The cost of the publication of this Ordinance shall be borne by VERIZON.

PASSED BY THE CITY COUNCIL ON JANUARY 8, 2017.

Mayor _____

ATTEST:

APPROVED AS TO FORM:

Jessica Simulcik Smith
City Clerk

Margaret King
City Attorney

Date of Publication:

Effective Date:

ORDINANCE NO. 781

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, GRANTING A NON-EXCLUSIVE FRANCHISE, SUBJECT TO CONDITIONS, TO MCIMETRO ACCESS TRANSMISSION SERVICES CORP., D/B/A VERIZON ACCESS TRANSMISSION SERVICES, LEGALLY AUTHORIZED TO CONDUCT BUSINESS IN THE STATE OF WASHINGTON, FOR THE PURPOSE OF CONSTRUCTING, OPERATING, AND MAINTAINING A TELECOMMUNICATIONS SYSTEM IN THE PUBLIC RIGHTS-OF-WAY IN THE CITY; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, MCIMETRO ACCESS TRANSMISSION SERVICES CORP., D/B/A VERIZON ACCESS TRANSMISSION SERVICES, herein after referred as "VERIZON," is a telecommunications company that, among other things, provides voice, and data services to customers, including those in the Puget Sound Region; and

WHEREAS, VERIZON's desired route through the City of Shoreline, hereinafter referred to as "City," requires the use of the City rights-of-way for the installation, operation, and maintenance of a telecommunications system; and

WHEREAS, the City Council has determined that the use of portions of the City's rights-of-way for installation of a telecommunications system benefits local businesses and the region as a result of such services; and

WHEREAS, the franchise for use of public rights-of-way allows for the construction of amenities necessary to serve the future needs of the citizens of Shoreline and the coordination, planning, and management of the City's rights-of-way is necessary to ensure that the burden of costs relating to use of the public rights-of-way are fairly allocated; and

WHEREAS, RCW 35A.11.020 grants the City broad authority to regulate the use of the public right-of-way and RCW 35A.47.040 grants the City broad authority to grant nonexclusive franchise agreements; now therefore;

THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Non-exclusive Franchise Granted Subject to Conditions.

- A. The City hereby grants to VERIZON, subject to the conditions prescribed in this ordinance ("Franchise Agreement"), the franchise rights and authority to construct, install, replace, repair, monitor, maintain, use and operate the equipment and facilities necessary for a telecommunications system in, under, on, across over, and through, all City-owned rights-of-way, hereinafter referred to as the "Franchise Area." Facilities includes all wires, lines, cables, conduit, equipment, switches, and supporting

structures located in the City's right-of-way, utilized by VERIZON in the operation of activities authorized by this Franchise Agreement.

- B. The foregoing franchise rights and authority ("Franchise") shall not be deemed to be exclusive to VERIZON and shall in no way prohibit or limit the City's ability to grant other franchises, permits, or rights along, over, or under the areas to which this Franchise has been granted to VERIZON; provided, that such other franchises do not unreasonably interfere with VERIZON's exercise of franchise rights granted herein as determined by the City. This Franchise shall in no way interfere with existing utilities or in any way limit, prohibit, or prevent, the City from using the Franchise Area or affect the City's jurisdiction over such area in any way consistent with applicable law.
- C. This Franchise Agreement authorizes VERIZON to occupy and use the Franchise Area. Nothing contained herein shall be construed to grant or convey any right, title, or interest in the Franchise Area to VERIZON.

Section 2. Authority. The Public Works Director or his or her designee is hereby granted the authority to administer and enforce the terms and provisions of this Franchise Agreement and may develop such lawful and reasonable rules, policies, and procedures as he or she deems necessary to carry out the provisions contained herein.

Section 3. Franchise Term. The franchise rights granted herein shall remain in full force and effect for a period of fifteen (15) years from the effective date of this ordinance. However, this Franchise Agreement shall not take effect and VERIZON shall have no rights under this Franchise Agreement unless a conduit lease agreement is executed pursuant to Section 4 and a written acceptance with the City is received pursuant to Section 5 of this agreement.

Section 4. Conditional Approval of Franchise – Conduit Lease Agreement.

- A. This Franchise is conditioned upon the successful negotiation of a conduit lease agreement between the City and Verizon. The City owns underground conduit, along with necessary access vaults, within the public right-of-way commonly referred to as Aurora Avenue North, with the conduit extending northward from North 145th Street to north 205th Street (Aurora Conduit). The Aurora Conduit contains currently available capacity for which it would be in the public interest to lease this available capacity so as to preclude the unnecessary impact and interference within this public right-of-way that would result through the installation of new conduit.
- B. The parties shall exercise good faith in negotiating a lease for VERIZON's use of a portion of the Aurora Conduit. A conduit lease agreement, mutually acceptable to both parties, shall be written for presentation to the authorizing bodies of each party for their authorization within sixty (60) calendar days of the passage of this Ordinance.
- C. The authorizing bodies of each party shall have sixty (60) calendar days from presentation to authorize and fully execute the conduit lease agreement.

Section 5. Acceptance of Terms and Conditions. The full acceptance of this Franchise Agreement and all the terms and conditions shall be filed with the City Clerk within thirty (30) calendar days of the effective date of this ordinance in the form attached hereto as Exhibit B. Failure on the part of VERIZON to file said consent within thirty (30) calendar days of the effective date of this ordinance shall result in this ordinance having no further force or effect and all rights granted under this Franchise Agreement shall terminate.

Section 6. Construction Provisions and Standards. The following provisions shall be considered mandatory and failure to abide by any conditions described herein shall be deemed as noncompliance with the terms of this Franchise Agreement and may result in some or all of the penalties specified in Section 7.

- A. Permit Required.** No construction, maintenance, or repairs (except for emergency repairs) shall be undertaken in the Franchise Area without first obtaining appropriate right of way use permits required under SMC 12.15 from the City of Shoreline and compliance with the permit. In case of an emergency, VERIZON shall, within 24 hours of the emergency work performed, obtain a permit from the City of Shoreline Public Works Department.
- B. Construction Standards.** Any construction, installation, maintenance, and restoration activities performed by or for VERIZON within the Franchise Area shall be constructed and located so as to produce the least amount of interference with the free passage of pedestrian and vehicular traffic. All construction, installation, maintenance, and restoration activities shall be conducted such that they conform to City's Engineering Development Manual and with Title 12 of the Shoreline Municipal Code.
- C. Underground Installation Required.** All telecommunications cables and junction boxes or other vaulted system components shall be installed underground, unless otherwise exempted from this requirement, in writing, by the Public Works Director; provided that VERIZON may utilize existing aerial telecommunication facilities under lease or license from another franchisee. Should VERIZON utilize existing aerial telecommunication facilities, VERIZON agrees to cooperate in relocating to underground facilities when required by SMC 13.20 *Electric and Communication* for a City capital improvement project or joint trench opportunity.
- D. Relocation.**
 - 1. Whenever the City causes a public improvement to be constructed within the Franchise Area, and such public improvement requires the relocation of VERIZON's facilities, the City shall provide VERIZON with written notice requesting such relocation along with plans for the public improvement that are sufficiently complete to allow for the initial evaluation, coordination and the development of a relocation plan. The City and VERIZON shall meet at a time and location determined by the City to discuss the project requirements including

critical timelines, schedules, construction standards, utility conflicts, as-built requirements, and other pertinent relocation plan details.

2. To ensure timely execution of relocation requirements, VERIZON shall, upon written request from the City, provide at VERIZON's expense, base maps, current as-built information, detailed relocation plan (including detailed schedule of relocation activities, identification of critical path, identification of facilities, and relocation procedures), and other design, technical or operational requirements within the timeframe specified by the City.
3. VERIZON may, after receipt of written notice requesting a relocation of its facilities, submit to the City written alternatives to such relocation within a reasonable time specified by the City. Such alternatives shall include the use and operation of temporary facilities in adjacent rights of way. The City shall evaluate such alternatives and advise VERIZON in writing if one or more of the alternatives are suitable to accommodate the work, which would otherwise necessitate relocation of the facilities. If requested by the City, VERIZON shall submit additional information to assist the City in making such evaluation. The City shall give each alternative proposed by VERIZON full and fair consideration. In the event the City ultimately determines that there is no other reasonable alternative, VERIZON shall relocate its facilities as otherwise specified in Section 6.E.
4. Upon final approval of the relocation plan by the City, VERIZON shall at its own expense, except as provided in RCW 35.99.060, and at the timeframe specified by the City, temporarily or permanently remove, relocate, place underground, change or alter the position of any facilities or structures within the right-of-way whenever the City has determined that such removal, relocation, undergrounding, change or alteration is reasonably necessary for the construction, repair, maintenance, installation, or operation of any public improvement in or upon the rights-of-way, or for public safety.
5. If during the construction, repair, or maintenance of the City's public improvement project an unexpected conflict occurs with VERIZON's facilities, VERIZON shall upon notification from the City, respond within 36 hours to resolve the conflict.
6. VERIZON shall reimburse the City for the direct costs incurred by the City in planning, designing, constructing, installing, repairing or altering any City infrastructure, structure, or facility as the result of the actual or proposed presence in the Public Right-of-Way of VERIZON's Facilities. Such costs and expenses shall include, but not be limited to, the direct costs of City personnel and contractors utilized to oversee or engage in any work in the Public Right-of-Way as the result of the presence of VERIZON's Facilities in the Public Right-of-Way, and any time spent reviewing construction plans in order to either accomplish the relocation of VERIZON's Facilities or the routing or rerouting of any public utilities or Public

Rights-of-Way so as not to interfere with VERIZON's Facilities. Upon request as a condition of payment by VERIZON, all billing will be itemized so as to specifically identify the direct costs for each project for which the City claims reimbursement.

- E. Removal or Abandonment.** Upon the removal from service of any VERIZON structures, facilities and amenities within the Franchise Area, VERIZON shall comply with all applicable standards and requirements prescribed by the City of Shoreline Public Works Department for the removal or abandonment of said structures and facilities. No facility constructed or owned by VERIZON may be abandoned in place without the express written consent of the City.
- F. Bond.** Before undertaking any of the work, installation, improvements, construction, repair, relocation, or maintenance authorized by this Franchise Agreement, VERIZON shall upon the request of the City, furnish a bond executed by VERIZON and a corporate surety authorized to operate a surety business in the State of Washington, in such sum as may be set and approved by the City as sufficient to ensure performance of VERIZON's obligations under this Franchise Agreement, provided, however, that such sum shall not exceed 100% of the project construction cost of the proposed telecommunications system work by VERIZON in the City rights-of-way. At VERIZON's sole option, VERIZON may provide alternate security in the form of an assignment of funds or a letter of credit, in the same amount as the bond. All forms of security shall be in the form reasonably acceptable to the City. The bond shall be conditioned so that VERIZON shall observe all the covenants, terms, and conditions and shall faithfully perform all of the obligations of this Franchise Agreement, and to repair or replace any defective VERIZON work or materials discovered in the City's roads, streets, or property.
- G. "One-Call" Location & Liability.** VERIZON shall subscribe to and maintain membership in the regional "One-Call" utility location service and shall promptly locate all of its lines upon request. The City shall not be liable for any damages to VERIZON's system components or for interruptions in service to VERIZON customers which are a direct result of work performed for any City project for which VERIZON has failed to properly locate its lines and facilities within the prescribed time limits and guidelines established by One-Call. The City shall also not be liable for any damages to the VERIZON system components or for interruptions in service to VERIZON customers resulting from work performed under a permit issued by the City.
- H. As-Built Plans Required.** VERIZON shall maintain accurate engineering plans and details of all installed system facilities, within the City limits, and upon request by the City, shall provide such information in both paper form and electronic form using the most current Autocad version (or other mutually-agreeable format) prior to close-out of any permit issued by the City and any work undertaken by VERIZON pursuant to this Franchise Agreement. The City shall reasonably determine the acceptability of any as-built submittals provided under this Section.

- I. Recovery of Costs.** VERIZON shall be subject to all applicable permit fees associated with activities undertaken through the authority granted in this Franchise Agreement or under ordinances of the City.

- J. Vacation.** The City shall have the right to vacate any City road, right-of-way, or other City property which is subject to rights granted by this Franchise Agreement. The City may, if practicable, reserve an easement for VERIZON in its vacation ordinance. If VERIZON's facilities must be relocated due to the vacation, the City may, at its option and by giving sixty (60) calendar days written notice to VERIZON, terminate this Franchise Agreement with respect to such City road, right-of-way, or other City property so vacated. The City shall not be liable for any damages or loss to VERIZON by reason of such termination other than those provided for in RCW 35.99.

Section 7. Franchise Compliance.

- A. Franchise Violations.** The failure by VERIZON to fully comply with any of the provisions of this Franchise Agreement or conditions of breach listed in SMC 12.25.100 may result in a written notice from the City which describes the violations of the Franchise Agreement and requests remedial action pursuant to SMC 12.25.100.

- B. Emergency Actions.**
 - 1.** If any of VERIZON's actions, or any failure by VERIZON to act to correct a situation caused by VERIZON, is deemed by the City to create a threat to life or property, financial harm, or cause a delay of the construction, repair or maintenance of the public improvement, the City may order VERIZON to immediately correct said threat, financial harm, or delay or, at the City's discretion, the City may undertake measures to correct said threat, financial harm or delay itself; provided that, except in emergency situations, as determined solely by the City, the City shall notify VERIZON and give VERIZON an opportunity to correct the situation within a reasonable time as specified by the City, said threat, financial harm or delay before undertaking such corrective measures. VERIZON shall be liable for all reasonable costs, expenses, and damages attributed to the correction of such an emergency situation as undertaken by the City to the extent that such situation was caused by VERIZON and shall further be liable for all reasonable costs, expenses, and damages resulting to the City from such situation and any reimbursement of such costs to the City shall be made within thirty (30) calendar days of written notice of the completion of such action or determination of damages by the City. The failure by VERIZON to take appropriate action to correct a situation caused by VERIZON and identified by the City as a threat to public or private safety or property, financial harm, or delay of the construction, repair or maintenance of the public improvement shall be considered a violation of the terms of this Franchise Agreement.

2. If during construction or maintenance of VERIZON's facilities any damage occurs to an underground facility and the damage results in the release of natural gas or other hazardous substance or potentially endangers life, health, or property, VERIZON or its contractor shall immediately call 911 or other local emergency response number.
- C. Other Remedies.** Nothing contained in this Franchise Agreement shall limit the City's available remedies in the event of VERIZON's failure to comply with the provisions of this Franchise Agreement, to include but not limited to, the City's right to a lawsuit for damages.
- D. Removal of System.** In the event that this Franchise Agreement is terminated as a result of violations of the terms of this Franchise Agreement, VERIZON shall at its sole expense, promptly remove all system components and facilities, provided that the City, at its sole option, may allow VERIZON to abandon its facilities in place.

Section 8. Insurance.

- A.** VERIZON shall maintain liability insurance written on a per occurrence basis during the full term of this Franchise Agreement for injuries and property damages. The policy or policies shall afford insurance covering all operations, vehicles, and employees with the following limits and provisions:
1. Commercial general liability insurance with limits of not less than \$2,000,000 each occurrence combined single limit for bodily injury and property damage, including contractual liability; personal and advertising injury; explosion hazard, collapse hazard, and underground property damage hazard; products; and completed operations.
 2. Commercial automobile liability insurance with limits not less than \$1,000,000 each occurrence combined single limit for bodily injury and property damage, covering all owned, non-owned, leased, and hired auto coverage, as applicable.
 3. Pollution Liability insurance, on an occurrence form, with limits not less than \$1,000,000 each occurrence combined single limit for bodily injury, property damage, cleanup costs and defense including costs and expenses incurred in the investigation, defense, or settlement of claims..
- B.** Such insurance shall include as additional insured the City, its officers, and employees, shall apply as primary insurance, shall stipulate that no insurance affected by the City will be called on to contribute to a loss covered thereunder. Upon receipt of notice from its insurer(s), VERIZON shall use all commercially reasonable efforts to provide at least thirty (30) calendar days prior written notice of cancellation by US mail to the City. VERIZON may utilize primary and umbrella liability insurance policies to satisfy insurance policy limits required herein.

- C. If the City determines that circumstances warrant an increase in insurance coverage and liability limits to adequately cover the risks of the City, the City may require a commercially reasonable amount of additional insurance to be acquired. The City shall provide written notice should the City exercise its right to require additional insurance.

Section 9. Other Permits & Approvals. Nothing in this Agreement shall relieve VERIZON from any obligation to obtain approvals or necessary permits from applicable federal, state, and City authorities for all activities in the Franchise Area.

Section 10. Transfer of Ownership.

- A. The rights, privileges, benefits, title, or interest provided by this Franchise Agreement shall not be sold, transferred, assigned, or otherwise encumbered, without the prior written consent of the City, with such consent not being unreasonably withheld, unreasonably conditioned or unreasonably delayed. No such consent shall be required, however, for a transfer in trust, by other hypothecation, or by assignment of any rights, title, or interest in VERIZON's telecommunications system in order to secure indebtedness. Approval shall not be required for mortgaging purposes provided that the collateral pledged for any mortgage shall not include the assets of this franchise. Approval shall not be required for any transfer from VERIZON to another person or entity controlling, controlled by, or under common control with VERIZON or if VERIZON adopts a new company name without a change in control. VERIZON may license fibers to other users operating a telephone business or service providers without the consent of the City provided that VERIZON remains solely responsible for the terms and conditions outlined in this Franchise Agreement and provides the City with written notice of licenses or leases for such purposes. The licensing or lease of fibers for other uses shall require a separate assignment, franchise or right of way agreement approved by the City.
- B. In any transfer of this Franchise which requires the approval of the City, VERIZON shall show that the recipient of such transfer has the technical ability, financial capability, and any other legal or general qualifications as reasonably determined by the City to be necessary to ensure that the obligations and terms required under this Franchise Agreement can be met to the satisfaction of the City. The qualifications of any transferee shall be determined by hearing before the City Council and the approval to such transfer shall be granted by resolution of the City Council. Any actual and reasonable administrative costs associated with a transfer of this Franchise which requires the approval of the City, shall be reimbursed to the City within thirty (30) calendar days of such transfer.

Section 11. Administrative Fees and Utility Tax.

- A. Pursuant to RCW 35.21.860, the City is precluded from imposing franchise fees for any "telephone business" as defined in RCW 82.16.010 or "service provider" as defined in RCW 35.99.010, except that fees may be collected for administrative

expenses related to such franchise and a utility tax may be assessed. VERIZON does hereby warrant that its operations as authorized under this Franchise Agreement are those of a telephone business as defined in RCW 82.16.010 or of a service provider as defined in 35.99.010. Nothing in this Franchise Agreement is intended to alter, amend, modify or expand the taxes and fees that may lawfully be assessed on VERIZON's business activities under this Franchise under applicable law.

- B.** VERIZON shall be subject to an administrative fee for reimbursement of the actual costs associated with the preparation, processing, and approval of this Franchise Agreement, not to exceed \$5,000. These costs shall include but not be limited to wages, benefits, overhead expenses, equipment, and supplies associated with such tasks as plan review, site visits, meetings, negotiations, and other functions critical to proper management and oversight of City's right-of-way. Administrative fees exclude normal permit fees for permits issued under Chapter 12.15 of the Shoreline Municipal Code. The franchise application deposit shall be applied to final payment of the one-time administrative fee within thirty (30) calendar days after franchise approval.
- C.** In the event VERIZON submits a request for work beyond the scope of this Franchise Agreement, or submits a complex project that requires significant comprehensive plan review, or inspection, VERIZON shall reimburse City for amendments and reasonable expenses associated with the project. VERIZON shall pay such costs within thirty (30) calendar days of receipt of bill from the City.
- D.** Failure by VERIZON to make full payment of bills within the time specified shall be considered sufficient grounds for the termination of all rights and privileges existing under this ordinance utilizing the procedures specified in Section 7 of this ordinance.
- E.** If VERIZON provides services which are not regulated by the Washington Utilities and Transportation Commission, then such VERIZON services shall become subject to the City's utility tax as set forth in Chapter 3.32 of the Shoreline Municipal Code, as amended, as may be lawfully be assessed.

Section 12. Notices. Any notice to be served upon the City or VERIZON shall be delivered to the following addresses respectively:

City of Shoreline
City Clerk's Office
17500 Midvale Avenue N
Shoreline, WA 98133-4905
Phone: (206) 801 – 2700

Verizon Access Transmission Services
600 Hidden Ridge
Irving, TX 75038
Attn: Franchise Manager

With Copy to (except for invoices):

Verizon Business Services
1320 N. Courthouse Road, Suite 900
Arlington, VA, USA 22201
Attn: Vice President and Deputy General Counsel

Section 13. Indemnification.

- A.** VERIZON shall use reasonable and appropriate precautions to avoid damage to persons or property in the construction, installation, repair, operation, and maintenance of its structures and facilities within the Franchise Area. VERIZON shall indemnify, defend and hold the City, its agents, officers or employees harmless from all third-party claims, actions or damages or expense of any nature, including reasonable attorney's and expert witness fees, which may accrue to or be suffered by any person or persons, corporation or property to the extent caused in part or in whole by any negligent or intentional act or omission of VERIZON, its officers, agents, servants or employees, contractors, or subcontractors in the performance of the rights, benefits, and privileges granted to VERIZON by this Franchise. In the event any claim or demand is presented to or filed with the City which gives rise to VERIZON's obligation pursuant to this Section, the City shall within a reasonable time notify VERIZON thereof and VERIZON shall have a right, at its election, to settle or compromise such claim or demand. In the event any claim or action is commenced in which the City is named a party, and which suit or action is based on a third-party claim or demand which gives rise to VERIZON's obligation pursuant to this Section, the City shall promptly notify VERIZON thereof, and VERIZON shall, at its sole cost and expense, defend such suit or action by attorneys of its own election. In defense of such suit or action, VERIZON may, at its election and at its sole cost and expense, settle or compromise such suit or action. This Section shall not be construed to require VERIZON to:
1. protect and save the City harmless from any claims, actions, or damages;
 2. settle or compromise any claim, demand, suit, or action;
 3. appear in or defend any suit or action; or,
 4. pay any judgment or reimburse the City's costs and expenses (including reasonable attorney's fees), to the extent such claim arises out of the sole negligence or intentional acts of the City, its employees, agents or independent contractors.
- B.** The City shall have the right at all times to participate through its own attorney in any suit or action which arises out of any right, privilege, and authority granted by or exercised pursuant to this Franchise when the City determines that such participation is required to protect the interests of the City or the public. Such participation by the City shall be at the City's sole cost and expense.

- C. Should a court of competent jurisdiction determine that this franchise is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of VERIZON and the City, its officers, employees and agents, VERIZON's liability hereunder shall be only to the extent of VERIZON's negligence.
- D. With respect to the performance of this Franchise and as to claims against the City, its officers, agents and employees, VERIZON expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its officers, agents and employees and agrees that the obligation to indemnify, defend and hold harmless provided for in this paragraph extends to any claim brought by or on behalf of VERIZON's officers, agents or employees. This waiver has been mutually negotiated by the parties.

Section 14. Severability. If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, either party may deem the entire ordinance to be affected and thereby nullified. However, in the event that a determination is made that a section, sentence, clause, or phrase in this ordinance is invalid or unconstitutional, the parties may agree to treat the portion declared invalid or unconstitutional as severable and maintain in force the remaining provisions of this ordinance; provided that, if the City elects, without agreement by VERIZON, to enforce the remaining provisions of the ordinance, VERIZON shall have the option to terminate the Franchise Agreement.

Section 15. Reservation of Rights. The parties agree that this agreement is intended to satisfy the requirements of all applicable laws, administrative guidelines, rules, orders, and ordinances. Accordingly, any provision of this agreement or any local ordinance which may conflict with or violate the law shall be invalid and unenforceable, whether occurring before or after the execution of this agreement, it being the intention of the parties to preserve their respective rights and remedies under the law, and that the execution of this agreement does not constitute a waiver of any rights or obligations by either party under the law.

Section 16. Police Powers. Nothing contained herein shall be deemed to affect the City's authority to exercise its police powers. VERIZON shall not by this Franchise Agreement obtain any vested rights to use any portion of the City right-of-way except for the locations approved by the City and then only subject to the terms and conditions of this Franchise Agreement. This Franchise Agreement and the permits issued thereunder shall be governed by applicable City ordinances in effect at the time of application for such permits.

Section 17. Future Rules, Regulations, and Specifications. VERIZON acknowledges that the City may develop rules, regulations, and specifications, including a general ordinance or other regulations governing telecommunications operations in the City. Such regulations, upon written notice to VERIZON, shall thereafter govern VERIZON's activities hereunder; provided, however, that in no event shall regulations:

- A. materially interfere with or adversely affect VERIZON's rights pursuant to and in accordance with this Franchise Agreement; or

B. be applied in a discriminatory manner as it pertains to VERIZON and other similar user of such facilities.

Section 18. Publication and Cost of Publication. This Ordinance or a summary thereof shall be published in the official newspaper of the City. The cost of the publication of this Ordinance shall be borne by VERIZON.

Section 19. Effective Date – Subject to Conditions. As provided in Section 4, this Franchise is conditioned upon the successful negotiation of a conduit lease agreement between the City and VERIZON. Therefore, the effective date of this Ordinance shall be the date on which the conduit lease agreement is fully executed by the parties. If a conduit lease agreement is not fully executed by the parties within one hundred twenty (120) calendar days of the date of passage of this Ordinance, than this Ordinance shall be considered NULL and VOID.


PASSED BY THE CITY COUNCIL ON AUGUST 14, 2017




Mayor Christopher Roberts

ATTEST:

APPROVED AS TO FORM:



Jessica Simulcik Smith
City Clerk



Margaret King
City Attorney

City Attorney

Publication Date: August 17, 2017
Effective Date: