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Council Meeting Date: January 10, 2000

Agenda Item: 4

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**CITY COUNCIL AGENDA ITEM**  
CITY OF SHORELINE, WASHINGTON

<b>AGENDA TITLE:</b>	Report from the Library Board
<b>DEPARTMENT:</b>	Parks, Recreation and Cultural Services
<b>PRESENTED BY:</b>	Wendy Barry <sup>LB</sup> Director/Sharon Mattioli <sup>sm</sup> , City Clerk

**EXECUTIVE / COUNCIL SUMMARY**

The Library Board Chair, Susanna Johnson, will attend your Council's January 10, 2000 meeting to present a report on last year's activities of the Library Board.

**RECOMMENDATION**

N/a

Approved By: City Manager LB City Attorney NJA

**CITY OF SHORELINE**

**SHORELINE CITY COUNCIL  
SUMMARY MINUTES OF SPECIAL MEETING**

Monday, December 6, 1999  
6:30 p.m.

Shoreline Conference Center  
Mt. Rainier Room

**PRESENT:** Mayor Jepsen, Deputy Mayor Montgomery, Councilmembers Gustafson, Hansen, King and Ransom

**ABSENT:** Councilmember Lee

1. **CALL TO ORDER**

The meeting was called to order at 6:30 p.m. by Mayor Jepsen, who presided.

2. **FLAG SALUTE/ROLL CALL**

Mayor Jepsen led the flag salute. Upon roll call by the City Clerk, all Councilmembers were present with the exceptions of Councilmember Ransom, who arrived later in the meeting, and Councilmember Lee.

**Upon motion by Councilmember King, seconded by Councilmember Hansen and carried 5 - 0, Councilmember Lee was excused.**

3. **REPORT OF CITY MANAGER**

City Manager Robert Deis reported that the Zevenbergen appeal hearing has been postponed until January 24, 2000. He invited Councilmembers to the All-City staff meeting on Friday and reminded them of dinner with the 32<sup>nd</sup> District legislators and the swearing-in ceremony next Monday.

4. **PUBLIC COMMENT:** None

6. **APPROVAL OF THE AGENDA**

**Deputy Mayor Montgomery moved approval of the agenda. Councilmember Gustafson seconded the motion, which carried 5-0.**

7. **ACTION ITEMS: PUBLIC HEARINGS**

- (a) Public hearing to consider citizens' comments on the 2000 User Fee Schedules for the City's Fee Based Services

John Hawley, Senior Budget Analyst, reviewed that increases to the City's user fees are part of the City's response to the passage of Initiative 695. Noting that this was discussed in detail last week, he briefly reviewed the fee proposal.

**Mayor Jepsen opened the public hearing. Seeing that no one wished to address the Council on this matter, Councilmember Hansen moved to close the public hearing. Councilmember King seconded the motion, which carried 5 - 0.**

Councilmember Ransom arrived at 6:45 p.m.

Responding to Councilmember Gustafson, Wendy Barry, Parks, Recreation and Cultural Services Director, said the School District charges for field use on a per-person-per-sport basis. She said that charging per game encourages organizations to use the fields efficiently, whereas the other approach does not.

**Mayor Jepsen expressed consensus to bring forward the proposed 2000 User Fee Schedules next week for action.**

- (b) Public hearing to consider citizens' comments on the 2000 operating and capital budgets

Mr. Deis noted that the budget to be brought forward next week includes utility taxes, franchise fees and new user fees as a response to passage of Initiative 695. He assured Council that over the long haul the City will be "O.K." on the operations side.

**Mayor Jepsen opened the public hearing. Seeing that no one wished to address the Council on this matter, Councilmember Hansen moved to close the public hearing. Councilmember Ransom seconded the motion, which carried unanimously.**

Councilmember Hansen stated that Council developed consensus on the budget last week, and Councilmember Gustafson complimented the staff on the budget presentations.

**Mayor Jepsen expressed Council consensus to bring the budget forward for action next week as discussed.**

## 8. NEW BUSINESS

- (a) Development Code - Phase 1

Tim Stewart, Planning and Development Services Director, provided an overview of the development of the Phase 1 procedural changes to the Development Code, including the participation of the Planning Academy and review by the Planning Commission. He mentioned that neighborhood meetings will be mandatory prior to Type B and Type C applications, which should solve problems early and prevent confrontation.

Responding to Deputy Mayor Montgomery, Mr. Stewart said staff attendance at these meetings is not recommended, but the applicant will be required to provide the City with a written summary.

Referring to page 34 of the Council packet, Mr. Stewart explained that once a year anyone will be able to initiate an amendment to the Comprehensive Plan. It will be considered during the annual review of the Comprehensive Plan. Anyone can request the City Council, Planning Commission or Director to initiate an amendment to the Development Code.

Mr. Stewart noted disagreement about the designation of the hearing authority on quasi-judicial items. The proposal does not change current practice of having the Planning Commission review Type C actions; however, many Planning Academy members wished to designate the Hearing Examiner as the hearing body. He explained that the Hearing Examiner model provides a higher level of technical review of the Code; whereas, the Planning Commission model provides a broader base of community input into the decision-making process.

Responding to Mayor Jepsen, Mr. Stewart said the ordinance recommended by the Planning Commission will be brought to Council in January, 2000. There will be a public hearing, and at that point Council would have the opportunity to review the ordinance in as much detail as it wishes. He recommended that Council focus on those amendments about which there is public or Council concern, rather than go through all of the amendments at a Council meeting.

Mayor Jepsen agreed that this is a reasonable approach. Council concurred. Mayor Jepsen noted that less than a dozen citizens offered all of the amendments, as also occurred in the Comprehensive Plan process.

Councilmember King thanked Mr. Stewart for the success of the Planning Academy. Mr. Stewart said it gave the community an opportunity to inform the staff about community values and the staff an opportunity to inform the community about the constraints upon land use regulation.

Mayor Jepsen called for public comment.

(a) Lena Wood, 20415 25<sup>th</sup> Avenue NW, said her family owns two parcels in Shoreline. She urged Council to consider 5,000 square foot zoning for blocks where two or three other 5,000 square foot lots already exist. She said smaller lot sizes in certain areas can create more affordable housing and be compatible with the neighborhood, as well as generate additional tax revenue for the City.

Mayor Jepsen noted that the City Council has spent a lot of time considering lot sizes over the past few years. He said the Comprehensive Plan allows a 7,200 square foot minimum lot size for single family lots, but exceptions are allowed in the Code.

Mr. Stewart explained that promotion of affordable housing is a major part of Phase 2, and the Planning Academy spent a lot of time studying dense housing types. Shoreline is trying to provide opportunities for denser housing but it must occur in a manner consistent with community character.

Mayor Jepsen pointed out a current exception process in the Code. Mr. Stewart responded that contract rezones provide for a site specific change of zone to permit higher density development. Two such projects are coming to Council soon. He noted that staff will talk with anyone about development of their property based on the Comprehensive Plan and current Code.

(b) Proposed 2000 Statement of Legislative Priorities

Joyce Nichols, Community and Government Relations Manager, noted that the upcoming legislative session will be a challenge because: 1) it is only 60 days long; 2) it will be focused on I-695 impacts; 3) the House of Representatives is evenly split between Republicans and Democrats; and 4) the bills that were alive at the end of last year's session are still alive. This means that some of the priorities are carryovers from last year.

Continuing, Ms. Nichols said there are some new issues because of I-695. One is how to address the issue of sales tax equalization, which was funded by the Motor Vehicle Excise Tax. It is important to keep funding for sales tax equalization from sales tax revenue at the top of the legislative agenda and to educate legislators about why sales tax equalization is crucial. Other top funding priorities will be public health, criminal justice, transit and transportation. Key priorities in other areas include: 1) keeping the legislature from pre-empting current local taxing authority, particularly the gambling tax; 2) opposing additional sanctions or penalties on cities that are not meeting growth targets; and 3) supporting federal legislation that would preserve or protect State and local taxing authority on electronic commerce. She provided background on this issue, noting that an advisory commission is meeting to make recommendations about it.

Ms. Nichols concluded by commenting on the legislative agendas of the Suburban Cities Association and King County, noting buildable lands as a potential area for continuing disagreement. Work is proceeding with various groups to develop legislation acceptable to King County, the suburban cities and other stakeholder groups.

Mr. Deis asked if the County is moving toward incentives for meeting housing goals rather than penalties for not meeting them. Ms. Nichols said she had not seen the most recent draft of the proposal, but she felt any changes will still move away from the original intent of the Growth Management Act (GMA). She said the City's approach is to see if GMA works before adding new restrictions.

Ms. Nichols said Shoreline's Comprehensive Plan tries to make it possible for the projected densities to occur, but market forces are the controlling factor. She pointed out that the proposed penalties would take away State revenues that cities would use to create

infrastructure that would allow higher densities. She felt the problems of growth should be solved locally, rather than in the legislature.

Ms. Nichols concluded by distributing "talking points" for the meeting with the state legislators on Monday evening. She noted that all three legislators have called and asked what they can do to help Shoreline. She described helpful actions taken by each to assist Shoreline.

Mayor Jepsen called for public comment.

(a) Randy Bannecker, representing the Seattle/King County Association of Realtors, 12015 115<sup>th</sup> Avenue NE, Kirkland, offered his perspective on the buildable lands legislation. He hoped compromise language could be developed that would be acceptable to the cities and other groups. He commented that affordable housing is more available in Snohomish and Pierce Counties and that many King County workers must live outside King County. He said the goal of the legislation is to hold local jurisdictions accountable for zoning and to ensure that urban King County is not unduly pressuring the rural area.

Mayor Jepsen said the Council felt the intentions of the legislation were lofty but the bill itself needs major changes. He said Shoreline is meeting GMA policies and has learned that simply having smaller lots is not a guarantee of affordable housing.

Commenting on the unfortunate timing of this issue, Mr. Deis pointed out that Shoreline will be losing a great amount of transit service, which supports higher densities. At the same time it is having to use utility taxes to fund operations, which means the loss of a future revenue source to deal with capital projects. Governments are trying to make do with less and provide fewer services, yet higher densities increase the demand for these services.

Ms. Nichols pointed out that financing from the Housing Trust Fund assists individuals with housing, and it is critical to find a stable source of continued funding for housing subsidies.

Mayor Jepsen asked about King County's attitude toward buildable lands, and Ms. Nichols said the County Council took action to support this program as a priority. She did not know if action has been taken on a particular policy. Mayor Jepsen asked that this be tracked.

Mayor Jepsen commented on local control of sales tax revenue, noting that he opposes giving municipalities the ability to charge more sales tax, but he did support giving cities the authority to collect a higher percentage of it. He referred to page 42 of the Council packet, "Shared Revenue Programs," and asked if the word "current" should not be inserted to read: "Strongly supports legislation to fund sales tax equalization from current sales taxes . . ." Ms. Nichols said adding the word "current" might make the

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policy too restrictive. She said one of the hallmarks of this session is going to be thinking outside the box and doing things differently.

Councilmember Gustafson raised the issue of e-commerce, noting this was a significant topic at the National League of Cities conference. He wondered if this should be a discussion point with legislators. Ms. Nichols responded that Shoreline's position on this issue should be transmitted to State legislators to take into account in formulating their own positions. Councilmember Gustafson wished to have information on the electronic commerce issue to assist Councilmembers in taking a position.

Councilmember Hansen commented that this is a much bigger issue for the State than it is for Shoreline. However, there is not much that the State legislators can do about it because this will be controlled at the federal level. Therefore, the goal should be to influence the federal legislators and make them aware of the local and State impacts.

Councilmember Gustafson agreed that this must be worked from the federal legislative aspect, but he noted that Governor Locke is on the E-Commerce Commission, so working with local legislators may influence him.

## (c) Allocation of Gambling Taxes

**There was Council consensus to add this item to the agenda at Councilmember Hansen's request.**

Noting his consistent advocacy that gambling taxes not be used to fund the operating budget, Councilmember Hansen pointed out that the 2000 budget has \$2.3 million in gambling taxes going into the General Fund. He recommended that Council adopt a policy that gambling tax revenues always be allocated to the capital budget. He believed that this year it would be simple to allocate the gambling tax revenue to the General Capital Fund and the Roads Capital Fund and reduce the transfers over from the General Fund beginning balance. He emphasized the importance of adopting such a policy now because, although the change would have no effect on the overall budget, it would make a statement about how the City plans to use the revenue it raises from gambling.

Councilmember King concurred. She commented that placing gambling taxes in the General Fund puts the City in a position of being open to "blackmail" by gambling establishments who might threaten to move if the City did not comply with their wishes.

Councilmember Ransom questioned the impact for future budgets of such a policy, noting that the City has historically used about \$750,000 in gambling tax revenue in the General Fund. He felt this recommendation should be analyzed very carefully before the decision is made to commit all gambling revenues to the capital budget.

Mr. Deis said Council must consider the long-term impacts of this proposal. He recalled that staff recommended at the Budget Retreat that the City minimize its reliance on the gambling tax revenues by dividing the 11-percent tax rate and designating eight percent

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to operations and three percent to capital in 2000 and seven percent to operations and four percent to capital in 2001. He questioned what will replace the gambling tax as a source of revenue for the operating budget in the future. He noted that Council adopted a policy two years ago requiring that the budget be sustainable over five years.

Councilmember Hansen said this is exactly why he wants to dedicate gambling tax revenues to the capital fund. He did not want to be in a position of saying, "We can't live without gambling revenue." He expressed his fear that the City is already dependent on gambling revenue if it cannot identify alternative funding sources.

Mayor Jepsen asked where the City will obtain the funds to replace the gambling tax revenues designated to the General Fund. Councilmember Hansen said he expects the replacement funds to come from transfers. Mr. Deis said staff can provide the details of what makes up the transfers in the 2000 budget.

Mayor Jepsen noted that Council has generally agreed with the policy that Councilmember Hansen proposed and that Council has recognized the City must "wean" itself from this income source slowly.

Clarifying for Councilmember Ransom, Mr. Deis said long-range projections do not at this point include franchise fees from the independent sewer and water districts.

Councilmember Gustafson concurred with Mayor Jepsen. He supported the policy goal, but he said he is not convinced that the City must achieve it all at once.

Mayor Jepsen summarized that staff will clarify with Councilmember Hansen whether the City can implement his proposal without any effect on the 2000 budget and that he may then wish to propose a policy regarding future use of gambling tax revenues.

Councilmember Ransom commented that the original justification for the gambling tax was to regulate and provide support services to the industry. Now the Gambling Commission handles regulation and most of the support services. While there has been only one court case regarding the allocation of gambling tax revenues to a city's general fund, he said this practice is increasingly under question. He expressed his fear that allocating all of the gambling tax revenue to capital programs could make Shoreline a target city for a legal challenge.

Mr. Deis clarified the court decision that gambling tax revenues should be used first to fund enforcement activity and, if funds remain, as the City chooses. He asserted that the risk of a political challenge (e.g., the State legislature limiting how cities may spend gambling tax revenues) is greater than that of a court challenge.

## 9. CONTINUED PUBLIC COMMENT

(a) Felicia Schwindt, 2209 NE 177<sup>th</sup> Street, expressed concern that the Neighborhood Traffic Safety program is inadequately funded. She said if NE 177<sup>th</sup> Street



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was designated for much-needed traffic calming, there would be no money for construction. She mentioned a major accident on her street today, and she resubmitted two letters previously sent to the City Council. She questioned how long neighborhoods will have to wait for the City to address problems.

(b) Walt Hagen, 711 NE 193<sup>rd</sup> Street, said the City should create fee schedules on a cost justification basis and not simply to generate money for the General Fund. He agreed that dedicating gambling taxes to capital projects would help to improve Shoreline's failing infrastructure. He opposed the use of capital funds to build a city hall or to make "Main St. U.S.A." out of Aurora Avenue.

(c) Cheryl McKeon, 2236 NE 177<sup>th</sup> Street, noted the ongoing nature of the traffic problems on NE 177<sup>th</sup> Street and the fact that a traffic control study was done on the street which showed that 1,000 cars use the street, 15 percent of them going ten miles over the speed limit. She asked for funding for physical mitigation and increased enforcement.

(d) Lynda Hart, 2123 NE 177<sup>th</sup> Street, echoed the comments of her neighbors. She said she was glad to hear about the Neighborhood Traffic Committee, but her concern was that this is a way to postpone addressing the issues. She wanted the City Council to have funding available to deal with this problem.

(e) Maria Brennan, 2245 NE 177<sup>th</sup> Street, commented that her family is moving because her car was broken into and her tires were slashed and because of traffic problems on her street.

Mr. Deis recalled that staff introduced the Neighborhood Traffic Safety Program to Council last summer. He said the advisory committees have met twice and have developed a two-phase approach that staff will soon present to Council. He explained that the first phase of the proposed approach includes education and enforcement and that the second phase includes the consideration of physical mitigation. While he acknowledged that citizen consideration and support of potential physical mitigations is time consuming, he asserted that it is worthwhile. He noted that an open house about the Neighborhood Traffic Safety Program will be held on January 19. He concluded that staff will consult with Shoreline Police Chief Sue Rahr about past and potential traffic enforcement activities on NE 177<sup>th</sup> Street.

## 10. ADJOURNMENT

At 8:52 p.m., Mayor Jepsen declared the meeting adjourned.

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Sharon Mattioli, CMC  
City Clerk

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## CITY OF SHORELINE

### SHORELINE CITY COUNCIL

### SUMMARY MINUTES OF DINNER MEETING

Monday, December 13, 1999  
6:00 p.m.

Shoreline Conference Center  
Highlander Room

PRESENT: Mayor Jepsen, Deputy Mayor Montgomery, Councilmembers Gustafson, Hansen, King and Ransom

ABSENT: None

STAFF: Robert Deis, City Manager; Larry Bauman, Assistant City Manager; Joyce Nichols, Community and Government Relations Manager

GUESTS: State Senator Darlene Fairley and State Representatives Carolyn Edmonds and Ruth Kagi

The meeting convened at 6:05 p.m. All Councilmembers were present with the exception of Councilmember Lee, who arrived later in the meeting.

City Council and State legislators discussed Initiative 695, public reactions and possible actions during the upcoming legislative session. State Senator Darlene Fairley described testimony that city representatives recently provided to a Senate committee.

Mayor Jepsen explained how the City has responded to I-695—after reviewing impacts to City services, Council adopted utility taxes and passed new franchise agreements for Seattle Public Utilities operating in Shoreline to replace lost operating revenues. He noted that this use of utility taxes preempts the City's preferred use of this funding source for capital project needs.

City Manager Robert Deis pointed out that the lack of funds for capital projects will become even more problematic in three years, at which time the City will have depleted the funds for capital projects that it saved from 1995 through 1999.

Senator Fairley mentioned some of the questions she has heard regarding the impacts of I-695 on cities.

Community and Government Relations Manager Joyce Nichols said the State legislature enacted sales tax equalization in reaction to cities that were annexing shopping centers to gain sales tax revenues.

Councilmember Lee arrived at 6:50 p.m.

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Mayor Jepsen explained the relationship of sales tax equalization and the proposals for buildable lands and affordable housing. He said cities have fewer ways to support new housing as revenues to improve infrastructure decrease.

Representative Ruth Kagi asserted her perception that attitudes in Olympia toward cities seem to be improving.

Councilmember Lee asked how suburban cities can explain the problems of sales tax equalization to larger, wealthier cities, such as Seattle.

Mr. Deis reiterated the dilemma of not having sufficient funds to support the infrastructure that will permit greater housing density.

Senator Fairley asked if King County has been more cooperative regarding the buildable lands legislation. Ms. Nichols said the current buildable lands bill appears unnecessary, and it does not appear to address the real problems of how to increase density appropriately.

Mayor Jepsen asked about possible legislative action to limit local gambling tax rates. Representative Kagi said the need now is to increase the authority of cities to tax locally.

Mayor Jepsen thanked Representatives Edmonds and Kagi for bringing State Representative Ruth Fisher, Co-Chair of the House Transportation Committee, to Shoreline to view Aurora Avenue and the City's plans to redesign the street.

Representative Carolyn Edmonds asserted her opinion that little will happen regarding transportation funding during the upcoming legislative session. Representative Kagi noted that polling by the Governor's office immediately after passage of I-695 did not identify transportation as the highest priority.

Mayor Jepsen said the legislature can help to provide cities with the tools they need to make decisions to support local needs.

Representative Kagi commented that local agencies need to consolidate to ensure the efficiency of their services.

The meeting adjourned at 7:25 p.m.

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Larry Bauman, Assistant City Manager

**CITY OF SHORELINE**

**SHORELINE CITY COUNCIL  
SUMMARY MINUTES OF REGULAR MEETING**

Monday, December 13, 1999  
6:30 p.m.

Shoreline Conference Center  
Mt. Rainier Room

**PRESENT:** Mayor Jepsen, Deputy Mayor Montgomery, Councilmembers Gustafson, Hansen, King, Lee and Ransom

**ABSENT:** None

1. **CALL TO ORDER**

The meeting was called to order at 7:30 p.m. by Mayor Jepsen, who presided.

2. **FLAG SALUTE/ROLL CALL**

Mayor Jepsen led the flag salute. Upon roll call by the City Clerk, all Councilmembers were present.

**SWEARING-IN CEREMONY**

Judge Richard Eadie swore in Rich Gustafson, Kevin Grossman and Robert Ransom for four-year terms beginning January 1, 2000 for Council positions #2, #4, and #6, respectively.

Mayor Jepsen outlined outgoing Councilmember King's many achievements on the Shoreline City Council and as Shoreline's first Mayor. He presented her with a plaque in appreciation for her advocacy for Shoreline, particularly for youth, parks, human services and public art.

Dick Nicholson, Chair of the Council of Neighborhoods, listed some of Councilmember King's accomplishments that were particularly important to neighborhoods, and he presented her with a wall clock.

Nancy Rust, of the Innis Arden Club, also commended Councilmember King and wished her well in her retirement.

Mayor Jepsen reiterated that Councilmember King has been a tireless advocate for Shoreline. He announced the creation of the Connie King Fund to recognize her dedication. The fund will accept donations to benefit City parks and recreation programs.

Mayor Jepsen presented Councilmember King with the first donation to the fund from his family.

## RECESS

At 7:58 p.m., Mayor Jepsen declared a 15-minute recess. At 8:13 p.m., the meeting reconvened.

### 3. REPORT OF CITY MANAGER

City Manager Robert Deis reported that King County has reconvened the Emergency Medical Services Financial Task Force. Noting that Shoreline may appoint a member to the task force, he requested Council concurrence to designate Shoreline Fire Chief J. B. Smith. Council supported this suggestion.

### 4. REPORTS OF BOARDS AND COMMISSIONS: None

### 5. PUBLIC COMMENT: None

### 6. APPROVAL OF THE AGENDA

**Councilmember Ransom moved approval of the agenda. Councilmember Lee seconded the motion, which carried unanimously, and the agenda was approved.**

### 7. CONSENT CALENDAR

**Upon motion by Councilmember Gustafson, seconded by Councilmember Hansen and unanimously carried, the following consent calendar items were approved:**

**Minutes of Special Meeting of November 22, 1999**

**Minutes of Special Meeting of November 29, 1999**

**Approval of expenses and payroll as of December 6, 1999  
in the amount of \$1,101,388.02**

**Motion to adopt the Proposed 2000 Statement of Legislative Priorities**

**Motion to authorize the City Manager to execute an Interlocal Agreement with King County to receive funding for Commute Trip Reduction Implementation**

**Motion to select the Schlotzhauer Firm, PC to provide primary public defense services for the City of Shoreline and to authorize the City Manager to execute a contract in the sum of \$9,000/month to provide these services and to execute an agreement to provide in-custody public defense services in the sum of \$750/month (both**

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with annual inflation adjustments not to exceed the cost of living adjustment provided to the City's employees)

**Motion to authorize the City Manager to execute the contract for Legal Services with the Kenyon Law Firm for 2000**

**Motion to authorize the City Manager to execute an agreement for the provision of audio/videotaping services for 2000 with Dwight Edwards, d/b/a FX Video, in an amount not to exceed \$29,000**

**Motion to authorize \$5,000 in re-programmed Mini-Grant funds for the Richmond Beach Community Council to complete beautification and gateway signs in its neighborhood**

**Motion to authorize approval of the Ridgcrest Neighborhood Association Mini-Grant of \$5,000 for outlets for holiday lighting and neighborhood identification signs**

**Motion to authorize approval of \$3,250 in 1998 Mini-Grant funds for the Richmond Beach Community Council to add to an existing watering system at Richmond Beach Community Park**

**Motion to authorize approval of \$5,000 in Mini-Grant funds for the Richmond Highlands Neighborhood Association to: 1) create a walking tour guide of neighborhood sites of historic interest; 2) purchase and install granite markers at the sites; and 3) purchase and install neighborhood identification signs at eight locations in the Richmond Highlands neighborhood**

**Motion to authorize the City Manager to execute an amendment to the Red Carpet Building Maintenance Company contract**

**Ordinance No. 220 to increase the City's contribution for employee benefits from \$509 to \$527/month**

8. **ACTION ITEMS: ORDINANCES, RESOLUTIONS AND MOTIONS**

- (a) Ordinance No. 219 authorizing the City's 2000 - 2005 Capital Improvement Program

Bill Conner, Public Works Director, noted that Council has reviewed this item several times. He identified two changes: 1) the City will retain the \$700,000 budgeted to construct classrooms at the Shoreline Conference Center in the Recreation Center project budget until the City and the School District have signed a Memorandum of



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Understanding; and 2) the City will seek additional funding for the North City Improvement Project.

**Deputy Mayor Montgomery moved adoption of Ordinance No. 219. Councilmember Hansen seconded the motion, which carried 7 - 0, and Ordinance No. 219 was approved.**

- (b) Ordinance No. 221 amending SMC 12.25.090 and establishing a fee of 6% of gross revenues for franchises and right-of-way use agreements

Kristoff Bauer, Assistant to the City Manager, explained that this ordinance clarifies the policy that Council adopted in 1996 directing staff to levy franchise fees for all franchises enacted by the City. This ordinance establishes a six-percent franchise fee, which is consistent with City utility taxes and other recent franchises.

**Upon motion by Councilmember Ransom, seconded by Councilmember Lee and carried 7 - 0, Ordinance No. 221 was approved.**

- (c) Ordinance No. 218 adopting revised fees for services for land use and building permit development applications, for parks and recreation, and for public records charges, and repealing previously adopted fee schedules

John Hawley, Senior Budget Analyst, noted that Council discussed the updated fee schedules on November 29 and that it held a public hearing about them last week. He briefly explained the cost recovery policies for development services fees and for parks and recreation fees.

**Deputy Mayor Montgomery moved adoption of Ordinance No. 218. Councilmember Hansen seconded the motion.**

Councilmember Gustafson asked if Councilmembers were comfortable with the 80-percent cost recovery for development services fees. Councilmember Hansen felt there was total agreement on this. He said the only question is whether to base the fees on historical numbers or on projected costs for 2000.

Councilmember Lee urged staff to seek grant funding for recreation programs. Mr. Deis said staff is well aware of Council's concerns. He said the \$9,000 grant from the office of King County Councilmember Maggi Fimia will be available for 2000. He mentioned that staff will return to Council early next year with a proposed subsidy program.

**A vote was taken on the motion, which carried 7 - 0, and Ordinance No. 218 was approved.**

- (d) Ordinance No. 222 adopting the annual budget for the City of Shoreline for the Year 2000

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Before turning to the budget, Mr. Deis presented Council with the Distinguished Budget Presentation Award from the Government Finance Officers Association for the 1999 budget. Mayor Jepsen commended staff for its hard work.

Mr. Deis distributed a memorandum on the legal and political implications of reallocating City gambling tax revenues. In the memorandum, City Attorney Ian Sievers concurred with the comment that Councilmember Ransom made last week: if the City allocates all gambling tax revenues to capital programs, a court could find Shoreline in violation of State statute. Also, Community and Government Relations Manager Joyce Nichols reported that gambling industry representatives advocated the reduction of maximum gambling tax rates at legislative hearings earlier this year and asserted that cities do not need as much revenue for gambling-related enforcement as they are collecting. The allocation of all gambling tax revenues to the capital budget could give credence to this argument.

Turning to the Six-Year Financial Plan, Mr. Deis reviewed the current allocation of gambling tax revenues between the operating and capital budgets. He noted the goal for 2001 and subsequent years to divide the 11-percent tax rate and allocate seven percent to the operating budget and four percent to the capital budget. He emphasized that the ending fund balance, which staff has historically transferred to the capital budget, will begin to decrease dramatically in 2001.

Next, Mr. Deis discussed how fund balances resulted in previous years. He compared budgeted and actual expenditures from 1997 through 1999. He said the City cannot rely upon the factors that generated fund balances in previous years to do so again in the future. He noted that staff revenue and expenditure estimates have both grown more reliable. He said in 2000 the budgeted figure is much closer to the trend line.

Councilmember Ransom noted the short history of Goldie's Casino. He questioned the reliability of basing the projected gambling tax revenues on one quarter of start-up figures. Mr. Deis agreed that staff based the projections on figures from only one quarter. He asserted that the projections are conservative. He noted the challenge of assessing a new casino within the context of what the larger market can accommodate.

Mr. Deis discussed the ramifications of reallocating all gambling tax revenue to the capital budget in 2000. He said operating expenditures will exceed operating revenues by \$872,552 under this scenario. He emphasized that ongoing operating expenditures should not exceed ongoing operating revenues, that the balance of expenditures and revenues is the hallmark of a well-managed organization and that this is important to acquiring a good bond rating. He said if the City allocates all gambling tax revenue to the capital budget it would have to reduce the operating budget or identify new sources of operating revenues by 2001.

**Deputy Mayor Montgomery moved adoption of Ordinance No. 222. Councilmember Ransom seconded the motion.**

Councilmember Hansen commented that the figures presented highlight the City's current dependence on gambling tax revenues, and he questioned the wisdom of this approach. Mr. Deis



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agreed that this is correct to an extent. He said the City is dependent on other revenue sources (e.g., sales tax, fees). Councilmember Hansen did not feel gambling taxes were in the same category.

Responding to Councilmember Hansen, Mr. Deis said he was reluctant to tie specific revenues to specific programs. He said placing gambling revenue in the General Fund is close enough to make the argument that it is used for public safety activities.

Councilmember Lee questioned what other cities do with gambling revenues. Mr. Deis said he would be shocked if other cities tie the tax revenues to specific programs rather than allocating it to their general funds. Councilmember Ransom confirmed that the City of Everett allocates gambling tax revenues to its general fund.

Councilmember Hansen mentioned the City's consideration of options related to regulation of mini-casinos. He asserted that the budget appears to eliminate Option #5, which is to have no casinos in Shoreline. Mr. Deis said the City could phase out casinos, but it would have to develop a financial strategy to make up the lost revenues. He acknowledged that the City does not have a strategy to allow implementation of this option at this time.

Deputy Mayor Montgomery thanked Mr. Deis for the overview. She asserted that Council has no choice but to vote for the budget. She said she shared Councilmember Hansen's concerns and his desire that Option #5 remain feasible.

Councilmember Lee said the current plan makes sense for now, but the City must recognize that the State can affect the amount of tax the City collects, and the City should be thinking of ways to reduce its dependence to about five percent. Mr. Deis suggested this as a discussion topic at the next Council budget retreat.

Mayor Jepsen concluded that staff followed the direction that Council provided during the last budget retreat. He advocated approval of the budget and continued discussion of this issue at the next budget retreat. He said the City should determine a flat amount, instead of a percentage, of gambling tax revenue to allocate to the operating budget; it could then allocate additional gambling tax revenues to the capital budget.

Councilmember Hansen commended the budget process and felt this is a very good budget despite his concerns about gambling tax revenue.

Councilmember Gustafson said he hated to see the City dependent on gambling taxes. He felt the City should start looking at possible cuts.

**A vote was taken on Ordinance No. 222, which carried unanimously, and the annual budget for the year 2000 was adopted.**

- (e) Proposed Shoreline utility tax relief program, effective December 27, 1999

# DRAFT

Joe Meneghini, Finance Director, explained the program criteria for relief from natural gas and sanitation utility taxes. The rationale for the program is that these are core public health service areas. He said the criteria are the same as those of Seattle City Light (SCL), which has agreed to share data regarding Shoreline customers who qualify for the program.

Mr. Deis said it is a sign of the good ongoing relationship with SCL that it has agreed to share its database. He noted that many other cities do not have a utility tax relief program.

**Councilmember Lee moved to approve the utility tax relief program. Councilmember Gustafson seconded the motion, which carried unanimously.**

Responding to Councilmember Lee, Mr. Meneghini said individuals need to apply for this program. The program will be advertised and implemented in conjunction with SCL's program.

Responding to Councilmember Ransom, Mr. Meneghini estimated that approximately five percent of ratepayers will be eligible for this program, based on 1990 census figures. Councilmember Ransom commented that incomes have changed since then. Mr. Meneghini said this is the best data available.

Responding again to Councilmember Ransom, Mr. Meneghini said the rate is waived, not simply deferred.

**A vote was taken on the motion, which carried unanimously, and the utility tax relief program was approved.**

- (f) Ordinance No. 217 amending operating and premises requirements for panoram establishments to require reconfiguration of panoram booths and investigation of managers; and amending SMC 5.15.010 and 5.15.100

Ian Sievers, City Attorney, explained that this ordinance makes two changes to the current regulations for panorams: 1) the definition of "control person" is expanded to include managers, which allows them to be left in charge of the business; and 2) the configuration of the panoram booth itself is altered. The change is part of a lawsuit settlement agreed to by Council earlier in the year. Mr. Deis added that the Police Department concurs with the reconfiguration of the booths.

**Councilmember Ransom moved approval of Ordinance No. 217. Councilmember Gustafson seconded the motion, which carried unanimously, and Ordinance No. 217 was adopted.**

## 9. CONTINUED PUBLIC COMMENT

# DRAFT

(a) Bert Golla, PO Box 55371, Seattle, spoke as President and General Manager of Red Carpet Building Maintenance, Inc. He distributed a copy of his Request for Quotations (RFQ) document, and he protested the City's decision to rebid the janitorial services contract. He commented that Red Carpet has been providing janitorial services to Shoreline since September 1997 and that it presented the lowest cost and most responsive bid. He felt the bid documents were clear, and there was no doubt that supplies had to be provided by the vendor.

(b) Arne Hedeon, 1221 2<sup>nd</sup> Avenue #460, Seattle, spoke as Red Carpet's attorney. He asserted that the decision to rebid the janitorial services contract is illegal, and he asked the Council to review and overturn it. He said Red Carpet has done an outstanding job for the City. He noted that the City was to award the new contract on overall qualifications and not on the basis of the lowest price only. He described the point system used to evaluate the bids, and he contested staff's assertion that all bidders made numerous calculation errors. He concluded that Red Carpet's bid is complete and that the City should not have decided to rebid because of a few calculation errors.

(c) Tony Espejo, 11905 59<sup>th</sup> Avenue W, Mukilteo, supported Red Carpet's position. After stating his credentials for evaluating the situation, he said the RFQ was time consuming to complete. He felt that the City's stated right "to cancel any and all bids" was too vague and broad. In his work for King County, any reasons for canceling a bid were stated in the bid document. He said staff might be surprised that a Filipino-American is the only bidder to respond to the RFQ completely and in such detail, but he was not, since Mr. Golla is a practicing Certified Public Accountant and President of the Filipino-American Chamber of Commerce. He felt rebidding would unnecessarily penalize Red Carpet, which spent the time and effort to respond to the RFQ.

(d) Dolores Sibonga, 1767 North Bluff Road, Coupeville, provided her credentials for evaluating this issue. As a former Seattle City Councilmember, she understood that staff wants to deliver the best services possible. However, she asserted that Council is the ultimate decision-maker and that it has a responsibility to ensure a fair, credible process. She asked Council to direct staff to award the bid to Red Carpet.

(e) Sam Blaco, 3434 Cascadia Avenue S, Seattle, was disappointed with the City's decision to reject all bids. He said Red Carpet should have received the award of the janitorial contract, and he asked Council to review this decision.

(f) Dwayne Wright, 1221 Harbor Avenue SW, Seattle, provided his credentials for evaluating this decision and said State law addresses this situation. He felt there was only one responsive bidder because the other two did not bid on supplies, which was part of the package. He referred to the statute related to "minor informalities," and he said the bid should be awarded to Red Carpet.

(g) Art Ceniza, 21607 48<sup>th</sup> W, Mountlake Terrace, also supported Red Carpet and urged the Council to do what is right. He said that staff made a big mistake in this case because small business owners look to the government to be fair in its bid process.

# DRAFT

He urged Council to award the bid to Mr. Golla, a leader in the Filipino-American community, and to restore the faith of small businesses in the process.

## MEETING EXTENSION

At 9:55 p.m., Councilmember Hansen moved to extend the meeting until 10:15 p.m. Councilmember Ransom seconded the motion, which carried 7 - 0.

(h) Connie Samson, 610 NW 162<sup>nd</sup> Street, commented that Mr. Golla has a good record in the Filipino-American community and that his company is well respected. She said rebidding the contract is a waste of time, and the City should concentrate on more important matters. She pointed out that Mr. Golla is a minority contractor, the lowest bidder, and that he has been doing the job for two years without any problems. She said he should therefore receive the contract.

Providing background on how he discovered the confusion in this particular process through reading the staff report, Mr. Deis explained the differences between a bid process and an RFQ. The bid process assumes there is one way to do a job, and price is therefore the primary criterion. An RFQ is a new method that was developed by staff to award this particular contract. It functions like a Request For Proposal, in which various qualitative criteria, as well as price, are considered.

Mr. Deis said when he, the City Attorney, the Finance Director and the Public Works Director started investigating, there was enough confusion among the vendors and on the part of staff that they felt the process should be redone. He pointed out that the City has done many competitive processes over the past four years and that this is the first one to be rejected. He said from a legal standpoint there is more risk in awarding the contract than in rejecting all bids, which is always the right of a municipality.

Mr. Deis said Red Carpet did not offer the lowest price, but neither of the other vendors factored in supplies, which account for 12 to 15 percent of the total cost. He explained that the summary sheet did not refer to the supply detail sheet and that two vendors did not put supplies on the summary sheet. He said the City contributed to this error by not putting a cross-reference to supplies on the summary sheet.

Mr. Deis apologized that poor staff work contributed to the errors and the confusion about the process. He said if the contract is awarded to one vendor, the others could mount a legal challenge. Concluding, he said the City has had an excellent relationship with Red Carpet; its service has been very good, and this action should not be taken as a reflection on Red Carpet. He regretted the time already spent on this process by all the vendors. He concluded that Council passed a three-month extension on the Red Carpet contract earlier in the meeting to provide time for staff to redo the process.

Mr. Sievers explained that one vendor bid lower than Red Carpet and that the City must consider this bid responsive because the vendor responded to all the lines on the summary tally sheet. He reiterated that both of the other bidders were misled by the tally sheet and

that both failed to include some supplies and that Red Carpet made errors in calculating labor costs. He said the need to clarify or modify a bid specification is legal grounds for setting aside all bids and rebidding. Acknowledging that both of the other vendors are willing to abide by their bids despite their mistakes, he asserted the concern that a company might cut corners to make up the bid deficit. He said the objectives of bidding are to receive the best value for the public and to provide a fair playing field for the bidders. He asserted that the City wishes to go out for bid again for both reasons.

Reiterating that both of the other vendors have agreed to stand by their bids, Public Works Director Bill Conner said both assert the standard of practice in the industry is for the City to provide the materials. He commented that this misunderstanding indicates "not the best staff work" was done in preparing the quote package. He also noted that the document, which was copied word-for-word from the County, was flawed because in one place it refers to the "best value to the City" and in another to "the best price for the City."

Mayor Jepsen commented that Council needs time to digest what has been presented and to gather all the necessary information.

Councilmember Lee pointed out there was a competitive process when Red Carpet was first awarded the contract. She did not understand why such a complicated process was instituted this time. Mr. Deis responded that staff erred by creating a complicated RFQ process without making sure it was done well.

## MEETING EXTENSION

At 10:15 p.m., Councilmember Hansen moved to extend the meeting until 10:30 p.m. Councilmember Ransom seconded the motion, which carried 6 - 1, with Deputy Mayor Montgomery dissenting.

Councilmember Lee expressed her surprise that the other two bidders thought the City would provide the materials. Mr. Conner said the other bidders were national and had no local experience.

Councilmember King had a concern about penalizing Red Carpet because of a staff error. She said Red Carpet followed the rules, and the other bidders did not. She noted that Red Carpet has put out its figures and that another vendor may now undercut them.

Councilmember Gustafson expressed concern about restarting the process, but he said he wanted an opportunity to evaluate all of the documentation before Council makes a recommendation.

Councilmember Hansen agreed with Councilmember King's comments. However, he said he was not prepared to make a decision because he had not seen the other bid documents.

# DRAFT

Councilmember Ransom referred to Red Carpet's documentation of "man hours," noting that in his experience with federal bidding, the bid process is not reopened for additional information about figures. He commented that the vendor can clarify information, if necessary, and that the City can then make a decision among those who have applied. He said the City should consider only the three vendors who originally responded. He agreed that Council should have all of the information from all three bidders before making a decision.

Councilmember Hansen thought the decision should be between the low bidder and Red Carpet. Assuming the information before him was correct, he recommended not considering a rebid by the third bidder.

**Mayor Jepsen stated that he and the Deputy Mayor will work with the City Manager and then get back to Council and the vendors.**

10. ADJOURNMENT

At 10:20 p.m., Mayor Jepsen declared the meeting adjourned.

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Sharon Mattioli, CMC  
City Clerk



**CITY COUNCIL AGENDA ITEM**  
CITY OF SHORELINE, WASHINGTON

**AGENDA TITLE:** Approval of Expenses and Payroll as of December 30, 1999  
**DEPARTMENT:** Finance  
**PRESENTED BY:** Al Juarez, Financial Operations Supervisor *Al Juarez*

**EXECUTIVE / COUNCIL SUMMARY**

It is necessary for the Council to approve expenses formally at the meeting. The following claims expenses have been reviewed by C. Robert Morseburg, Auditor on contract to review all payment vouchers.

**RECOMMENDATION**

Motion: I move to approve Payroll and Claims in the amount of \$2,524,583.09 specified in the following detail:

Payroll and benefits for November 14 through November 27, 1999 in the amount of \$245,383.88 paid with ADP checks 3580 through 3627, vouchers 480001 through 480100, benefit checks 2787-2795.

Payroll and benefits for November 28 through December 11, 1999 in the amount of \$222,915.89 paid with ADP checks 3628 through 3674, vouchers 500001 through 500098, benefit checks 2918 through 2925.

**the following claims examined by C. Robert Morseburg paid on December 10, 1999:**

Expenses in the amount of \$550,334.29 paid on Expense Register dated 12/9/99 with the following claims checks: 2796-2814 and

Expenses in the amount of \$28,804.89 paid on Expense Register dated 12/9/99 with the following claims checks: 2815-2839 and

**the following claims examined by C. Robert Morseburg paid on December 17, 1999:**

Expenses in the amount of \$62,049.57 paid on Expense Register dated 12/15/99 with the following claims checks: 2851-2862 and

Expenses in the amount of \$3,222.63 paid on Expense Register dated 12/15/99 with the following claims checks: 2863-2871 and

Expenses in the amount of \$1,828.63 paid on Expense Register dated 12/15/99 with the following claims checks: 2872-2881 and

Expenses in the amount of \$3,848.89 paid on Expense Register dated 12/16/99 with the following claims checks: 2882-2892 and

Expenses in the amount of \$55,558.71 paid on Expense Register dated 12/17/99 with the following claims checks: 2893-2916 and

Expenses in the amount of \$579.00 paid on Expense Register dated 12/17/99 with the following claims check: 2917 and

**the following claims examined by C. Robert Morseburg paid on December 17, 1999:**

Expenses in the amount of \$74,250.55 paid on Expense Register dated 12/23/99 with the following claims checks: 2926-2942 and

Expenses in the amount of \$1,095,798.13 paid on Expense Register dated 12/23/99 with the following claims checks: 2943-2971 and

Expenses in the amount of \$566.25 paid on Expense Register dated 12/23/99 with the following claims checks: 2972-2975 and

**the following claims examined by C. Robert Morseburg paid on December 30, 1999:**

Expenses in the amount of \$20,325.03 paid on Expense Register dated 12/29/99 with the following claims checks: 2976-2989 and

Expenses in the amount of \$4,437.90 paid on Expense Register dated 12/29/99 with the following claims checks: 2990-2999 and

Expenses in the amount of \$30,151.69 paid on Expense Register dated 12/29/99 with the following claims checks: 3000-3004 and

Expenses in the amount of \$4,634.79 paid on Expense Register dated 12/29/99 with the following claims check: 3005 and

Expenses in the amount of \$119,635.26 paid on Expense Register dated 12/29/99 with the following claims checks: 3006-3026

Expenses in the amount of \$99.61 paid on Expense Register dated 12/30/99 with the following claims checks: 3027-3033 and



Expenses in the amount of \$157.50 paid on Expense Register dated 12/30/99 with the following claims checks: 3034-3036

Approved By: City Manager \_\_\_\_\_ City Attorney \_\_\_\_\_

**CITY COUNCIL AGENDA ITEM**  
CITY OF SHORELINE, WASHINGTON

**AGENDA TITLE:** Approval of Contract with the North Rehabilitation Facility for Landscape Maintenance for an amount not to exceed \$80,000  
**DEPARTMENT:** Public Works  
**PRESENTED BY:** William L. Conner, Public Works Director *WLC*

**EXECUTIVE / COUNCIL SUMMARY**

The purpose of this report is to request Council to authorize the City Manager to execute a contract with the King County North Rehabilitation Facility (NRF) for landscape maintenance in 2000 for an amount not to exceed \$80,000. This contract will provide for the continuation of vegetation removal support for the Roads and Surface Water Programs for 2000.

On June 23, 1997, your Council approved a pilot program with NRF to provide landscape maintenance by hand mowing the planted areas of the right-of-way. The pilot program proved successful and a full year contract was approved on January 26, 1998 for \$80,000. On December 14, 1998 your Council increased the amount to \$100,000 to include \$20,000 for vegetation removal in the City Parks. This report recaps the Roads and Surface Water Programs for 1999. The Parks Department will provide a recap of 1999 Parks Program services and present the 2000 Parks NRF Contract to Council in early 2000.

Between February and November 1999, NRF crews removed over 225 tons of vegetation from right-of-way and/or planter strips clearing approximately 70 linear miles of the City's arterial streets. Additionally, in 1999, the crews cleared the I-5/205<sup>th</sup> on/off ramps, and added streets in the newly annexed area off Ballinger Way NE. The NRF program included a five to six person crew, supervisor and equipment at a rate of \$320.00 per day compared to the estimated cost of a three person County landscape maintenance crew providing the same services at \$1,000 per day (including wages, benefits, equipment and administrative overhead).

NRF continues to have a positive impact on the community and the improvement in the appearance of several City gateways has continued to receive many positive comments from citizens.

**RECOMMENDATION**

Staff recommends that your Council authorize the City Manager to execute a contract with the North Rehabilitation Facility for 2000 landscape maintenance to support the Roads and Surface Water Programs. This contract amount is not to exceed \$80,000.

Approved By: City Manager *LB*

City Attorney *[Signature]*

**CITY COUNCIL AGENDA ITEM**  
CITY OF SHORELINE, WASHINGTON

**AGENDA TITLE:** Authorize the City Manager to execute an agreement for provision of publications writing, editing and design services for 2000 with Will Design and Publications in an amount not to exceed \$35,000.  
**DEPARTMENT:** Community and Government Relations  
**PRESENTED BY:** Joyce A. Nichols, Community and Government Relations Manager

**EXECUTIVE / COUNCIL SUMMARY**

In May 1998, your Council approved the implementation plan for the recommendations of the Citizen Involvement and Communications Project Committee. Those recommendations included design and production of a bi-weekly column in the *Shoreline Enterprise*, an "Owner's Manual" for the City, and a Citywide newsletter. The three projects were developed and phased-in over the last 18 months. In 1998, we contracted with Susan Will, of Will Design and Publications, to design and produce the City Source column in the *Shoreline Enterprise*, and to design and produce the "Owner's Manual". In 1999, we contracted with Ms. Will to design and produce four issues of Currents, the Citywide newsletter, and to continue producing the City Source column.

Ms. Will has consistently produced outstanding publications for the City, including an award from the Association of Washington Cities for the "Owner's Manual". Her work has been on time and under budget. She works well with City staff and has developed a broad understanding of the work of City and a keen ability to communicate technical information in a concise, interesting manner. Ms. Will is able to perform and oversee all aspects of the publication process providing better value for the City than the cost of purchasing these services separately. Ms. Will's contract rate is \$45.00 per hour. Graphic design services in the region typically range between \$40 and \$60 per hour, and editorial services typically range from \$55 to \$75.

The 2000 Budget adopted by your Council in December included funding to continue producing the City Source column on a bi-weekly basis, expand the Currents newsletter from four to six issues and to update the "Owner's Manual". The scope of each publication and anticipated cost is:

- Currents Citywide newsletter—6 issues, includes research, writing, layout, editing, and production oversight—approximately \$22,000.
- City Source column—26 columns, includes research, writing, and production—approximately \$11,000.


## RECOMMENDATION

Staff recommends that your Council pass a motion to authorize the City Manager to execute an agreement for provision of publications writing, editing, design and production services for City publications for 2000 with Susan Will, d/b/a Will Design and Publications in an amount not to exceed \$35,000.

Approved By: City Manager LB

City Attorney J.

**CITY COUNCIL AGENDA ITEM**  
CITY OF SHORELINE, WASHINGTON

<b>AGENDA TITLE:</b>	Public Hearing and Action on Proposed City Regulations Governing Social Card Rooms
<b>DEPARTMENT:</b>	Planning and Development Services
<b>PRESENTED BY:</b>	Timothy M. Stewart, Director 

**EXECUTIVE / COUNCIL SUMMARY**

The rapid expansion of state regulated gambling activity in Shoreline has been a matter of significant public debate. The issue before your Council is the further regulation of social card rooms in Shoreline utilizing the city's zoning police power.

On July 26, 1999, your Council adopted Resolution 155. That resolution directed staff to draft a land use ordinance to prohibit new social card rooms and further directed staff to forward such ordinance to the Planning Commission for review and recommendation. Option 4 would permit existing gaming establishments to continue but prohibit new gaming establishments. The draft ordinance (Exhibit A - AN ORDINANCE REGULATING COMMERCIAL EATING AND DRINKING ESTABLISHMENTS WITH SOCIAL CARD ROOMS AND AMENDING SECTIONS 18.06, 18.08, 18.18 AND 18.32 OF THE SHORELINE ZONING CODE) was presented to the Planning Commission at a Public Hearing on October 7, 1999 (Exhibit B - Staff Report to the Planning Commission).

At that meeting (Exhibit C - Minutes of the October 7, 1999 Planning Commission Meeting), the Commission could not reach agreement on a recommendation and tabled the draft ordinance. The Commission further directed that staff provide a number of items including a draft Ordinance that would accomplish the effect of "Option #3". This option would allow gaming establishments with conditions and restrictions. That draft Ordinance (Exhibit D - AN ORDINANCE REGULATING COMMERCIAL EATING AND/OR DRINKING ESTABLISHMENTS WITH SOCIAL CARD ROOMS AS A SPECIAL USE PERMIT IN THE REGIONAL BUSINESS, OFFICE AND INDUSTRIAL ZONES WITH INCREASED PARKING REQUIREMENTS, AND AMENDING SECTIONS 18.06, 18.08, 18.18 AND 18.32 OF THE SHORELINE ZONING CODE) was presented to the Planning Commission on October 28, 1999 (Exhibit E - Minutes of the October 28, 1999 Planning Commission Meeting). After extensive debate, the Planning Commission voted to recommend Option #3 to your Council (Commissioners Parker, McAuliffe, Vadset, Marx and Monroe in favor, Commissioners Bradshaw, Maloney, Gabbert and Kuhn in opposition).

The outcome of this process is that your Council has two alternative recommendations regarding social card rooms. The Ordinance in Exhibit A would prohibit new social card

rooms but would permit legally existing establishments to continue ("Option 4"). Staff recommends this alternative. The Ordinance in Exhibit D would permit new social card rooms with a Special Use Permit ("Option 3"). The Planning Commission recommends this alternative.

### **RECOMMENDATION**

Staff recommends that you conduct a Public Hearing and adopt the Ordinance in Exhibit A to prohibit new social card rooms but permit legally existing establishments to continue.

The Planning Commission recommends that you conduct a Public Hearing and adopt the Ordinance in Exhibit D to permit new social card rooms with a Special Use Permit.

Approved By: City Manager LB City Attorney [Signature]

## BACKGROUND

City Council Review (June 21, 1999; July 26, 1999): During June and July 1999, Council considered an analysis of the impacts of the gaming industry. The Council review included consideration of: Legal Issues; Land Use Authorities (Comprehensive Plan, Zoning, Development Standards), and Economic/Social Issues. The purposes of the studies were to determine whether: (1) existing businesses create harmful secondary effects; and (2) whether new gaming establishments would be consistent with the jurisdiction's comprehensive plans and/or development regulations.

Based on this study, Council also considered five options for the future of the gaming industry in Shoreline:

- **Option 1: Allow gaming establishments.** This option maintains the status quo. It allows gaming establishments as a principally permitted use in all commercial districts; minimum development standards are required; incentives are not provided.
- **Option 2: Allow and Encourage gaming establishments.** This option would allow and encourage/provide incentives for gaming establishments in all commercial districts. Minimum development standards would be required.
- **Option 3: Allow existing and new gaming establishments with conditions and restrictions.** This option would limit gaming establishments to selected zones/areas of the City (e.g., regional business, gaming district). This option requires adoption of special development standards to address impacts to the site and to the public realm (e.g., architectural character, setbacks, access/parking, landscaping, lighting, signage).
- **Option 4: Permit existing gaming establishments; Prohibit new gaming establishments.** This option permits existing gaming establishments to continue operations; new gaming establishments would be prohibited.

Existing, permitted gaming establishments would be non-conforming uses. No amortization period would be established. Non-conforming status would limit improvements (e.g., remodeling) and place constraints on expansion of operations. Special Use Permits would be required. Discontinued operations could not be re-established after one year.

- **Option 5: Prohibit all gaming establishments.** This option prohibits all establishments. New establishments are not permitted. Existing establishments would be required to cease operations immediately or could be "amortized" out over time. State law clearly permits a local jurisdiction to ban all gaming establishments.

At its July 26<sup>th</sup> meeting, Council selected Option 4 as its preferred policy. Based upon the Option 4 policy description, and likely benefits/costs, Council determined that this option would provide a gaming policy that is generally compatible with development goals and development capacity. (Exhibit A - AN ORDINANCE REGULATING COMMERCIAL EATING AND DRINKING ESTABLISHMENTS WITH SOCIAL CARD ROOMS AND AMENDING SECTIONS 18.06, 18.08, 18.18 AND 18.32 OF THE SHORELINE ZONING CODE).

Consistent with Council direction, the City Attorney and staff prepared a draft ordinance regulating card rooms based on Option 4. This draft Proposed Ordinance was transmitted to the Planning Commission which is responsible for reviewing and holding a public hearing on all land use regulations for the City of Shoreline. (See Staff Report to the Planning Commission, Exhibit B).

Planning Commission Review - October 7, 1999: At its October 7<sup>th</sup> meeting, the Planning Commission conducted a public hearing and considered regulations, based on Option 4, to permit existing gaming establishments, but prohibit new card rooms. (See Planning Commission Minutes, Exhibit C).

Following public testimony, the Commission conducted a discussion of the proposed gaming regulations. Commissioners expressed a range of opinions concerning regulation of gaming. A number of commissioners requested additional information concerning Option 4 benefits and costs. Some commissioners also requested information concerning other options. The Commission voted unanimously to table discussion regarding the proposed Option 4 card room regulations and directed that staff provide the following:

- ◆ Information on statistics that verify staff's assertions concerning benefits/costs of Option 4
- ◆ A report on how Option 3 (to permit existing gaming establishments and allow new establishments) would affect the City
- ◆ A Draft Ordinance that would accomplish the effect of Option 3
- ◆ A copy of the Staff Report that was presented to the City Council when Option 3 was considered, as well as the minutes from that meeting (June 21, 1999 and July 26, 1999).

Staff provided the requested information to the Planning Commission on October 28<sup>th</sup>. (Exhibit F).

Planning Commission Review - October 28, 1999: At its meeting of October 28, 1999, the Planning Commission considered Option 3 policy costs and benefits (Exhibit E). The Commission also considered alternate card room regulations based on Option 3. The Commission voted 5-4 to recommend that the Council adopt the Ordinance in Exhibit D: Land Use Regulations to Govern Commercial Eating and/or Drinking Establishments With Social Card Rooms (Option 3).

## ANALYSIS

The City of Shoreline has a very broad range of policy alternatives available regarding gaming establishments. Those alternatives include: permit gaming activity as an accessory use in eating and drinking establishments (Option #1), encourage the expansion of gaming establishments (Option #2), allow new gaming establishments with conditions and restrictions (Option #3), permit existing gaming establishments to continue but prohibit new establishments (Option #4), or prohibit all gaming establishments (Option #5). The Council had previously chosen Option #4. The Planning Commission, on a narrow 5-4 vote, has recommended Option #3.



Option #4 would be implemented through the adoption of Exhibit A – AN ORDINANCE REGULATING COMMERCIAL EATING AND DRINKING ESTABLISHMENTS WITH SOCIAL CARD ROOMS AND AMENDING SECTIONS 18.06, 18.08, 18.18 AND 18.32 OF THE SHORELINE ZONING CODE. This Ordinance would add a new definition, "Card room" as "Commercial eating and/or drinking establishment licensed by the State Gambling Commission to conduct social card games". It would then prohibit this activity in Shoreline causing all legally existing operations to become "nonconforming". The Ordinance then further clarifies that the expansion of a legally existing establishment would require a special use permit. Finally, the Ordinance would add a parking requirement of one space per 75 square feet in dining or lounge areas, plus 5 per card table. The effect of this Ordinance would be to prohibit new establishments, but to permit legally existing establishments to continue.

Option #3 would be implemented through the adoption of Exhibit D, AN ORDINANCE REGULATING COMMERCIAL EATING AND/OR DRINKING ESTABLISHMENTS WITH SOCIAL CARD ROOMS AS A SPECIAL USE PERMIT IN THE REGIONAL BUSINESS, OFFICE, AND INDUSTRIAL ZONES WITH INCREASED PARKING REQUIREMENTS, AND AMENDING SECTIONS 18.06, 18.08, 18.18 AND 18.32 OF THE SHORELINE ZONING CODE. This Ordinance would establish the same definition as in the previous Ordinance, but instead of prohibiting new establishments would permit them in three zoning districts, the regional business, office and industrial districts, with a Special Use Permit, the criteria for a Special Use Permit are set out in Exhibit F. It would also add the same new parking requirement. The effect of this Ordinance would be to increase the regulatory control over new eating and drinking establishments with social card rooms.

The City of Shoreline has other tools and techniques that might be used to regulate, control and pay for gambling. As stated in Resolution #155, the city might consider further regulation of gaming activities in addition to card rooms. The City might also increase gambling tax to the legal limit of 20% with a popular vote. Staff intends to discuss these options and alternatives with Council at a workshop later this year.

## **RECOMMENDATION**

Staff recommends that you conduct a Public Hearing and adopt the Ordinance in Exhibit A to prohibit new social card rooms but permit legally existing establishments to continue.

The Planning Commission recommends that you conduct a Public Hearing and adopt the Ordinance in Exhibit D to permit new social card rooms with a Special Use Permit.

## EXHIBITS

- A. AN ORDINANCE REGULATING COMMERCIAL EATING AND/OR DRINKING ESTABLISHMENTS WITH SOCIAL CARD ROOMS AND AMENDING SECTIONS 18.06, 18.08, 18.18, AND 18.32 OF THE SHORELINE ZONING CODE.
- B. Planning Commission Agenda Item Staff Report "Public Hearing on City Regulations Governing the Review of Land Use Applications and Procedures for Commercial Eating and/or Drinking Establishments with Social Card Rooms" October 7, 1999. (Note: attachments and exhibits to this report are available in the office of the Department of Planning and Development Services).
- C. Summary Minutes of Regular Meeting of the Shoreline Planning Commission, October 7, 1999.
- D. AN ORDINANCE REGULATING COMMERCIAL EATING AND/OR DRINKING ESTABLISHMENTS WITH SOCIAL CARD ROOMS AS A SPECIAL USE PERMIT IN THE REGIONAL BUSINESS, OFFICE AND INDUSTRIAL ZONES WITH INCREASED PARKING REQUIREMENTS, AND AMENDING SECTIONS 18.06, 18.08, 18.18 AND 18.32 OF THE SHORELINE ZONING CODE (Card Rooms Permitted by Special Permit).
- E. Summary Minutes of Special Meeting of the Shoreline Planning Commission, October 28, 1999.
- F. Supplemental Staff Report, October 21, 1999. (Note: attachments and exhibits to this report are available in the office of the Department of Planning and Development Services).

**Ordinance No. 223-A****AN ORDINANCE REGULATING COMMERCIAL EATING AND/OR DRINKING ESTABLISHMENTS WITH SOCIAL CARD ROOMS AND AMENDING SECTIONS 18.06, 18.08, 18.18 AND 18.32 OF THE SHORELINE ZONING CODE**

**WHEREAS**, eating and drinking establishments with card rooms have the potential for significantly greater secondary social and economic impacts on the community and business environment than other classes of eating and drinking establishments; and

**WHEREAS**, eating and drinking establishments with card rooms are not consistent with those key provisions of the City of Shoreline Comprehensive Plan which establish framework goals supporting a diverse economy to assure economic development and to enhance the quality of life within the City of Shoreline.

**WHEREAS**, the City has the ability to prohibit such establishments under its police power to regulate land use under RCW Chapter 35A.64 and more particularly its power to regulate any or all forms of gambling licensed by the State under RCW 9.46.295; and

**WHEREAS**, it is necessary to prohibit new gambling establishments for the preservation of public safety and welfare and that legally existing card rooms be restricted as nonconforming uses; now therefore:

**THE CITY COUNCIL OF THE CITY OF SHORELINE DO ORDAIN AS FOLLOWS:****Section 1. New Section:**

A new section is added to SMC Chapter 18.06 Technical Terms and Land Use Definitions, to read as follows:

**18.06.173 Card room:** Commercial eating and/or drinking establishment licensed by the State Gambling Commission to conduct social card games.

**Section 2: Amendment:**

SMC Section 18.08.070, Permitted Land Uses, shall be amended to specify regulations addressing card rooms, as set forth in Exhibit A, and incorporated by reference.

**Section 3. Amendment:**

SMC Section 18.32.090, Expansion of Nonconformance, shall be amended to read as follows:

"A nonconformance may be expanded subject to approval of a conditional use permit or a special use permit, whichever permit is required under existing codes, or if no permit is required then through a conditional use permit, provided, a nonconformance with the development standard provisions of Chapters 18.12 through 18.30 SMC shall not be created or increased.

Notwithstanding any other provision of this title, the expansion of a nonconforming adult use facility, as that term is defined in SMC 18.06.035, as now in effect or as may be

subsequently amended, shall be subject to the approval and issuance of a special use permit and not a conditional use permit [Ord. 140 Sect. 3, 1997; Ord. 125 Sect 1, 1997].

Notwithstanding any other provision of this title, the expansion of a nonconforming card room, as that term is defined in SMC 18.06.173, as now in effect or as may be subsequently amended, shall be subject to the approval and issuance of a Special Use Permit and not a conditional use permit, pursuant to SMC 16.40 and SMC 18.44.050. [Ord. 125 Sect 1, 1997]. "

#### Section 4: Amendment:

SMC Section 18.18.030 Computation of Required Off-Street Parking Spaces (18.18.070(A)), shall be amended to read as follows:

"18.18.030 A. Except as modified in SMC 18.18.070 (B) through (D), off-street parking areas shall contain as a minimum the number of parking spaces as stipulated in the following table. Off-street parking ratios expressed as number of spaces per square feet means the usable or net square footage of floor area, exclusive of nonpublic areas. Nonpublic areas include, but are not limited to building maintenance areas, storage areas, closets, or restrooms. If the formula for determining the number of off-street parking spaces results in a fraction, the number of off-street parking spaces shall be rounded to the nearest whole number with fractions of .50 or greater rounding up and fractions below .50 rounding down.

LAND USE	MINIMUM PARKING SPACES REQUIRED
...	
RETAIL/WHOLESALE (SMC 18.08.070(A))	
Retail trade uses	1 per 300 square feet
Exceptions:	
Food stores, less than 15,000 square feet	3 plus 1 per 350 square feet
Gasoline service stations w/o grocery	3 per facility, plus 1 per service bay
Gasoline service stations w/grocery, no service bays	1 per facility, plus 1 per 300 square feet of store
Restaurants	1 per 75 square feet in dining or lounge areas
<u>Card rooms</u>	<u>1 per 75 square feet in dining or lounge areas, plus 5 per card table.</u>
...	

**Section 5. Severability.** Should any section, paragraph, sentence, clause or phrase of this regulation, or its application to any person or circumstances, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this regulation be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this regulation or its application to other persons or circumstances.

**Section 6. Effective Date.** This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

**Section 7. Repealer.** Ordinance No. 200, which imposed a moratorium related to food and/or drink establishments with gaming as a commercial incentive, is to be repealed upon the effective date of this Ordinance.

**PASSED BY THE CITY COUNCIL ON \_\_\_\_\_, 2000**

\_\_\_\_\_  
Mayor Scott Jepsen

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Sharon Mattioli, CMC  
City Clerk

\_\_\_\_\_  
Ian R. Sievers  
City Attorney

Date of Publication: \_\_\_\_\_, 2000  
Effective Date: \_\_\_\_\_, 2000

EXHIBIT A

Section SMC 18.08.070

A. Retail Land Uses

		RESIDENTIAL		COMMERCIAL/INDUSTRIAL							
		R E S I D E N T I A L		N E I G H B O R	B U S I N E S S	C O M M U N I T Y	B U S I N E S S	R E G I O N A L	B U S I N E S S	O F F I C E	I N D U S T R I A L
SIC	Specific Land Use	R4 – R8	R12– R48	NB	CB		RB		O		I
....	....	....	....	....	....		....		....		....
58*	Eating & Drinking Establishments	C12_13	C12_13	P6_13	P_13		P_13		P_13		P_13
....	....	....	....	....	....		....		....		....

B. Development Conditions.

13. Excluding card rooms, as defined in SMC 18.06.173

Commission Meeting Date: October 7, 1999

Agenda Item: 8(a)

**PLANNING COMMISSION AGENDA ITEM**  
CITY OF SHORELINE, WASHINGTON

<b>AGENDA TITLE:</b>	Public Hearing on City Regulations Governing the Review of Land Use Applications and Procedures for Commercial Eating and/or Drinking Establishments with Social Card Rooms
<b>DEPARTMENT:</b>	Planning and Development Services <i>MS</i>
<b>PRESENTED BY:</b>	Tim Stewart, Director Lenora Blauman, Senior Planner <i>LB</i>

**SUMMARY**

On July 26, 1999, Shoreline's City Council established policies to guide commercial eating and/or drinking establishments with social card rooms. Under this Council policy, the City would:

- (1) Ban new social card rooms, as permitted by Washington State law (RCW 9.46.295/RCW 35A.64)
- (2) Permit existing social card rooms currently licensed and/or legally operating in Shoreline to continue operations as non-conforming uses and consistent with City regulations (Ordinance 200 – Exhibit A.1).
- (3) Provide tax disincentives for new tables which may occur from expansion, and which are consistent with City regulations (Resolution 155 – Exhibit A.2).

At that meeting, Council also directed staff to develop regulations to govern land use review for commercial eating and/or drinking establishments with social card rooms in our community. In order to meet Council's directive, the City Attorney and the Planning and Development Services Department have prepared proposed Ordinance \_\_\_\_ (Exhibit B). This Ordinance would govern the four social card rooms (including three mini-casinos) which exist in Shoreline now. The Ordinance would permit existing card rooms to continue operations and, in limited circumstances, to expand activities. These existing card rooms would become non-conforming uses subject to review as Special Use Permits. These uses would also be subject to development standards as specified in the Shoreline Municipal Code. No new card rooms would be permitted in Shoreline.

This policy/regulations would not affect not-for-profit social card games. This policy/regulations would not affect gaming operations that are confined to punch cards and/or pull tabs.

**BACKGROUND/ANALYSIS**

At incorporation of the City of Shoreline, the City Council adopted King County Ordinances to guide growth in our community. The purpose of adopting King County standards was to regulate new development pending the adoption of Shoreline's Comprehensive Plan and the adoption of local development regulations to support the Plan.

King County regulations, as adopted by Shoreline, permit eating and drinking businesses with a variety of gaming establishments in the City. At this time, Shoreline has 17 existing gaming establishments (i.e., establishments conducting social card games, punch boards, and/or pull tabs). Four of these establishments include a social card room (five or fewer card tables). Three of these establishments are mini-casinos (six to 15 social card tables). These establishments include:

Establishment	Location	Current Activities
Cascade Booster Club (^)	16325 5 <sup>th</sup> Avenue NE	Bingo, Pull tabs, Card room (pending)
Parker's (*)	17001 Aurora Avenue	Mini-casino
China Clipper	20221 Aurora Avenue	Pull tabs
Cliffs Tavern	910 N 145 <sup>th</sup> Street	Pull tabs, Card room
Drift on Inn (*)	16708 Aurora Avenue	Mini-casino
Eagles, FOE 4122 (^)	17724 15 <sup>th</sup> Avenue NE	Pull tabs
Echo Lake Tavern	19508 Aurora Avenue	Pull tabs
Gateway Inn	18380 Midvale N	Pull tabs
Goldies (*)	15030 Aurora Ave	Mini-casino
Hideaway Tavern	14525 Aurora Avenue	Pull tabs; Card room
Highland Skating Bingo	18005 Aurora Avenue	Bingo, Pull tabs
Italo Bella	14622 15 <sup>th</sup> Avenue NE	Pull tabs, Card room
North City Tavern	17554 15 <sup>th</sup> Avenue NE	Pull tabs
Palace of China	14810 15 <sup>th</sup> Avenue NE	Pull tabs
Shays	15744 Aurora Avenue	Pull tabs
Sparkey's Bar & Grill	20109 Aurora Avenue	Pull tabs, 1 card table
Wild Horse Bar	2001 NW 195 <sup>th</sup> Street	Pull tabs
^Private/Not-for-Profit Club		
*Mini-casino includes card rooms and pull tabs.		

In the region and in the City, there appears to be a trend toward the addition of new gaming operations and/or the intensification or expansion of existing gaming operations. For example, mini-casinos, which have been historically limited to 5 game tables, are now permitted to have 15 tables. Other changes in gambling regulations have encouraged intensification and expansion as well. Specifically, "house bank" games are now permitted by law. In this situation, the business operates its own games (e.g., black jack, pai gow poker, Caribbean stud) rather than contracting with outside vendors to conduct games. House banking allows the business to realize greater profits. Additionally, the maximum bet per game has been increased from \$25.00 to \$100.00. This increase also provides opportunities for greater profits, which encourages intensification and expansion of operations. The Drift On Inn has recently received permission to allow increased betting limits.

At this time, Hollywood Pizza, The Hideaway, Parker's and Sparkey's have indicated interest in adding new operations and/or increasing betting limits. These businesses do not have active applications on file with the State Gambling Commission. There have also been informal inquiries from new gaming establishments potentially interested in locating in Shoreline.

Shoreline is among several jurisdictions that are beginning to contemplate options for allowing and regulating gaming. At this time, some jurisdictions have, in fact, prohibited all gaming establishments (e.g., Enumclaw, Maple Valley, Normandy Park, Kirkland, Redmond, Seattle). Some jurisdictions prohibit selected gaming activities or restrict locations of gaming activities. For example, Auburn has banned new card rooms but has allowed existing card rooms to



continue operations. Burien has banned card rooms. Renton has established regulations that restrict gaming operations to a specific zone and geographic area. Other jurisdictions have moratoria on new gaming establishments in order to undertake studies of these businesses.

During June and July 1999, Council considered an analysis of impacts of the gaming industry. The Council review included consideration of: Legal Issues, Land Use Authorities (Comprehensive Plan, Zoning, Development Standards), and Economic/Social Issues. The purposes of the studies were to determine whether: (1) existing businesses create harmful secondary effects; and (2) whether new gaming establishments would be consistent with the jurisdiction's comprehensive plans and/or development regulations. Based on this discussion, Council also considered five options for the future of the gaming industry in Shoreline:

- **Option 1: Allow gaming establishments.** This option maintains the status quo. It allows gaming establishments as a principally permitted use in all commercial districts; minimum development standards are required; incentives are not provided.
- **Option 2: Allow and Encourage gaming establishments.** This option would allow and encourage/provide incentives for gaming establishments in all commercial districts. Minimum development standards would be required.
- **Option 3: Allow gaming establishments with conditions and restrictions.** This option would limit gaming establishments to selected zones/areas of the City (e.g., regional business, gaming district). This option requires adoption of special development standards to address impacts to the site and to the public realm (e.g., architectural character, setbacks, access/parking, landscaping, lighting, signage).
- **Option 4: Permit existing gaming establishments; Prohibit new gaming establishments.** This option permits existing gaming establishments to continue operations; new gaming establishments would be prohibited.

Existing, permitted gaming establishments would be non-conforming uses. No amortization period would be established. Non-conforming status would limit improvements (e.g., remodeling) and place constraints on expansion of operations. Special Use Permits would be required. Discontinued operations could not be re-established after one year.

- **Option 5: Prohibit all gaming establishments.** This option prohibits all establishments. New establishments are not permitted. Existing establishments are required to cease operations immediately. State law permits a local jurisdiction to ban all gaming establishments.

On July 26<sup>th</sup> Council selected Option 4 as its preferred policy, based upon the following policy features, likely benefits and costs, and anticipated outcomes:

- ♦ This policy supports gaming by allowing existing commercial eating and/or drinking establishments with social card rooms to remain in the community.
- ♦ This policy contains gaming by: (1) prohibiting new social card rooms; and (2) designating existing social card rooms as non-conforming uses, thereby limiting their growth. These uses would not be amortized.
- ♦ This policy option is most consistent with the intent of the Comprehensive Plan and the Development Code. It provides for economic development, provides land use standards, protects short-term to mid-term tax revenue and minimizes social costs. It is less consistent with those policies that encourage diverse economic development to provide a variety of goods and services to the community.
- ♦ This policy would result in a continuation of the current level of social impacts, but essentially limits future growth of social impacts (e.g., policing, treatment of addiction).
- ♦ This policy enables the City to continue to collect tax revenue from gaming. Opportunities to enact higher tax rates could result in revenue increases. Increased revenues could assist in ensuring that these uses are compatible with community development goals and may provide resources for offsetting social costs.

- ♦ This policy is generally consistent with regulations recently adopted by other jurisdictions. For example, the City of Auburn prohibits new gaming establishments, but permits existing lawfully operating gaming establishments to continue business. Pierce County also bans new gaming establishments. Existing lawfully operating gaming establishments can continue business, but are regulated as amortized non-conforming uses.
- ♦ This policy may be inconsistent with legal authorities for permitting and banning gaming establishments. The authorities are unclear as they relate to this policy, due to ambiguities in state statutes and a lack of case law. Specifically, the Office of the Attorney General has issued an unofficial opinion which concludes that the City's power to prohibit any or all forms of gambling does not allow continuation of existing operations as non-conforming uses (Exhibit C). However, it is the general opinion of the counsel for several regional jurisdictions (including the City of Shoreline) that the law authorizes cities to regulate gaming establishments through zoning and land use restrictions (e.g., locations, development standards, non-conforming status).

In sum, Council selected Option 4 because it provides a gaming policy that is generally compatible with community values, development goals and development capacity.

#### **Ordinance \_\_\_\_**

In keeping with Council direction, the City Attorney and staff have proposed Ordinance \_\_\_\_ (Exhibit B) to govern land use review for commercial eating and/or drinking establishments with social card rooms. The purpose of these regulations is to serve as essential guidelines that must be addressed by commercial eating and/or drinking establishments with card rooms. The following is a summary of each of the sections of these rules with a brief analysis provided for issues that staff believe to be central to promoting effective regulation of card rooms:

#### **Preamble Section to the Ordinance:**

This Section establishes the foundation for the Ordinance. This foundation was based upon the following findings:

- Card rooms have the potential for significantly greater secondary social and economic impacts on the community and business environment than other classes of eating and drinking establishments;
- Card rooms are not consistent with those key provisions of the City of Shoreline Comprehensive Plan which establish framework goals supporting a diverse economy to assure economic development and to enhance the quality of life within the City of Shoreline.
- The City has the ability to prohibit such establishments under its police power to regulate land use under RCW Chapter 35A.64 and more particularly its power to regulate any or all forms of gambling licensed by the State under RCW 9.46.295; and
- The City believes it is necessary to prohibit new gambling establishments and restrict existing card rooms as non-conforming uses to preserve public safety and welfare.

#### **Section 1. New:**

This section provides a definition for a card room, describing it as a "commercial eating and/or drinking establishment licensed by the State Gambling Commission to conduct social card games". The definition establishes that the Ordinance will regulate commercial establishments operating social card rooms. This Ordinance does not regulate not-for-profit card rooms or punch card or pull tab games.

#### **Section 2: Amendment:**

This Section specifies regulations addressing social card rooms. It describes circumstances under which the existing uses can continue operations and prohibits new social card rooms.

It modifies the Shoreline Municipal Code (SMC) Section 18.08.070, Permitted Land Uses to reflect these specifications.

### Section 3. Amendment:

The purpose of this Section is to amend SMC Section 18.32.090, Expansion of Nonconformance, to define existing card rooms as nonconforming uses. This section also requires that changes to existing card rooms, be subject to the approval and issuance of a Special Use Permit and not a conditional use permit.

Status as a nonconforming use strictly limits changes that can be made to an existing card room. For example, if a structure is destroyed in a fire, it could be replaced but could not be expanded. In limited circumstances additional card tables could be allowed, subject to approval by the Gambling Commission. The changes would also need to be consistent with the City's land use regulations (e.g., height, setbacks, access, parking).

A Special Use Permit is proposed for changes to existing card rooms. The Special Use Permit is suggested because it requires a public hearing for a development application, which would provide maximum opportunities for public participation in the permitting process for commercial eating and/or drinking establishments operating social card rooms.

### Section 4: Amendment:

This Section increases the minimum number of parking spaces required for eating and/or drinking establishments with social card rooms, that are permitted to add tables or make other changes. Specifically card rooms would be required to have one space per 75 square feet in dining or lounge areas, plus 5 per card table (SMC 18.18).

This proposed amendment is based upon data which report that: (1) traffic for a gaming establishment is greater than traffic to a standard eating and drinking establishment; and (2) parking requirements for a gaming establishment are greater than for a restaurant without gaming, because turnover is less frequent where gaming is available. ("Gaming Casino Traffic," by Paul C. Box and William Bunte, *ITE Journal*, March 1998; "State and Local Government Regulation of Gaming: Recent Canada and U.S. Case Law," by Craig B. MacFarlane and Anthony Capuccinello, 1998 Annual International Municipal Lawyers Association Convention, November, 1998).

### Section 5 Severability.

This Section states that if some portion of the regulation becomes invalid for any reason (e.g., pre-empted by state or federal law) the remaining portions of this regulation would remain valid.

Section 6. Effective Date. This Section establishes that ordinance shall become effective five (5) days after the date that public notice is published to state that the Ordinance is adopted.

Section 7. Repealer. This Section would repeal Ordinance No. 200, which imposed a moratorium related to commercial eating and/or drinking establishments operating social card rooms.

### REQUESTED ACTION

The Planning and Development Services Department requests that the Planning Commission hold a Public Hearing to review the proposal and make a recommendation to adopt the proposed Land Use Regulations and Rules of Procedures Governing Commercial Eating and/or Drinking Establishments Conducting Social Card Games.

## EXHIBITS

- Exhibit A.1     Ordinance 200  
An Ordinance of the City . . . Establishing A Moratorium On The Filing Of  
Applications For Business Licenses and Building Permits for the Expansion of  
Existing or the Addition of New Food Or Drink Establishments...And Declaring an  
Emergency
- Exhibit A.2     Resolution 155  
A Resolution of the City . . . Initiating Land Use and Tax Regulations for the  
Gambling Industry
- Exhibit B        Ordinance \_\_\_\_\_  
An Ordinance of the City . . . Regulating Commercial Eating and/or Drinking  
Establishments With Social Card Rooms
- Exhibit C        Letter from State of Washington Gambling Commission to the City of Renton  
(February 1999)  
Memorandum from the Office of the Attorney General (March 1999)

These Minutes Approved  
October 21, 1999

## CITY OF SHORELINE

### SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF REGULAR MEETING

October 7, 1999  
7:00 P.M.

Shoreline Conference Center  
Board Room

#### PRESENT

Chair Kuhn  
Vice Chair Gabbert  
Commissioner Monroe  
Commissioner Marx  
Commissioner Vadset  
Commissioner Maloney  
Commissioner Bradshaw  
Commissioner McAuliffe  
Commissioner Parker

#### STAFF PRESENT

Tim Stewart, Director, Shoreline Planning & Development Services  
Anna Koloušek, Assistant Director, Planning & Development Services  
Lenora Blauman, Planner III, Planning and Development Services

#### 1. CALL TO ORDER

The regular meeting was called to order at 7:00 p.m. by Chair Kuhn, who presided.

#### 2. ROLL CALL

Upon roll call by the Commission Clerk, the following Commissioners were present: Chair Kuhn, Vice Chair Gabbert, Commissioners McAuliffe, Monroe, Marx, Bradshaw, Vadset and Maloney. Commissioner Parker arrived at the meeting at 7:04 p.m.

#### 3. APPROVAL OF AGENDA

The agenda was accepted as proposed.

#### 4. APPROVAL OF MINUTES

COMMISSIONER BRADSHAW MOVED TO APPROVE THE MINUTES OF SEPTEMBER 2, 1999 AS AMENDED. COMMISSIONER MCAULIFFE SECONDED THE MOTION. MOTION CARRIED BY A VOTE OF 9-0.

COMMISSIONER BRADSHAW MOVED TO ACCEPT THE MINUTES OF SEPTEMBER 16, 1999 AS PRESENTED. VICE CHAIR GABBERT SECONDED THE MOTION. MOTION CARRIED BY A VOTE OF 9-0.

#### 5. PUBLIC COMMENT

There was no one in the audience wishing to address the Commission during this portion of the meeting.

#### 6. REPORTS OF COMMISSIONERS

There were no reports from the Commissioners.

#### 7. STAFF REPORTS

Tim Stewart, Director of Planning and Development Services, distributed a copy of a calendar outlining the Commission's workload for the remainder of the year. If the Commission does not complete their discussion regarding Phase I of the development code by the October 21, 1999 meeting, he asked that they consider holding a special meeting on October 28, 1999. Mr. Stewart also noted that a special meeting has been scheduled for November 9, 1999.

Mr. Stewart introduced Bill Conner, the new Director of Public Works.

#### 8. PUBLIC HEARING

##### a. Proposed City Regulations Governing the Review of Land Use Applications and Procedures for Commercial Eating and/or Drinking Establishments with Social Card Rooms

Lenora Blauman, Planner III, presented background information and reviewed the proposed card room regulations. She said that on July 26, 1999, after analyzing and considering various options, the City Council established a set of policies for governing gaming activities in the City. They directed staff to put together an ordinance with the following components:

- Ban new social card rooms as permitted by Washington State Law.
- Permit existing social card rooms that are currently licensed or legally operating to continue operations as non-conforming uses and consistent with the City regulations.
- Provide tax disincentives for new tables which may occur from expansion and which are consistent with the City regulations.

Ms. Blauman said draft Ordinance 200 is based upon the potential for significant secondary, social and economic impacts which have been identified by a series of research studies. It was also based on the rationale that card rooms are not consistent with a key provision in the Comprehensive Plan which calls for enhancement of the quality of life through economic development. According to the law, Ms. Blauman said the City has the ability to prohibit new establishments and restrict the existing establishments to preserve the public health, safety and welfare. She briefly reviewed the changes that are being proposed.

Ms. Blauman requested that the Commission hold a public hearing on the proposed ordinance and then make a recommendation for adoption to the City Council. She recommended that if the draft ordinance is adopted, the City should also make changes to some of the definitions found in the standard Development Code so that the two documents are consistent.

Commissioner Monroe inquired how restricting one type of business, as stated in the staff report, would make business more diverse. Ms. Blauman said studies show that a variety of businesses are less likely to be located near gambling establishments.

Commissioner Bradshaw noted that the proposed ordinance states that "card rooms have the potential for significantly greater secondary, social and economic impacts on a community" (Page 30). He said staff has alluded to studies that would support that statement, but they have not been made available to the Commission. He questioned how the Commission could support the proposal when they have been unable to review the studies. Ms. Blauman referred the Commission to staff reports that were provided to the Council dated June 21 and July 26, 1999. There is also a notebook in the Commission Clerk's office containing approximately 45 studies addressing the topic of gaming establishments. Commissioner Bradshaw said he would like to be able to review the reports before he makes a decision.

Commissioner Bradshaw referred to the statement in the staff report that "card rooms are not consistent with the key provisions of the Shoreline Comprehensive Plan." He inquired what studies are available to show that these card rooms do not enhance the quality of life in the City of Shoreline. Ms. Blauman said this information is also available in the notebook that was referred to earlier.

Commissioner Monroe suggested that people who frequent gaming establishments probably think that they do enhance the community. He suggested that the term "enhance" is unclear.

Commissioner McAuliffe inquired what type of limited changes would be allowed to occur in non-conforming gaming establishments. Ms. Blauman said the regulations governing these non-conforming uses would be the same that govern other non-conforming uses in the City. Commissioner Monroe noted that if a gaming business is identified as a non-conforming use, then the business owner would not be able to get a loan from a bank. This would be putting an unfair burden on a type of business that has been legalized by the state. Commissioner McAuliffe suggested that this may make the existing businesses more valuable.

Commissioner Parker requested that staff provide the Commission with a bibliography of the studies that were used to prepare the ordinance. The Commissioners discussed their desire to have a copy of the studies made available for their review. Chair Kuhn pointed out that the Commission has had the staff report for quite some time. He asked that in the future, the Commissioners should request this type of information in advance of the meeting.

Ken Crobarger, 2225 Bothell Everett Highway, said he is general manager for Goldies Shoreline. He said he attended the legislative roundtable on gaming policy that was held on September 22, 1999. Mayors from both Tukwila and Renton indicated that they are in support of card rooms. They both said they welcomed the added tax revenue and that there was no apparent increase in crime. The City Attorney for Kent said that while they ban card rooms at this time, they might revisit that ban if the zoning issues were addressed at the state level.

Commissioner Parker inquired if Mr. Crobarger has noticed an change in the market as a result of the increased availability of gaming establishments. Mr. Crobarger said there has been a dramatic drop in revenue for some types of gaming businesses because of the increased availability. But, Goldies has not been affected as much as others have.

Chair Kuhn inquired regarding how many people are directly employed by licensed card room establishments in the City. Mr. Crobarger said their business employs about 120 people, and it is fairly consistent across the state.

Commissioner McAuliffe asked Mr. Crobarger whether or not he supports the proposed ordinance. Mr. Crobarger said it is to their benefit to have an ordinance that would allow them to continue to operate, but not allow any additional establishments. Their concerns are centered on physical improvements they plan to do in the future. They are not clear as to whether these enhancements would be restricted or not. Commissioner Maloney inquired if Goldies has already submitted permits for these improvements. He pointed out that any permit applications filed before the ordinance is approved would be handled according to the current regulations. Mr. Stewart said that would be correct, except there is now an emergency moratorium on the expansion or construction of new facilities. Therefore, staff cannot process any new applications involving card rooms. The proposed ordinance would allow Goldies to make minor improvements to their building, but a special use permit would be required for the expansion of the building, itself.

Robert M. Tull, Attorney, Box 1678, Bellingham, 98227, said he represents Goldies and the Drift On Inn. He also represents the Recreational Game Association. He said that in 1985 he was appointed to the Washington State Gambling Commission, and he served for eleven years. Mr. Tull said that there was some discussion at the legislative roundtable that was held in September regarding a local jurisdiction's ability to determine where card rooms could be located. It has been the opinion of some that a jurisdiction cannot allow them in some areas of a zone while prohibiting them in others. He said he disagrees. There are plenty of ways that local communities can decide where more or less intense locations could be located with proper zoning control.

Mr. Tull said that in January 1998 County Executive, Ron Sims, announced that he was going to propose a ban on card rooms in unincorporated King County. This has yet to occur, but a number of jurisdictions felt that if King County were to ban the use, more of the establishments would be located in the outlying communities. As a result, there has been a lot of discussion by the various jurisdictions regarding how these establishments could be regulated.

Mr. Tull suggested that the proposal, which represents Option 4 in the staff report, is flawed. The gaming industry has been supportive of Option 3, because they do not feel it is in the City's best interest to have an absolute ban that could be challenged in the future. If the City were to take some additional time to consider Option 3, they could identify the externalities that are usually focused on when regulating land uses to minimize the impacts to surrounding properties.

Mr. Tull said it is incorrect to label these lawful businesses as some sort of completely inappropriate land use in the City. Where these facilities are operating throughout the State, there has been no increase in crime. He discussed this issue with the City of Shoreline's Police Chief, and she indicated that she



has not seen any increase in crime, either. He noted that this is the most highly regulated business in the City. Because they are so highly regulated, the owners go to great lengths to make sure the facilities are properly managed.

Mr. Tull assured the Commission that there is no time concern since the moratorium is in affect until January 26, 2000. The Commission could take additional time to look at the reports and consider the public comments. He also proposed that the Commissioners tour a gaming facility in the City so that they can understand whether or not this business needs to be labeled as "unworthy" in the City. He said his position is that it should not, but they are not opposed to additional regulations to protect the character of the community.

Mr. Tull submitted the following documents, which were marked Exhibit 1 - Exhibit 5:

- Exhibit 1      Summary of Telephone Survey Conducted in City of Shoreline, July 16-18, 1999
- Exhibit 2      Economic Impacts of Casino Gaming in the United States
- Exhibit 3      Rounding Up the Usual Suspects; A Critique of the Alleged Link Between Gambling and Bankruptcy in the Personal Bankruptcy Crisis, 1997 Keith Whyte, August 1997
- Exhibit 4      New Survey Finds Churchgoing Americans Support Casino Gaming
- Exhibit 5      Affidavit of Robert M. Tull, dated July 26, 1999

Chair Kuhn admitted Exhibits 1 through 5.

Mr. Tull concluded that there are legitimate issues that communities may want to focus on, but banning all new establishments could cause significant problems. He agreed that there has to be an absolute limit on the number of card rooms that would be allowed in the City. He said they have significant overhead costs associated with the regulations they are required to meet. They are also heavily taxed. However, he maintained these are legal businesses, and they completely fulfill the Comprehensive Plan policies.

Chair Kuhn said the proposed ordinance would make existing establishments non-conforming uses requiring a special use permit for any expansion. He said he has not heard any comments from the existing business owners indicating that they plan to expand significantly. On one hand he is hearing that perhaps the market is self-limiting, but on the other hand he is hearing that the number should not be restricted as long as the demand is available. Mr. Tull said that regulations usually do not limit a particular use to a specific number. Some of his clients would like to be able to operate their businesses and expand them into more than just a bar and restaurant. The proposed ordinance would not necessarily stop expansion, but it would require a different, and more complex process. He suggested that these establishments are not necessarily bad for a community. In fact, in some locations, they provide the potential for economic growth.

Chair Kuhn noted that there is a debate regarding the secondary impact of these establishments. He questioned the real drive behind this regulation. Mr. Tull said local jurisdictions have felt compelled to act because they just didn't want to not do anything. They didn't think, in some cases, to regulate the externalities rather than prohibiting them outright. He suggested that in the next legislative session there will be an amendment that would provide acceptable language to provide a tool for the local governments to do zoning and land use regulations they feel they are entitled to. The gambling commission has a concern that an ordinance, such as the one proposed, will put too much pressure on local government. It could get into the area of regulating the gambling activity, which is not appropriate.

Vice Chair Gabbert asked that Mr. Tull expand upon his statement that the proposed ordinance is flawed. Mr. Tull said that instead of banning gaming establishments in each of the zones where restaurants are allowed, they should designate the zones where the use is appropriate. If the City adopts the proposed ordinance banning any new establishments, they should clarify that certain types of expansions would be allowed to enhance the business. Mr. Tull referred to the recitals at the beginning of the ordinance which seem to suggest that this use is something awful that must be stopped. He suggested that they be revised to make it clear that Shoreline wants to be sure that these businesses are located in the appropriate places to minimize their impact to the surrounding community.

Commissioner Maloney inquired if Mr. Tull has a model ordinance available for the City to review as they consider this issue. Mr. Tull said they are working on an ordinance. He could provide it to staff in draft form. Mr. Tull recalled that while a few Councilmembers voted for Option 4, they also expressed an interest in looking at Option 3.

Commissioner Monroe referred to the issue of gaming establishments becoming non-conforming uses if the ordinance is approved. He suggested that the intent is that at some point in time, these establishments would no longer exist in the City. This seems to put a onus on one type of business that is not placed on any other type of City business. Mr. Tull agreed that generally the theory of making a use non-conforming is that it would eventually no longer exist. However, staff indicated to the Council that they did not pass an ordinance that would cause degradation of the existing businesses. He agreed that this is a significant issue to consider. He said he felt it is inappropriate, unfair and unwise to say that these businesses are awful and should no longer be allowed in the City of Shoreline. He stated the proposal is a delicate attempt by staff to keep the City from finding itself with more card rooms that it wants to have while at the same time trying not to cripple or hamper the existing businesses. However, he maintained the way the ordinance is structured, the balance is too negative. Mr. Tull asserted that the ordinance should use more of a regulatory approach, instead.

Commissioner McAuliffe inquired if Mr. Tull finds that the City of Shoreline has a large amount of card rooms and gaming facilities compared to other communities. Mr. Tull said he feels that the City of Shoreline has more than many other communities. He felt that this is partly a result of the fact that the City of Seattle has continued to prohibit card rooms. These people go to the outlying communities to enjoy this activity. However, studies also show that a significant number of customers are drawn from the local community, as well.

Paul Savage, 19233 Ashworth Avenue North, said he is surprised that this proposal is even being considered. The economic gain and job creation comes from people losing money in the establishments. He said he does not have a problem with people paying money for entertainment, but most of the people go there thinking they will win something. While most of the people who go to these establishments are casual gamblers, the affect on future generations is not yet apparent because the establishments have only been in place for a few years. Most of the people who go to these establishments grew up in a culture where gambling was looked down on. He suggested that the gambling culture could spread to proliferation. No one knows how this decision will impact the next generations. Putting a stamp of approval on certain activities will send a message to our children. He asked that the Commission consider his concerns.

Vice Chair Gabbert inquired if Mr. Savage is in support of the proposed ordinance. Mr. Savage said he would prefer a more prohibitive approach. He said the National Gambling Commission study provided a list of recommendations such as requiring strict guidelines regarding loitering, warning signs, etc. He agreed that the City could start by not allowing the use to expand. It is his hope that the number of these businesses would gradually decrease, but he did not feel that would be likely.

Mark Mitchell, Drift on Inn, 16708 Aurora Avenue North, suggested that it is a mistake to call a card room a casino. They have 15 card tables, and that is all. He noted that the City of Shoreline has always had more card rooms than any other jurisdiction in the State of Washington. Problem gamblers equal a half of a percent of the population. There are a lot of other problems that involve greater numbers of people. They watch out for the problem gamblers because they do not want people losing more than they can afford. Mr. Mitchell said that only about seven percent of their customers come from within the City limits.

Commissioner Parker inquired if Mr. Mitchell is in support of the proposed ordinance to prohibit any new establishments. Mr. Mitchell said they do not want a proliferation of the use. But, he wants to be able to stay in his current location. He also said they would like to have the same opportunities to expand their business as any other highly regulated business within the City would have.

Ken Howe, 745 North 184<sup>th</sup> Street, asked the Commission to carefully consider the impact of these uses being located near residential neighborhoods. Regarding the Phase I code amendment process, Mr. Howe said it would be nice if the people who presented amendments could have the same opportunity as Commissioner Bradshaw has had to explain their intent.

Tony Burns, 1305 North 195<sup>th</sup> Street, said he has visited gaming establishments, and they are very nice. He said it appears that the card rooms have been well regulated. He suggested that putting more restrictions on the use would be a solution to the problem.

Celia Kirk, 1300 North 167<sup>th</sup> Street, said they are right next door to business that is operating as a casino. If they had known what it was going to be like they would never have bought the house, and now they cannot afford to move. It may be clean on the inside, but people who come out of it at 2:00 a.m. screaming and singing at the top of their lungs and leave their trash on their streets cause a problem to them. They rev their cars and drive fast down the street at all hours of the night. It is very hard to sleep when all of this is going on and it is hard to have this establishment as a neighbor. She asked that the Commission consider the impacts to the surrounding neighborhoods before they open the door for more of these establishments.

Patricia Peckol, 19144 8<sup>th</sup> Avenue Northwest, said she is in favor of the proposed ordinance. If she could, she would like to get rid of all of the gaming establishments. She understands, however, that the City must allow the existing uses to continue. She is in favor of the non-conforming use designation for card rooms. This would allow the City to have more input into their development. She said she would not like to have a business of this type located in her area. She encouraged the Commission to support the staff's recommendation.

Commissioner Marx submitted a copy of a letter written by her husband, Alan Marx, stating he is against the City's proposed ordinance to limit gambling. Chair Kuhn admitted Mr. Marx's letter as Exhibit 6.

Richard Johnsen, 16730 Meridian Avenue North, said he is in favor of preserving the existing card rooms and of allowing future card rooms to be developed in the City. At the same time, he also feels that the City needs to have more control over the non-conforming uses. While he is not a gambler, he feels that people should be allowed to enjoy this activity in the City. He suggested that the City needs to be creative to resolve the concerns while at the same time encouraging this use to continue and provide an economic asset to the community.

**CHAIR KUHN CLOSED THE PUBLIC HEARING ON CARD ROOMS AT 8:48 P.M.**

Commissioner Parker inquired what portion of the City's current tax revenue is generated from gambling activities. Ms. Blauman said that about \$2.5 million of the tax revenue comes from this use. That amounts to between 6 and 7 percent of the City's total tax revenue.

Commissioner Vadset said he does not feel that the City could legislate morality. He takes a personal affront to people telling him what he can and cannot do with his free time. He also supports economic development, and he would prefer Option 3 because he felt the issues of concern could be worked out. He said he appreciates the revenue that comes from the gambling establishments. He suggested that rather than rush into a recommendation, the Commission should further review the materials and input that have been provided. He added that he does not support moratoriums of any kind.

Commissioner Monroe agreed that the Commission should not rush into a decision. He suggested that the City would be hurting themselves if they were to approve the proposed ordinance. There is a lot of revenue coming in, and people seem to have fun gambling. He said he does not have problem with limiting the number of establishments, but he said he does not support the proposal to make all the existing establishments non-conforming.

Commissioner Parker said he agrees with Commissioners Monroe and Vadset, but he also has sympathy with Ms. Kirk's situation. He said he is concerned about eliminating these opportunities based on what is arguable evidence related to the social impacts. However, there are direct land use impacts that need to be addressed. He said he would be in support of Option 3 rather than Option 4.

Commissioner Bradshaw said that all of his life he has been taught that gambling, drugs, prostitution and crime come together. He said he has not heard anything that would disabuse him of this teaching. He said he does not feel that gambling should be located in the City. But, because state law allows the use, he would be in support of Option 4 as proposed by the staff.

Commissioner Maloney said he has a great respect for the investments that have been made by these business owners, but he feels that the average citizen would not like to see more gambling establishments in the City. He said he sees this as more of a balance issue than a moral issue. The people who represent the existing businesses have indicated that they want to operate desirable establishments, and the criticism that has been presented will probably lead to more supervision of the

abuses that have been suggested. He said he leans towards supporting the proposed ordinance, but he would also like to study Option 3.

Commissioner Marx said she would also like to investigate Option 3 further. She understands that this would take a lot of extra work, but she felt they could come up with a workable solution.

Commissioner McAuliffe said he does not support Option 4 and the concept of making the existing establishments non-conforming as a method of regulation. He said he would like more time to review Option 3.

COMMISSIONER MONROE MOVED TO TABLE THE DISCUSSION REGARDING THE PROPOSED CARD ROOM REGULATIONS TO ALLOW THE COMMISSION TO FURTHER REVIEW OPTION 3. VICE CHAIR GABBERT SECONDED THE MOTION. MOTION FAILED BY A VOTE OF 4 TO 5 WITH COMMISSIONERS MCAULIFFE, VADSET, MONROE AND VICE CHAIR GABBERT VOTING IN FAVOR AND COMMISSIONERS BRADSHAW, MARX, MALONEY, PARKER AND CHAIR KUHN VOTING IN OPPOSITION.

COMMISSIONER BRADSHAW MOVED TO TABLE FURTHER DISCUSSION REGARDING THE PROPOSED CARD ROOM REGULATIONS AND THAT STAFF PROVIDE THE FOLLOWING:

- INFORMATION ON STATISTICS THAT VERIFY STAFF'S ASSERTIONS IN OPTION 4
- A REPORT ON HOW OPTION 3 WOULD AFFECT THE CITY.
- A DRAFT ORDINANCE THAT WOULD ACCOMPLISH THE EFFECT OF OPTION 3.
- A COPY OF THE STAFF REPORT THAT WAS PRESENTED TO THE CITY COUNCIL WHEN OPTION 3 WAS CONSIDERED AS WELL AS THE MINUTES FROM THAT MEETING.

COMMISSIONER PARKER SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY WITH CHAIR KUHN ABSTAINING.

a.1 Proposed Amendment to Development Code, Phase I, Definitions: Replacement of the Term "Casinos" with the Term "Card Rooms"

COMMISSIONER PARKER MOVED TO TABLE AGENDA ITEM 8.A.1. COMMISSIONER MCAULIFFE SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

b. Comprehensive Plan Amendment and Zoning Designations for Three Parcels in the A-2 Annexation area

Mr. Stewart said this is a technical amendment to the Zoning Map and the Comprehensive Plan Map to adjust for the recent annexation of Area A-2. Staff is proposing that the zoning and land use be identical to that which currently exists in the King County Code. Chair Kuhn said that apparently one parcel has three different zones in it, and the City proposes to continue the three different zones. Commissioner Monroe inquired if the owner of the large parcel has provided any comments. Mr. Stewart said that a notice was sent to the owner, but the City has not received a response.

THERE WAS NO ONE IN THE AUDIENCE WHO DESIRED TO PARTICIPATE IN THE PUBLIC HEARING. THE PUBLIC HEARING WAS OPENED AND SUBSEQUENTLY CLOSED.

COMMISSIONER BRADSHAW MOVED TO ACCEPT THE STAFF'S RECOMMENDATION ON THE COMPREHENSIVE PLAN AMENDMENT AND ZONING DESIGNATION FOR THREE PARCELS IN THE A-2 ANNEXATION AREA. COMMISSIONER MONROE SECONDED THE MOTION. MOTION PASSED BY A VOTE OF 9-0.

#### 9. UNFINISHED BUSINESS

COMMISSIONER PARKER MOVED TO TABLE AGENDA ITEM 9 UNFINISHED BUSINESS (PHASE I OF THE DEVELOPMENT CODE). COMMISSIONER BRADSHAW SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

COMMISSIONER MARX MOVED TO ADD OCTOBER 28, 1999 AS A SPECIAL MEETING ON THE PLANNING COMMISSION'S SCHEDULE TO CONTINUE DELIBERATIONS ON PHASE I OF THE DEVELOPMENT CODE REVIEW PROCESS. COMMISSIONER MCAULIFFE SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

#### 10. NEW BUSINESS

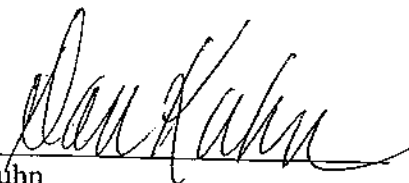
There were no new business items scheduled on the agenda.

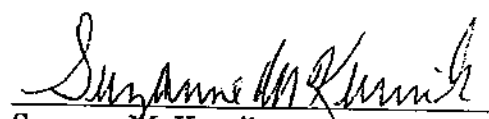
#### 11. AGENDA FOR NEXT MEETING

Chair Kuhn announced that a public hearing regarding the proposed adult entertainment ordinance is scheduled for October 21, 1999. If time permits, the Commission would continue their discussion regarding the Proposed Phase I Development Code Amendments.

#### 12. ADJOURNMENT

The meeting was adjourned at 9:15 p.m.

  
Dan Kuhn  
Chair, Planning Commission

  
Suzanne M. Kurnik  
Clerk, Planning Commission



**Ordinance No. 223-B**

**AN ORDINANCE REGULATING COMMERCIAL EATING AND/OR DRINKING ESTABLISHMENTS WITH SOCIAL CARD ROOMS AS A SPECIAL USE PERMIT IN THE REGIONAL BUSINESS, OFFICE, AND INDUSTRIAL ZONES WITH INCREASED PARKING REQUIREMENTS, AND AMENDING SECTIONS 18.06, 18.08, 18.18 AND 18.32 OF THE SHORELINE ZONING CODE (Card Room Permitted by Special Permit)**

**WHEREAS**, eating and drinking establishments with card rooms have the potential for significantly greater secondary social and economic impacts on the community and business environment than other classes of eating and drinking establishments; and

**WHEREAS**, eating and drinking establishments with card rooms are not consistent with those key provisions of the City of Shoreline Comprehensive Plan which establish framework goals supporting a diverse economy to assure economic development and to enhance the quality of life within the City of Shoreline.

**WHEREAS**, the City has the ability to regulate any or all forms of gambling licensed by the State under RCW 9.46.295; and

**WHEREAS**, it is necessary to provide restrictions on existing and new gambling establishments for the preservation of public safety and welfare; now therefore:

**THE CITY COUNCIL OF THE CITY OF SHORELINE DO ORDAIN AS FOLLOWS:**

**Section 1. New Section:**

A new section is added to SMC Chapter 18.06 Technical Terms and Land Use Definitions, to read as follows:

**18.06.173 Card room:** Commercial eating and/or drinking establishment licensed by the State Gambling Commission to conduct social card games.

**Section 2: Amendment:**

SMC Subsection 18.08.070(A), Permitted Land Uses, shall be amended to specify regulations addressing card rooms, as set forth in Attachment A, attached hereto and incorporated by reference.

**Section 3: Amendment:**

SMC Subsection 18.18.030(A), Computation of Required Off-Street Parking Spaces (18.18.070(A)), shall be amended to read as follows:

**18.18.030 A.** Except as modified in SMC 18.18.070 (B) through (D), off-street parking areas shall contain as a minimum the number of parking spaces as stipulated in the following table. Off-street parking ratios expressed as number of spaces per square feet means the usable or net square footage of floor area, exclusive of nonpublic areas. Nonpublic areas include, but are not limited to building maintenance areas, storage

areas, closets, or restrooms. If the formula for determining the number of off-street parking spaces results in a fraction, the number of off-street parking spaces shall be rounded to the nearest whole number with fractions of .50 or greater rounding up and fractions below .50 rounding down.

**LAND USE**

...

**RETAIL/WHOLESALE (SMC 18.08.070(A)):**

Retail trade uses:

Exceptions:

Food stores, less than 15,000 square feet

Gasoline service stations w/o grocery

Gasoline service stations w/grocery, no service bays

Restaurants

Card Rooms

...

**MINIMUM PARKING SPACES REQUIRED**

...

1 per 300 square feet

3 plus 1 per 350 square feet

3 per facility, plus 1 per service bay

1 per facility, plus 1 per 300 square feet of store

1 per 75 square feet in dining or lounge areas

1 per 75 square feet in dining or lounge areas,

plus 5 per card table

...

**Section 4. Severability.** Should any section, paragraph, sentence, clause or phrase of this regulation, or its application to any person or circumstances, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this regulation be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this regulation or its application to other persons or circumstances.

**Section 5. Effective Date.** This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

**Section 6. Repealer.** Ordinance No. 200, which imposed a moratorium related to food and/or drink establishments with gaming as a commercial incentive, is repealed upon the effective date of this Ordinance.

**PASSED BY THE CITY COUNCIL ON \_\_\_\_\_, 2000**

\_\_\_\_\_  
Mayor Scott Jepsen

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Sharon Mattioli, CMC  
City Clerk

\_\_\_\_\_  
Ian R. Sievers  
City Attorney

Date of Publication: \_\_\_\_\_, 2000

Effective Date: \_\_\_\_\_, 2000



SMC 18.08.070  
A. RETAIL LAND USES

KEY  
P - Permitted Use  
C - Conditional Use  
S - Special Use

SMC 18.08.070

A. RETAIL LAND USES

KEY

P - Permitted Use

C - Conditional Use

S - Special Use

		RESIDENTIAL		COMMERCIAL/INDUSTRIAL						
		R E S I D E N T I A L	N E I G H B O R H O O D	B U S I N E S S	C O M M U N I T Y	B U S I N E S S	R E G I O N A L	B U S I N E S S	O F F I C E	I N D U S T R I A L
SIC #	SPECIFIC LAND USE	R4-8	R12-48	NB	CB	RB	O	I		
****	****	****	****	****	****	****	****	****		
*	Card Room					S	S	S		
****	****	****	****	****	****	****	****	****		

These Minutes Approved  
November 18, 1999

# CITY OF SHORELINE

## SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF SPECIAL MEETING

October 28, 1999  
7:00 P.M.

Shoreline Conference Center  
Board Room

### PRESENT

Chair Kuhn  
Vice Chair Gabbert  
Commissioner McAuliffe  
Commissioner Monroe  
Commissioner Marx  
Commissioner Vadset  
Commissioner Maloney  
Commissioner Bradshaw  
Commissioner Parker

### STAFF PRESENT

Tim Stewart, Director, Shoreline Planning & Development Services  
Ian Sievers, City Attorney

### 1. CALL TO ORDER

The special meeting was called to order at 7:00 p.m. by Chair Kuhn, who presided.

### 2. ROLL CALL

Upon roll call by the Commission Clerk, the following Commissioners were present: Chair Kuhn, Vice Chair Gabbert, McAuliffe, Monroe, Marx, Bradshaw and Vadset. Commissioners Parker and Maloney arrived at 7:03 p.m.

### 3. APPROVAL OF AGENDA

The agenda was amended to add reports of Commissioners.

### 4. REPORTS OF COMMISSIONERS

Commissioner Monroe said a gentleman who was trying to acquire a piece of property in Shoreline for a cell tower contacted him. This person told him that the City of Shoreline does not allow cell towers in public rights-of-way, which he felt encourages more poles. He also said the new technology makes cell towers pleasant to look at. Commissioner Monroe said he was asked to bring this issue before the Commission. He said it seems that the City would not want to encourage any more poles within the City

than they have to. He provided pictures to show how attractive the cell towers can be made. He inquired if the Commission would desire to discuss this issue further.

Commissioner Vadset inquired what type of action would have to be taken in order to change the City requirements. Commissioner Monroe said he has not read the ordinance, but perhaps it is a matter of interpretation. He said if staff's interpretation is that the use is not allowed in the public rights-of-way, then perhaps this is an issue that the Commission should consider. He emphasized that there are some "really ugly" cell towers in the City, and this appears that it could provide a gigantic improvement.

Commissioner Bradshaw said he was involved in the process of drafting the cell tower regulations that were approved by the City Council. He said he does not remember, specifically, whether cell towers were excluded from public rights-of-way. Commissioner Monroe said that perhaps this is something the Commission should look at in the future.

Tim Stewart, Director of Planning and Development Services, stated that the City adopted a zoning code that regulates the installation of cell towers and encourages co-location. This code contains a series of conditions and requirements that have been recognized nationally as a model. The City has received a number of inquiries from around the country and region asking for copies of the ordinance. Mr. Stewart clarified that the question seems to be whether or not the installation of a cell tower would be prohibited in a public right-of-way.

Chair Kuhn questioned whether Commissioner Monroe is talking about separate, freestanding cell towers or about an add-on to someone else's property (generally a utility), which is not owned by the City. Mr. Stewart said that co-location on utility poles is encouraged. He noted that there is a cell tower located just north of 155<sup>th</sup> on a power pole, which is virtually indistinguishable. This tower required the City Council's approval since the City owns the property.

Ian Sievers, City Attorney, said his interpretation of the code would be that cell towers are allowed in the rights-of-way. He referenced Subsections C.1 and C.4 of the Development Standards. Subsection C.1 states "wireless telecommunication facilities located on structures other than buildings such as light poles . . ." Subsection C.4 is more specific. It states "wireless telecommunications facilities located on structures within the City of Shoreline rights-of-way shall comply with the right-of-way use permit requirements."

Commissioner Monroe said this person talked with Paul, who indicated that he would need to comply with the setback requirements for public rights-of-way. Mr. Stewart inquired if this person was referencing the location of a new pole or a co-location on an existing pole. Commissioner Monroe said this person was referring to a new facility, but he suspects that there was a telephone pole nearby.

##### **5. UNFINISHED BUSINESS**

###### **Card Rooms – Planning Commission Decision and Recommendation to Council on Proposed Regulations for Card Rooms**

Chair Kuhn noted that the public testimony portion of the public hearing process was closed, and the hearing was continued for Commission deliberation. He recalled that the Commission requested that staff provide them with all of the facts and data supporting the assertions in the staff report.

COMMISSIONER BRADSHAW MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE CITY COUNCIL THAT SHORELINE PROHIBIT ALL GAMBLING ESTABLISHMENTS WITHIN THE CITY. EXISTING CARD ROOMS AND ANY OTHER GAMBLING ESTABLISHMENT WILL HAVE FIVE YEARS FROM DECEMBER 31, 1999 TO FAZE OUT THEIR GAMBLING OPERATIONS. THUS, BY JANUARY 1, 2001, THERE WILL BE NO MORE LEGAL GAMBLING WITHIN THE CITY OF SHORELINE. COMMISSIONER GABBERT SECONDED THE MOTION.

Chair Kuhn asked Mr. Sievers to restate his prior position regarding the legality of prohibiting gambling establishments within the City.

Mr. Sievers said his understanding of the motion is that it would prohibit gambling establishments and existing establishments would be allowed an amortization period to terminate the use. He said a five-year time period has been adopted by at least one or two other cities as an appropriate amortization period. He said under the general principals of Washington law and as announced in a recent court case, courts have approved a city's right to amortize non-conforming uses. The period under which a business should wrap up should be based on the level of investment in the particular business. He said five years seems to be a good figure for this type of business. He said he talked with the Gambling Commission's counsel, and they did not indicate a concern with an amortization period of five years. He concluded that Commissioner Bradshaw's motion would be a perfectly legal approach.

Commissioner Vadset spoke against the motion. He said he visited two gambling establishments that he had never been to before. He reasserted that trying to legislate morality is not within the Commission's purview. Adults should be allowed to choose their entertainment. From what he saw as he visited establishments, he said he does not see a problem. He is pro business, and he appreciates the fact that some of these areas have been cleaned up. He noted that most of the people who come to these establishments are solid citizens and taxpayers. He said he likes the \$2.4 million plus that will come from tax revenues generated by this use. This type of activity is something that a person can choose to participate in or not. He concluded that the gambling businesses in the community have a right to be in the City, and he does not like the moralistic aspect of the discussion.

Commissioner Monroe concurred with Commissioner Vadset. He inquired why these businesses are looked at any differently than any other business in the City. They hire Shoreline residents and put food on Shoreline residents' tables. Families depend on these businesses for survival. If a person does not like them, they don't have to go into them. He questioned how the City would replace the taxes that would be lost if the gambling facilities were no longer allowed in the City. He suggested that it would come out of the "citizens' hides." Commissioner Monroe said he finds it abhorrent that the Commission would try to prejudice themselves against law-abiding citizens.

Commissioner Bradshaw responded that he reviewed the reports before the Commission and gleaned quite a bit of information that speaks to the issue. He referred to the studies that were provided. Commissioner Monroe interjected that Commissioner Bradshaw should understand that the studies are politically motivated. They are trash. Commissioner Bradshaw said that if they throw out all of the facts that they have received, they cannot make a decision. Commissioner Monroe said there are no facts. They are trash and politically motivated.

Commissioner Bradshaw again referred to the studies that were provided to the Commission. He said studies point to job shifting as opposed to job creation. He said a majority of the gambling jobs are low paying. An indirect job multiplier of 1.35 jobs created for each job in an industry does not apply to the gambling industry. This means that the jobs that are created in the gambling industry do not give the City "their bang for their buck."

Commissioner Monroe asked Commissioner Bradshaw if he knows what the yearly pay for card room employees within the City of Shoreline is. Commissioner Bradshaw answered it is minimum wage. Commissioner Monroe questioned whether Commissioner Bradshaw knew that for a fact. Commissioner Bradshaw said he does know that for a fact because he has not asked anybody in the City, but it is minimum wage throughout the country. He said would be very surprised if it is more than minimum wage in Shoreline.

Commissioner Monroe suggested that Commissioner Bradshaw localize his data. Chair Kuhn suggested that the majority of fast food jobs are low paying also. Commissioner Monroe questioned if the City should "boot" those guys out too.

Commissioner Bradshaw said that studies conclude that even with steady casino revenue flowing into a state, they outweigh (or at best break even) with social costs. He said Professor John W. Kent provided research that indicates that for every dollar that the legalized gambling interests indicate that they are contributing in taxes, it usually costs the taxpayers about three dollars. Commissioner Monroe inquired if Commissioner Bradshaw has contacted the local police department and asked them this question. Commissioner Bradshaw said that the Burien Police Department found that when they had card rooms, it was necessary for them to hire a specific task force to track what was going on to keep the patrons from being ripped off. Commissioner Monroe questioned whether Commissioner Bradshaw has contacted the Shoreline Police Department. Chair Kuhn questioned whether the same problems exist in Shoreline. Commissioner Bradshaw said he would be glad to do that research. Chair Kuhn said that Commissioner Bradshaw is throwing out facts from somewhere else that aren't tied necessarily to what is happening in Shoreline.

Commissioner Bradshaw said he had asked staff about the possibility of bringing in Shoreline Police Officers and Police Officers from the around the area. He was reminded that the Commission had closed the public portion of the hearing, so those people would not be able to speak. Secondly, in order for them to come and provide a firsthand report, they would have to be paid overtime. That would result in a cost to the City.

Commissioner Bradshaw said that because Chair Kuhn has accused him in the past of going beyond the purview of the Commission by going out and doing personal research, he has not done that research on his own. Chair Kuhn reminded Commissioner Bradshaw that he should back up his statements.

Commissioner Bradshaw questioned what Chair Kuhn said. Chair Kuhn suggested that if Commissioner Bradshaw would "keep his yap shut for two seconds," he would hear what he had to say. Chair Kuhn said he would like Commissioner Bradshaw to personally back up the statement that he made.

Commissioner Bradshaw said he brought in research from a number of different cities regarding the issue of underground utilities. He said that Chair Kuhn particularly spoke to him about doing that research, which was not viewed by all the rest of the Commission. Chair Kuhn told him that it was inappropriate to do that. Chair Kuhn suggested that if Commissioner Bradshaw wanted to "spew" facts, he should start from where it all came from.

Commissioner Bradshaw said he quoted people from around the country. Chair Kuhn said he does not care who Commissioner Bradshaw quotes. He can say he quotes anybody, but he does not know who these people are. Commissioner Bradshaw suggested that Chair Kuhn could find out who they are by reading the reports. Chair Kuhn questioned if Commissioner Bradshaw brought the report to the meeting before when he was quoting different individuals. Chair Kuhn suggested that Commissioner Bradshaw just relax. He again questioned if Commissioner Bradshaw brought the reports that he was quoting from when he supposedly accused him of doing outside research so that anybody could verify that what was recorded was the truth.

Commissioner Bradshaw asked that they step back a minute. Chair Kuhn told Commissioner Bradshaw to make his point and then the Commission could move on.

Commissioner Bradshaw pointed out that pathological gambling problems are something the City needs to be aware of. Throughout the United States, and in six different studies from around the country, the same figures are identified. He said about six percent of the population are pathological gamblers. This means that there are about 3,000 pathological gamblers out of the total 50,000 Shoreline population. Commissioner Monroe asked about people who are pathological eaters. Commissioner Bradshaw agreed that is a problem, but that does not mean the City should not deal with pathological drunks or pathological drug users.

Chair Kuhn recalled that Mr. Mitchell indicated at the last meeting that less than one percent of the gamblers are pathological gamblers. Commissioner Bradshaw said he gathered his information from the provided studies.

Commissioner Parker said that he agrees that the studies and research are "garbage." Statistically and analytically, they are weak at best. He stated the analysis and conclusions that they come to are politically motivated and are written for a pre-set agenda. There is no evidence, outside of the studies and in other countries where the culture isn't quite so interesting, that these statistics even bear up. He concluded that they are very, very weak at best. Commissioner Parker added that it is difficult to find good medical research, where the facts are issues of life and death and the data is recorded by doctors in their regular practice. It is much more likely that research of this kind of social nature is very weak. He concluded that the particularization of a problem to this community is an issue, and not the general state of gambling in the world.

Commissioner Maloney said he thought the focus was on Options 3 or 4. He suggested that the Commission is going far afield of that issue. While he felt the motion is well thought out, in his view it is not practical and does not have any chance of succeeding. He said he would love to see the Commission focus on Options 3 and 4. Chair Kuhn said the current status of the situation is that there is a motion and a second. Therefore, they need to deal with that motion. Commissioner Maloney called for the vote.

Vice Chair Gabbert interjected that he would like to speak to the motion. He said he does not believe that the motion is as much a moral issue as it is a practical issue regarding the economic development of the City of Shoreline in terms of establishing some viable businesses. He said that having a card room and Sugars in that one area, it kills businesses that would like to locate there. It has done the same for areas in other cities. Vice Chair Gabbert said he seconded the motion based on that fact. He emphasized that everyone has their own opinion about these issues and what is and isn't the truth. The issue before the Commission is a zoning issue, and he would be in favor of Option 4. But, he is not in favor of Option 3. If the Commission decides to discuss Option 3, then he can see merit for discussing Option 5, as well.

Vice Chair Gabbert recalled that the Council recommended Option 4. He questioned why the Commission is talking about introducing Option 3 to expand the card rooms. Chair Kuhn stated that the Commission's job is to review all of the possible issues. Commissioner Parker pointed out that the staff recommended Option 4 after a workshop with the Council, but the Commission is responsible to hold a public hearing. If the Commission's conclusion, after the public hearing, is to recommend Option 3, 4 or 5, that is their job. If the Council is able to pre-dictate what the Commission does, then the hearing is a waste of time.

Mr. Stewart said that Council Resolution 155 directed staff to draft a proposed land use ordinance to prohibit new social card rooms and to forward the regulations to the Planning Commission for a review and recommendation. The Council selected Option 4 and directed staff to prepare an ordinance, which has been done. The Commission requested that staff also prepare an ordinance that would support Option 3. This has been done, too. The Planning Commission's responsibility is to provide advice to the Council.

Commissioner Monroe inquired if it would be possible for the Commission to use parts of Options 3 and 4 and create another alternative for recommendation to the Council. Mr. Stewart questioned what policy the Commission would like the ordinance to implement.

Mr. Stewart provided copies of the draft ordinances relating to both Option 3 and Option 4. He described the difference between the two. He referred to Exhibit H, which is the draft ordinance that would permit card rooms that are defined to be commercial eating or drinking establishments licensed by the state commission to conduct social card games. Under this option they would be permitted in three districts with a special use permit. The ordinance that was previously submitted (Exhibit B), defines card rooms the same except they would be prohibited from all districts throughout the City. The existing businesses would be allowed to continue as a pre-existing non-conforming use, with the same ability for expansion or reconstruction as would any pre-existing non-conforming use under the code. He concluded that one ordinance implements the policy of prohibiting card rooms but not amortizing the existing businesses. They would be allowed to continue. The second Option would permit new establishments with a special permit and would allow the existing establishments to continue.

Vice Chair Gabbert said he felt that Option 4 is reasonable. After reading all of the materials that were provided, he said he does not feel it would be in the City's best interest to expand gambling. However, he said he is not against allowing the existing uses to continue. Chair Kuhn interjected that the fastest

growing city in the United States is Las Vegas. Vice Chair Gabbert said that does not mean anything to him.

MOTION FAILED 2-6, WITH COMMISSIONER BRADSHAW AND VICE CHAIR GABBERT VOTING IN FAVOR AND COMMISSIONERS PARKER, MCAULIFFE, VADSET, MARX, MALONEY AND MONROE VOTING IN OPPOSITION. CHAIR KUHN ABSTAINED.

Commissioner Monroe inquired if the Commission could choose Option 4, without making the gambling establishments a non-conforming use. He suggested that making them a non-conforming use would hurt the existing businesses in many ways. He said he is not concerned about limiting the use to the existing businesses or to a certain district. However, making them non-conforming uses puts an onus on their ability to borrow money, etc. Chair Kuhn agreed that a person would not be able to get a loan on a building that is identified as a non-conforming use.

Mr. Sievers said there are different approaches to the non-conforming use designation. He agreed that in the past the non-conforming use classification has been a detriment to refinancing and upkeep. But, under Shoreline regulations, there is a fairly liberal approach to allowing the businesses to be maintained. A business could be rebuilt if a building is destroyed, if it is done within one year. A business could expand with a special use permit, and the use could even be abandoned for up to a year. He said that under these conditions, the Commission could suggest that rather than being a detriment, being non-conforming is a market advantage because it creates a quasi-monopoly. This may tend to make the existing businesses prosper. He questioned whether it would be a detriment to financing. Commissioner Monroe suggested that when a bank does a title report and finds that the business is a non-conforming use, they would deny the application for a loan.

COMMISSIONER VADSET MOVED TO RECOMMEND THE CITY COUNCIL ADOPT OPTION 3, EXHIBIT H, WITH SOME CHANGES THAT COULD BE AGREED UPON BY THE BOARD SUCH AS LIMITING NEW BUSINESSES WITH CERTAIN RESTRICTIONS IN CERTAIN AREAS AND MORE RESTRICTION THAN ARE INCLUDED NOW.

Commissioner Maloney said he is concerned about the existing investment. He would rather not deal with the five-year amortization requirement and respect the existing investments as long as they are viable. That is why he favors Option 4. Commissioner Monroe said he does not feel that new businesses of this type are desirable for Shoreline, and the Commission has received some well-reasoned testimony from the public to support Option 4 as being the realistic proposal. He said that with the knowledge that the City Council, on a preliminary basis, apparently favors Option 4 and with the knowledge that the City needs the existing revenue Option 4 appears to be realistic. It is a workable compromise, and he recommended the Commission make that recommendation to the Council.

Commissioner Monroe inquired if Commissioner Maloney would have a problem with deleting the non-conforming use portion of Option 4. Commissioner Maloney said he does not have philosophical problem, but his attitude is that in a perfect world and over time, he would be in favor of other economic industries taking the place of this industry but without a timetable. This would mean that people buying these businesses would have to be very well capitalized so that they could get a loan on their other assets. He said that is probably good in the sense that they would be demonstrating stability. Commissioner Monroe noted that this would still be targeting certain businesses. Commissioner



Maloney agreed. He said he would prefer not to. But, from a survey of Shoreline residents, 44 percent are in favor of prohibiting these businesses. Commissioner Monroe said he would bet he could find that half of the Shoreline citizens want to get rid of used car dealerships, but that won't happen. Commissioner Monroe said he sees this issue as a compromise.

Chair Kuhn said he is in favor of recommending the City Council adopts an abatement ordinance so that if these places become public nuisances they could be shut down. Commissioner Vadset said he would favor that recommendation, as well. Commissioner Bradshaw noted that that option is not on the table for discussion. Chair Kuhn said he realizes that it is not on the table, but it could be an attached recommendation.

Regarding the motion, Mr. Sievers cautioned against adopting a use without identifying the areas where it would be allowed. Otherwise, the City would be faced with the problem of where the uses should be located. Commissioner Monroe suggested that if they are going to discuss specific areas in the City where use should be allowed, residents living in those areas should be notified and be allowed to testify. He said he does not feel comfortable imposing these uses on a given neighborhood.

Commissioner Parker suggested an alternative to the motion. He said he would favor a recommendation to the City Council that the existing facilities be allowed to continue and conduct their business as they see fit, not hampered by a non-conforming use specification. Having visited a couple of these businesses on a Saturday night, he found that they were full of people 45-50 years old. However there was no where to park a car. If they have the ability to compete with each other, good business and testimony before the Commission indicates that access to the facilities would be improved. Economics of such businesses is "the bigger you are the easier it is to handle." Commissioner Parker also stated that gambling, as a business is competitive as witnessed by the success of bingo halls. But, there is a limit on how much these businesses can make, and the existing businesses are getting pretty close to that amount. The middle ground that he would favor is allowing the existing facilities to continue to operate without the non-conforming label.

Vice Chair Gabbert questioned the comment that if these businesses were identified as non-conforming, they would not be able to get financing. He noted that there is a provision that allows them to expand with a conditional use. Commissioner McAuliffe said that a lot of banks wouldn't let people borrow money on a non-conforming use. The non-conforming use label immediately raises a "red flag." Vice Chair Gabbert said he has worked with enough banks to know that they are reasonable and will look at the conditions of the non-conforming use.

Commissioner McAuliffe suggested that given the history of gambling in Washington State and the greater Seattle area, if business owners can't borrow the money from a bank, then they would go somewhere else to borrow the money (without the savory attitude of the bank.) He said there is a thin line between this type of gambling and illegal gambling, and it will always be that way. The closer the City brings this use into the realm of regular ordinary folks, the less likely they will be to invite illegal uses.

Commissioner McAuliffe stated that he is not in favor of making any use non-conforming to start off. He stated that it does not get the City off on the right foot in their zoning and comprehensive plan to say that a use can exist, but only as a non-conforming use. He said it leaves it open for other things to

become non-conforming uses down the road. He said he is a market driven person, and he feels gambling has reached its limits in the City of Shoreline. The only place these businesses will locate is along Aurora Avenue, and they bring in tax revenue from people that do not even live in Shoreline.

Vice Chair Gabbert questioned whether gambling is an industry that the City wants to encourage. A Commissioner noted that there has been nothing in the last five years that would indicate that there are other types of businesses wanting to come in. He noted that there are many large properties along Aurora Avenue that lay vacant for a long time. Vice Chair Gabbert suggested that the reason for this is that there are too many small parcels. He said that when the City does have the opportunity to consider limitations on auto related businesses in the core area and make the existing ones non-conforming so that they will phase out, they could assemble a large enough core so that the area could develop.

Commissioner Monroe pointed out that there is a lot of cash coming into the City's coffers from the adult card room visitors. Some Commissioners suggested that limiting the number of card rooms would make the existing ones more valuable.

Commissioner Monroe said he would support Option 4, but without the non-conforming designation. He felt this would be targeting a group of businesses unfairly.

MOTION FAILED FOR LACK OF A SECOND.

Mr. Stewart said it is important to keep in mind that they are regulating zoning districts and not individual parcels of property. As the City develops regulations for the districts, they need to make sure they treat all of the property within that district fairly and equitably. If the City wants to prohibit new establishments across the board in the Aurora District, they can do so by prohibiting new establishments while allowing existing ones to continue. That is what Option 4 would do. By permitting them to continue and not amortizing them out over time as some communities have done, they become a non-conforming use within that district. They do not conform to the current standards. The current code is very liberal in terms of what can happen with a non-conformity. There are five provisions in the code as follows:

- They may continue and be maintained.
- They may be reestablished if they are discontinued for up to a period of 12 months.
- They may be repaired or reconstructed.
- They may be modified under certain conditions.
- They may even be expanded under certain conditions. That is not the non-conforming, amortization, get rid of them regulations that have caused problems with financing in the past. These properties would be allowed to continue.

Commissioner Monroe suggested that identifying the existing businesses as non-conforming is like going to an interview and telling the interviewer that you have cancer. There are lots of little teeny weenie cancers that do not mean a thing, but when the interviewer hears the word cancer, you are dead.

Commissioner Maloney said that what is being proposed in Option 4 is not the normal definition for a non-conforming use. It is simply a limitation on new businesses. Commissioner Monroe felt that the limitation could be accomplished in another way. He said he has been in the planning business too long

not to know that it is not so much the code, but the person who interprets the code. This is an administrative decision, and all it takes is one staff member deciding against the property owner. An appeal would cost the applicant money. When the bank sees the term "non-conforming use," it is like telling a prospective employer that you have cancer. They do not look any further than that.

Commissioner Parker said he has a problem with the non-conforming use designation also because it sets an artificial market. He concurs with the City Attorney that it would make the existing uses more valuable, and that is not right, either.

Vice-Chair Gabbert inquired if there is a way to accept Option 4, but remove the words non-conforming. Commissioner Parker emphasized that Option 4 does not contain words of non-conformance, but the uses become de facto non-conforming because new establishments are prohibited. There is nothing in Option 4 that says that the existing uses would become non-conforming.

Mr. Sievers agreed that there is nothing specifically in Option 4 that would link existing businesses to non-conforming uses. The only thing that is mentioned is to make the conditional use permit a special use permit when the existing businesses want to expand as a non-conforming use. They are also increasing the development standard in terms of parking spaces required per square foot. The Commission concurred that this is desperately needed.

Commissioner Monroe inquired if the expansion of any of the existing facilities would invoke the new parking standards. Mr. Stewart answered affirmatively. Commissioner Monroe recalled that parking was one concern expressed by the neighborhoods that are right next to these facilities.

Chair Kuhn said Rutland, Vermont spent millions of federal dollars on a new six story parking garage that no one parks in. They have to allow people to park there for free because no one will pay. He said they might have one for sale that they could locate on Aurora.

Commissioner McAuliffe said it appears that the issue has to do with the phrasing of the paragraph about a non-conformance use expanding. Commissioner Monroe said that if they keep the words out, he would be happy. He doesn't care what the de facto thing is. Commissioner McAuliffe clarified that Commissioner Monroe is saying that they want to keep the businesses that they have and let them grow. The market forces can determine their future. But he does not want to allow any more. Commissioner McAuliffe said the problem is that they can not do that. By the fact that they say they won't allow anymore, the ones that already exist become non-conforming. Commissioner McAuliffe said that there is a paragraph in the ordinance stating that "a non-conformance may be expanded subject to . . ." What is the non-conformance subject to. If Option 3 were used, then the City would not be able to prevent the establishment of new card rooms. Mr. Stewart agreed, as long as the criteria for the special use permit were met. He said the criteria are included on Page 2 of the supplemental memorandum, and includes five items. He said Option 2 would permit them as a matter of right, and Option 3 would be to permit them only with certain conditions.

Chair Kuhn inquired if the City of Edmonds has considered allowing this use. He suggested that this would take some of the pressure off the City of Shoreline. Commissioner Marx said that in the SHORELINE ENTERPRISE there was notification that one had been approved at 220<sup>th</sup> and Highway 99 and another application is being considered, but has not been submitted yet.

Commissioner Parker said he favors Option 3 because it covers all of the bases. If the use is not precluded in the City, then they would not have the problem with de facto non-conformance. They can still place special circumstances on the use.

COMMISSIONER VADSET MOVED TO ADOPT OPTION 3, AS IS. COMMISSIONER MCAULIFFE SECONDED THE MOTION.

Commissioner Vadset noted that this industry is very heavily regulated. There are extensive background checks and regulations by the State.

Commissioner Maloney inquired if Option 3 would delineate where these establishments would be permitted. Mr. Stewart answered affirmatively. It allows the use to occur along the Aurora corridor, but not in community commercial zones. He noted that the zoning along the Aurora corridor meanders in and out. Commissioner Marx indicated that there is another area in North City where this type of use would also be allowed.

Commissioner Marx suggested that there be a restriction placed on the use requiring it to be at least two blocks from a residential area. Even though it would be in a regional business zone, if that section of the regional business zone is not two blocks from a residential zone, the use would not be allowed. Mr. Sievers clarified that this would be taking the same approach as adult businesses because problems were identified with having those uses in close proximity to one another and adjacent to schools and parks, etc.

The Commission inquired if card rooms could be classified as adult entertainment uses. Mr. Sievers said the adult entertainment uses could be expanded to include card rooms. But, this is a different kind of an adult entertainment. It isn't sex, it is gambling.

Vice Chair Gabbert said that in spite of the fact that this is a heavily regulated business, there is still just as much chance of abuse. DSHS is a highly regulated business, and they have had all kinds of problems.

Commissioner Maloney said that his personal view is that the existing establishments in Shoreline are little more than night clubs. The level of gambling that goes on inside is a fraction of the square footage of the facility or proportion of the patrons. He was there on a full night, and the dance floor upstairs was full. He saw nothing, with the exception of a great number of security guards, to warrant any kind of particular regulation on these businesses. They are little more than middle class, ordinary, unglamorous night clubs. They want to expand the entertainment portion of their business, and they are limited on the number of tables they can have. He said he does not see anything that would warrant more regulations than are already in place.

Commissioner McAuliffe said he prefers Option 3 because it gives the City the option to adopt special development standards to address the impact to the site in the public realm. He said he is not in favor of making properties non-conforming uses, and he is not in favor of regulating how many can be where. The market will take care of that. The City needs the tax revenue from the use, and it is coming mostly from people that do not live in the City. If someone wants to put a new casino in the City, it will be

scrutinized by the Planning Commission, Gaming Department, Planning Department and City Council. They will probably have a very hard time doing so.

Commissioner Vadset said he is in favor of the motion for the reasons he stated earlier. He said he does not like moratoriums. He is market driven. But he agreed that there has to be regulations to require more parking spaces. These establishments have good food, the menus were reasonable, and the patrons seemed like common people to him.

Commissioner Gabbert said he is against Option 3 because he felt that Option 4 is better for the City of Shoreline. He said he doesn't believe that a non-conformance status will affect the financing capabilities of projects given the interpretation of the ordinance as drafted.

Commissioner Marx said she feels that card rooms are self limiting. She likes the idea of including a requirement that if a business begins to deteriorate significantly the City can close it down, but that is not part of the motion before the Commission.

Commissioner Maloney said he favors Option 4, but he does not feel that Option 3 is an unreasonable approach, either. He felt that the number of establishments in the City now seems to work. But, there is a risk if more establishments are created.

Commissioner Monroe said he felt that Option 4 seems to fix something that has never been a problem. He said he has yet to see a problem with any of these establishments. He questioned why they are trying to fix something that isn't broken. He said he likes that these businesses bring in revenue to the City from people who live outside of the City. He said he respects these people as business owners. He questioned why the City would want to hurt viable businesses in Shoreline. He said he supports Option 3.

Commissioner Bradshaw said Chair Kuhn and Commissioner McAuliffe have spoken right to the point in that there is no area of human endeavor that is not subject to problems. From the information he has before him, he felt that if they adopt Option 3 and allow other businesses to come in, they will end up displacing businesses that are better for the City of Shoreline. The information before him shows that these kinds of establishments do displace smaller businesses. Many businesses around them fail, and they do not bring in high paying jobs. In fact, they perpetuate low paying jobs. He recalled that the Commission received testimony from residents living around these uses indicating that they are a problem. He emphatically stated that Option 3 would not be in the best interest of Shoreline. He maintained that he would vote against any amendment that would open the door for other uses of this type to locate in the City.

Chair Kuhn said his take on the whole situation is that the elected officials have set the policy, and they have directed staff to draft an ordinance to support that policy. The Commission's job was to conduct a public hearing and accept public testimony regarding the policy in the ordinance that was drafted by staff. The Commission heard the public comments, they have the ordinance as drafted, and they have the policy that was set by the City Council. He said he is in favor of following the policy that was set by the elected officials, having heard nothing from the public that would engender him to increase the number of establishments within the City of Shoreline.

MOTION CARRIED 5-4, WITH COMMISSIONERS PARKER, MCAULIFFE, VADSET, MARX AND MONROE VOTING IN FAVOR OF THE MOTION. COMMISSIONERS BRADSHAW, MALONEY, VICE CHAIR GABBERT AND CHAIR KUHN VOTING AGAINST THE MOTION.

Mr. Stewart advised that there is a minor adjustment to the definition section of the previous ordinance that was adopted. Chair Kuhn noted that this was not on the agenda. Mr. Stewart said that if the Commission would prefer, they can schedule it on a future agenda.

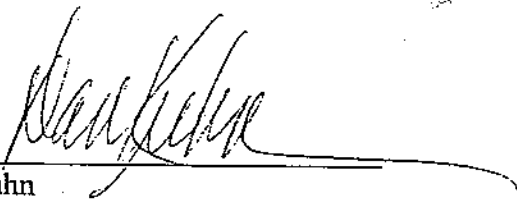
Commissioner Maloney inquired if he could provide a minority report to the City Council regarding the previous Commission decision. Mr. Stewart said the Commission's recommendation would be forwarded, along with the minutes of the deliberation, to the Council. This would allow the Council to consider the public and Commission comments that led to the Commission's decision. Mr. Stewart said the Council would conduct a public hearing on the issue, as well. He added that the Commissioners have the ability to provide feedback to the Council, as well.

Mr. Stewart said that under Phase I of the Development Code, a definition of the term "casino" was included. Staff recommends that that definition be deleted, and replaced with the term "card room" as recommended in both Option 3 and Option 4. He said staff views this change as a technical correction. If the Commission would like the staff to include the change in Phase II of the Development Code review, this could be possible, as well.

COMMISSIONER BRADSHAW MOVED TO REPLACE THE TERM "CASINO" WITH "CARD ROOM." COMMISSIONER PARKER SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

#### 6. ADJOURNMENT

The meeting was adjourned at 8:12 p.m.



Dan Kuhn  
Chair, Planning Commission

  
Suzanne M. Kurnik  
Clerk, Planning Commission



**Planning and  
Development Services**

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**Memorandum**

**Date:** October 21, 1999

**To:** Shoreline Planning Commission

**From:** Timothy M. Stewart, AICP *TMS*  
Director, Planning and Development Services  
Lenora Blauman, Senior Planner *LB by SMK*  
Planning and Development Services

**Subject:** Additional Information Regarding Card Rooms

On October 7, 1999, staff presented the Planning Commission with a proposed ordinance for regulating card rooms in the City of Shoreline (See Exhibit B in the Staff Report to Planning Commission dated 10/7/99). The Planning Commission conducted a public hearing on the proposed ordinance at its October 7, 1999 meeting. Following testimony and deliberation, the Commission voted to close the public hearing and to table the ordinance pending receipt of additional material from staff concerning gaming.

The Planning Commission requested additional information about policy Options 3 and 4. These options had been extensively discussed in reports to the City Council and at meetings of the Council in June and July. We have attached copies of the staff reports (Exhibits D and E), Council meeting minutes (Exhibit F and G), a new draft Ordinance based upon policy Option 3 (Exhibit H) and the Bibliography/Literature section (Exhibit I). These exhibits should be added to our staff report of October 7, 1999.

The alternative Ordinance (Exhibit H) would permit card rooms in the Regional Business, Office and Industrial districts with the issuance of a Special Use Permit, consistent with Policy Option 3. The Shoreline Municipal Code (Section 18.44.050) sets forth the criteria for granting a Special Use Permit, as follows:

A special use permit shall be granted by the city, only if the applicant demonstrates that:



- A. The characteristics of the special use will not be unreasonably incompatible with the types of uses permitted in surrounding areas;
- B. The special use will not materially endanger the health, safety and welfare of the community;
- C. The special use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood;
- D. The special use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts;
- E. The location, size and height of buildings, structures, walls and fences, and screening vegetation for the special use shall not hinder or discourage the appropriate development or use of neighboring properties; and
- F. The special use is not in conflict with the policies of the comprehensive plan or the basic purposes of this title. [Ord. 125 § 1, 1997]

Each of these criteria would be required for a permit for a new or expanded card room in the City of Shoreline.

#### **ADDITIONAL EXHIBITS TO THE STAFF REPORT**

- Exhibit D      Staff Report For a City Council Workshop Regulating Commercial Eating and/or Drinking Establishments With Social Card Rooms (Dated: June 21, 1999)
- Exhibit E      Staff Reports (2) To City Council Regulating Commercial Eating and/or Drinking Establishments With Social Card Rooms (Dated: July 26, 1999)
- Exhibit F      Minutes of City Council Proceedings Concerning Regulating Commercial Eating and/or Drinking Establishments With Social Card Rooms (Dated: June 21, 1999)
- Exhibit G      Minutes of City Council Proceedings Concerning Regulating Commercial Eating and/or Drinking Establishments With Social Card Rooms (Dated: July 26, 1999) - Including Ordinance 200 and Resolution 155
- Exhibit H      Alternative Ordinance: An Ordinance of the City...Regulating Commercial Eating and/or Drinking Establishments With Social Card Rooms (Permitted by Special Permit), with Attachment (October 28, 1999)
- Exhibit I      Literature Review: Staff Report To City Council Regulating Commercial Eating and/or Drinking Establishments With Social Card Rooms



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**Council Meeting Date:** January 10, 2000

**Agenda Item:** 9(a)

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**CITY COUNCIL AGENDA ITEM**  
CITY OF SHORELINE, WASHINGTON

**AGENDA TITLE:** Approval of the 2000 Road Overlay Program; Interlocal Agreement with King County; Private Vendor Contract  
**DEPARTMENT:** Public Works  
**PRESENTED BY:** William L. Conner, Public Works Director *wlc*

**EXECUTIVE / COUNCIL SUMMARY**

The purpose of this report is to request your Council's approval of proposed road overlay projects for 2000. At your Council meeting on February 1, 1999, Public Works staff introduced the use and concept of Pavement Management systems. Staff presented a long-term strategy to optimize available funds, maintain the overall condition of our pavement network as represented by a weighted average road condition of 70+ and get more work done with limited funds. The recommended overlay program was described as the "mixed method" approach that included overlays of various thickness and slurry sealing. The recommended annual appropriation for the "mixed method" approach was \$700,000 in order to maintain the overall condition of our system. Council concurred that it would be necessary to increase the overlay budget of \$400,000 adopted during the 1999 budget to bring road conditions to an appropriately maintained service level. On February 22, 1999, your Council approved the necessary budget amendment to increase the City's overlay budget to \$605,000. During the budget process for the year 2000, your Council increased the overlay budget by an additional \$95,000 to a total \$700,000.

Public Works staff has identified locations for the 2000 overlay program utilizing the Measurement Research Corporation's (MRC) Pavement Management System data. The overlay program for the year 2000 will be utilizing the mixed methods approach (thick or thin overlay, slurry seal coat, etc.) agreed upon by your Council on February 1, 1999. This will consist of approximately \$550,000 for overlay and surface preparation and \$150,000 for slurry seal. Staff is currently in the process of developing the City's own Pavement Management System and will prepare an outline for the overlay/slurry seal program for the next three years that will be presented to your Council later this year.

Staff has performed an analysis of MRC's data for accuracy and validity. Our reviews included field inspections and the criteria that was the foundation of the February 1999

staff report. Staff also added criteria or information gathered by the City as part of other projects or programs. The criteria include:

- Pavement condition rating scores (numerical score of 0-100 with 0 being the worst condition and 100 being the best)
- Customer request data for multiple issues such as pothole repair, patching and pavement requests
- Complementary projects including drainage improvements, Capital Improvement Program and grant applications that may address pavement conditions through other means
- Needed improvements for pedestrian safety such as wheelchair curb cuts
- Planned development, improvements or street cuts by local utilities
- Location (efforts to complete contiguous areas)

Based upon a survey of City streets using the criteria described above, our recommendations for the 2000 Overlay Program include overlays and slurry seal as shown on the attached map (Attachment A) and detailed in Attachments B & C.

We expect no changes to traffic striping or configuration resulting from this year's overlay program. Staff is requesting your Council's approval to proceed with the identified overlay program. We would like to contract again this year with King County Department of Roads and Transportation to benefit from the cost savings of a large scale bidding process that King County can facilitate. A private contractor under a separate city contract will do the slurry sealing.

#### **RECOMMENDATION**

Staff recommends that Council authorize the City Manager to execute an interlocal agreement with the King County Department of Roads and Transportation Division not to exceed the amount of \$550,000 to complete the overlay projects listed in the 2000 Overlay Program.

Staff also recommended that Council authorize the City Manager to execute a contract with a private vendor not to exceed \$150,000 for slurry sealing work to complete the alternative methods projects listed in the 2000 Overlay program.

Approved By:      City Manager LB      City Attorney N/A

## BACKGROUND / ANALYSIS

The City of Shoreline has approximately 380 lane miles of paved surfaces with an estimated replacement value of \$380 million. As part of the 1999 Pavement and Rehabilitation Plan presented to your Council on February 1, 1999, staff reviewed a series of pavement treatment options that could be applied over the life of the pavement to maximize the use of limited funds and extend the life of the pavement.

Staff introduced the use of an automated pavement management system that assists with the monitoring and management of pavement surface conditions. Included in that report was an analysis of our own pavement network utilizing King County distress survey data. The distress survey data was updated through a contract with Measurement Resource Corporation during the summer of 1999. This survey was very comprehensive using actual measurements of each foot of street surface as opposed to measuring defects at intersections and applying the ratings to the entire road as is done in King County's survey method. This updated survey identified the severity of different types of cracking, the amount of loose rock, rutting and potholes. The City's pavement condition was rated using a scale from 0-100 with 0 being the worst condition and 100 being the best.

The City's overall weighted average score indicated our pavement network system to be in fair to good (76) condition. The report also showed that pavement conditions rated below 65 failed 6 times faster than those rated above 65. The analysis of the condition of pavement surface within Shoreline included a few maintenance program alternatives.

One program alternative depicted the "Status Quo" option (reactive rather than planned maintenance) reflecting the City's prior maintenance practices and funding levels of \$400,000 annually. The continuation of this program would create a decline in pavement conditions and a dramatic increase of deferred maintenance with a need for large capital investments occurring in the long term.

The program staff recommended and Council approved was a Mix Method pavement program. This maintenance strategy proposed more expensive overlays on major arterial and high traffic areas and less expensive slurry seal coats on low traffic non-curb and gutter areas to provide a balance of the overall condition of the pavement network. This maintenance strategy provided the best balance of pavement condition, annual cost and the lowest deferred maintenance costs. This program required that an additional \$205,000 be added to the adopted 1999 pavement management program total annual budget. This increased the annual budget from the \$400,000 adopted by your Council during the 1999 budget process to \$605,000. Your Council approved this budget amendment on February 22, 1999. During the budget process for the year 2000, your Council increased the overlay budget by an additional \$95,000 to a total \$700,000.

This report identifies locations for the 2000 Overlay Program utilizing Measurement Research Corporation's Pavement Management System data. Staff has performed an analysis of the data for accuracy and validity on the roads identified in this year's overlay program. This review included visual inspections.

An additional analysis was utilized in selecting this year's candidates. We started with the criteria used to determine the long-term pavement management strategies to keep overall pavement condition scores at a satisfactory level. Additional criteria were added to reflect more immediate needs. For example, we did not want to call for an overlay where a utility has plans for extensive street cuts in the near future. The following lists the criteria used:

- Pavement condition rating scores
- Customer request data for multiple issues such as pothole repair, patching and pavement requests
- Complementary projects including drainage improvements, Capital Improvement Program and grant applications that may address pavement conditions through other means
- Needed improvements for pedestrian safety such as wheelchair curb cuts
- Planned development, improvements on street cuts by local utilities
- Location (efforts to complete contiguous areas)

The roads identified in this year's overlay recommendation have eroded to a degree where alternate methods of maintenance (other than overlays) would not result in the successful rehabilitation of the pavement conditions in these areas. In addition, completing these areas would reduce the number of customer requests received and the amount of reactive maintenance costs. Our primary objective is to effectively maintain or enhance the integrity of the City's roadway system in the most cost efficient manner.

Based on the survey data that identified the severity of different types of cracking, the amount of loose rock, and rutting and potholes, and after extensive review of the criteria, our recommendations for the 2000 Overlay Program are listed below (see map Attachment A):

#### OVERLAY

##### **N/NW 200<sup>th</sup> Street – Between 10<sup>th</sup> NW to Aurora**

- Pavement ratings as low as 17.
- This is a collector arterial and a major school bus route.
- Multiple customer requests for repair of large potholes; several temporary patching requests.
- This area is a highly traveled area with a number of surface condition problems such as large areas of alligator cracking, and raveling along the shoulders. Water is seeping into the subgrade and potholes will be forming in the next year. An overlay is required to maintain the integrity of this section of pavement.

##### **3<sup>rd</sup> NW and NW 185<sup>th</sup> Street to NW 176<sup>th</sup> Street; NW 180<sup>th</sup> Street and 1<sup>st</sup> Ave NW to 6<sup>th</sup> Ave NW; side streets**

- Pavement condition ratings of 10.
- Multiple customer requests for repair of large potholes; several temporary patching requests.
- This neighborhood has had little to no pavement treatment in years. Roads are deteriorated to the point where other pavement treatment options would not be

effective. The neighborhood consists primarily of curb and gutter streets. The pavement is badly deteriorated and has extensive cracking over the majority of the area. Due to the condition of the pavement, an overlay is the only alternative available.

**Echo Lake Neighborhood bordered by 6<sup>th</sup> Ave NE to 9<sup>th</sup> Ave NE from NE 195<sup>th</sup> Street to NE 204<sup>th</sup> Street**

- Pavement conditions rated as low as 24.
- Requests for repair of potholes, grass growing in center of the street and drainage issues.
- This neighborhood has had little to no pavement treatment in years. Roads are deteriorated to the point where other pavement treatment options would not be effective. The neighborhood consists primarily of curb and gutter streets. The pavement is badly deteriorated and has extensive cracking over the majority of the area.
- Drainage work and some widening on 6<sup>th</sup> Ave NE from NE 7<sup>th</sup> Ave NE to NE 200<sup>th</sup> Street needs to be done to correct poor drainage and a narrow winding road.
- Overlaying this area would resolve a number of complaints related to the condition of the pavement. An overlay will increase the life of the pavement and reduce the need for reconstruction.

**North City area bordered by NE 180<sup>th</sup> Street to NE 188<sup>th</sup> from 5<sup>th</sup> Ave NE to 15<sup>th</sup> Ave NE**

- Pavement conditions rated as low as 30.
- Multiple customer requests for repair of large potholes; several temporary patching requests.
- A large number of cracks are occurring as well as loose rock and aggregate loss
- This area is generally asphalt mat with gravel shoulders. Pavement is extremely weathered and lane edges are breaking apart. Pavement surface is heavily cracked and water is contaminating the subgrade.

**Ridgecrest area bordered by NE 174<sup>th</sup> Street to NE 165<sup>th</sup> Street from 1<sup>st</sup> Ave NE to 5<sup>th</sup> Ave NE**

- Pavement conditions rated as low as 40.
- Requests for repair of potholes, grass growing in center of the street and drainage issues.
- This neighborhood has had little to no pavement treatment in years. Roads are deteriorated to the point where other pavement treatment options would not be effective. The neighborhood consists primarily of curb and gutter streets. The pavement is badly deteriorated and has extensive cracking over the majority of the area.
- Overlaying this area would resolve a number of complaints related to the condition of the pavement. An overlay will increase the life of the pavement and reduce the need for reconstruction.

#### **N 175<sup>th</sup> Street from Aurora to Meridian**

- Pavement conditions rated as low as 5 but averaged at 69. While the average rating is higher than some other streets being scheduled for overlay, there are several other factors that support the improvements at this time.
- The relatively high pavement rating was made prior to the recent construction for sidewalks and curb ramps near the intersection of 175<sup>th</sup> and Meridian. These projects have caused significant degradation of the road surface and have added to the need for an overlay of this section of road.
- While a CIP project is scheduled for 2004 for design of additional improvements to this section of 175<sup>th</sup> Street, no construction is envisioned until beyond the scope of our current six-year plan. As a result, the overlay project needed at this time will not conflict with improvements that may be designed and will keep this street in good condition until that construction is authorized.
- A number of requests for repairs of large potholes and patching requests related to delaminating pavement.
- This is an opportunity to coordinate with a Capital Improvement project underway on N 175<sup>th</sup> Street and Meridian Ave N, extending east to I-5 on 175<sup>th</sup>. The overlay would take place west of I-5 this year. The improvements scheduled for this year include the installation of sidewalks, curb cuts and some traffic lane configurations to provide increased vehicle and pedestrian safety. By coordinating the overlay with this project we will be completing a corridor and the gateway into our City both to the east and the west. This is an arterial street with a high volume of traffic. A thick overlay is the preferred method due to the extended life expectancy.

#### **Innis Arden area consisting of Springdale Ct NW, portions of NW Innis Arden and Ridgefield Rd NW and 14<sup>th</sup> and 15<sup>th</sup> Ave NW**

- Pavement conditions rated as low as 12.
- Multiple requests for pothole repairs and calls concerning poor pavement conditions.
- This area is a highly traveled area with a number of surface condition problems such as large cracks and potholes and raveling along the shoulders. In order to maintain the integrity of this section of pavement, an overlay is required. A portion of this area is classified as collector arterial streets.

#### **SLURRY SEAL**

Slurry sealing is a preventative maintenance process whereby asphalt oil, aggregate, binders, hardeners and water are mixed together and laid on the street surface in a "wet" coating of approximately 3/8 inch thick. The applied mix hardens to traffic in about 2 to 3 hours. The purpose of this application is to replace lost surface oil, fill surface voids and to provide a new wearing course. When applied to street surfaces free of structural defects, this wearing course is expected to last for approximately ten years. This application is typically used on roads that have experienced some deterioration but are not sufficiently damaged to merit a complete overlay.

The streets identified for this alternative maintenance method, shown in Attachment B, are in the Richmond Beach, Hillwood and Richmond Highlands areas. The streets have

an average condition rating of 77 and are in good condition with minor defects. The majority of these roads were crack sealed during the 1999 summer months. The remaining streets will also be crack sealed prior to slurry sealing. Any identified defects will also be repaired prior to sealing.

The cost of this alternative maintenance method is approximately 25% that of an overlay. The amount of street surface being slurry sealed is about the same as that being overlaid. A private contractor under a Separate City contract will do the slurry sealing.

Staff is currently in the process of developing the City's own pavement management system and evaluating the City's current pavement conditions. This will produce an outline for a three-year period detailing streets/areas targeted for maintenance utilizing the "Mixed Methods" approach. Staff will return to your Council later this year with this schedule. As the mixed approach is just in the development stage, the full overlay program is planned for this year. King County's schedule for beginning these projects is late summer.

Staff would like your Council's approval to proceed with the identified overlay projects presented in this staff report for the year 2000. These projects will enhance the overall condition of our pavement network and reduce the amount of customer complaints related to poor pavement conditions. The overlay projects proposed for this year's program are roads that have eroded to a degree where significant reconstruction will be required in the future if no repairs are made this year. With respect to the slurry seal projects, we believe a proactive use of this method will save money in the long run by evading the more expensive overlay method in the future.

Staff is requesting to contract with the King County Department of Roads and Transportation Division to include our City's annual overlay program as part of King County's many larger overlay programs. There are adequate funds in the 2000 budget to support this requested action.

## **RECOMMENDATION**

Staff recommends that Council authorize the City Manager to execute an interlocal agreement with the King County Department of Roads and Transportation Division not to exceed the amount of \$550,000 to complete the overlay projects listed in the 2000 Overlay Program.

Staff also recommended that Council authorize the City Manager to execute a contract with a private vendor not to exceed \$150,000 for slurry sealing work to complete the alternative methods projects listed in the 2000 Overlay program.

## **ATTACHMENTS**

Attachment A-2000 Overlay/Slurry Seal Projects Map  
Attachment B-2000 Overlay Project Data  
Attachment C-2000 Slurry Seal Project Data

## **ATTACHMENT A**

### **2000 OVERLAY/SLURRY SEALS PROJECT MAP**



# CITY OF SHORELINE

Year 2000 Overlay Program



City of Shoreline GIS Customer, David Fries  
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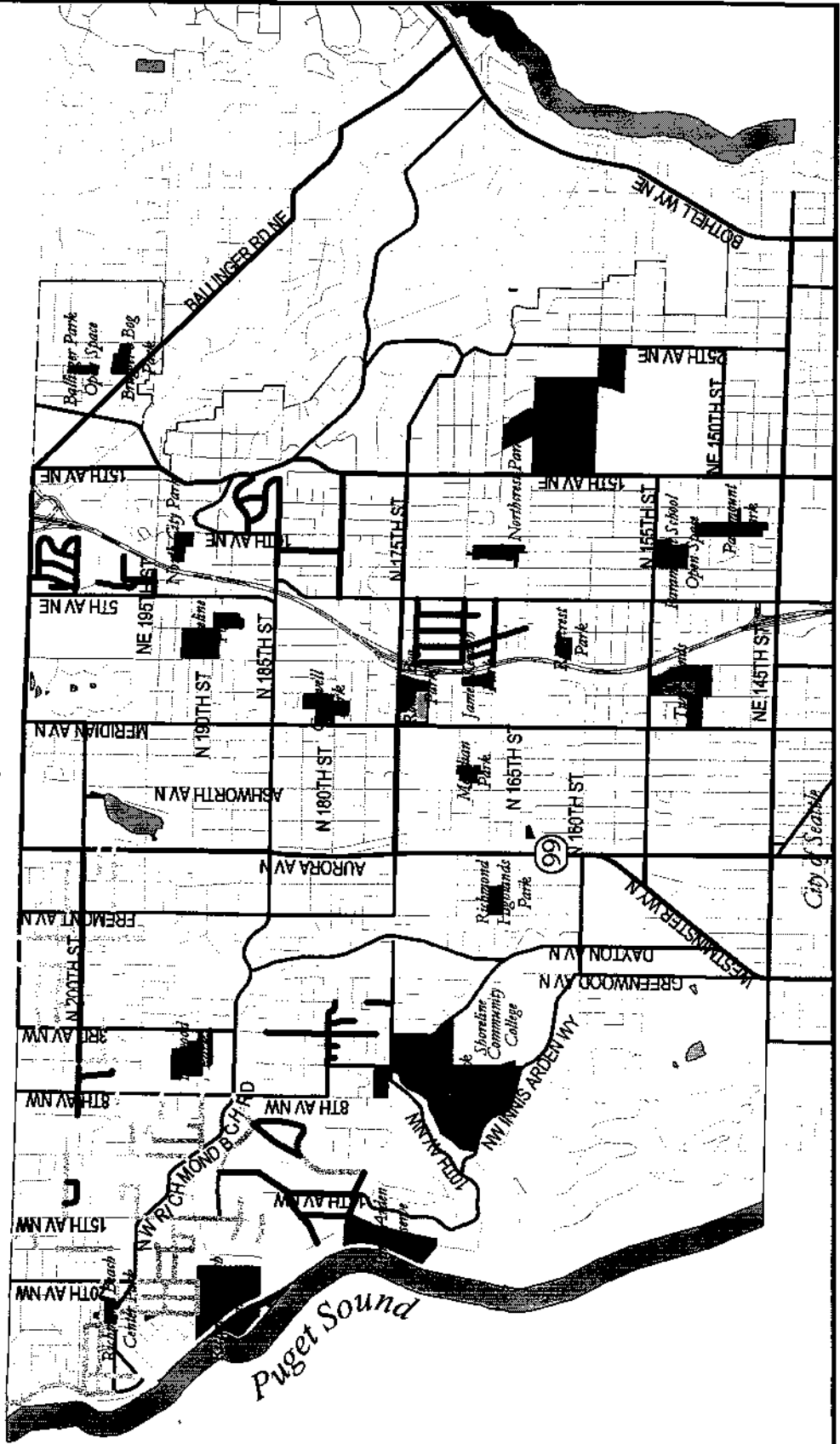
2/20/99  
 December 9, 1999

- Overlay
- Micro paving (Slurry Seal)
- Waterbody
- Public Park
- City Limits

1 Inch = 0.65 Miles  
 0 0.325 0.65 0.975 Miles



Shoreline City



## ATTACHMENT B

### 2000 OVERLAY PROJECT DATA

**CITY OF SHORELINE  
2000 OVERLAY PROJECT**

STREET	FROM	TO	LENGTH	WIDTH	SQUARE YARDS
NW 180 Street	1 Ave NW	6 Ave NW	1,376	28	4,281
4 Ave NW	NW 180 Street	Endroute (south)	255	22	623
4 Ave NW	NW 180 Street	Endroute (north)	228	26	659
3 Ave NW	NW 182 Street	NW 177 Street	1,325	30	4,417
3 Ave NW	NW 182 Street	NW 185 Street	817	20	1,816
5 Ave NW	NW 180 Street	Endroute (south)	193	26	558
2 Ave NW	NW 180 Street	Endroute (south)	588	22	1,437
1 Ave NW	NW 177 Street	NW 175 Street	530	26	1,531
NW 189 Street	3 Ave NW	End Route ( W )	644	22	1,574
15 Ave NW	Springdale Pl.	Endroute (North)	951	22	2,325
14 Ave NW	Springdale Pl.	NW 177 Street	1420	22	3,471
NW 177 Street	14 Ave NW	13 Ave NW	468	20	1,040
13 Ave NW	Innis Arden Dr.	Ridgefield Dr.	1,713	21	3,997
Ridgefield Dr.	Innis Arden Dr.	13 Ave NW	1276	21	2,977
Springdale Pl NW	NW 188 Street	17 Ave NW	2570	20	5,711
13 Pl NW	NW 200 Street	NW 201 Street	202	26	584
NW 200 Street	13 Pl NW	14 Pl NW	398	26	1,150
14 Pl NW	NW 200 Street	NW 201 Street	236	26	682
6 Pl NW	NW 200 Street	NW 197 Street	720	26	2,080
N 200 Street	Aurora Ave N	Fremont Ave N	1,291	32	4,590
N 200 Street	Fremont Ave N	3 Ave NW	4,158	20	9,240
NW 200 Street	3 Ave NW	6 Pl NW	768	26	2,219
NW 200 Street	6 Pl NW	8 Ave NW	343	34	1,296
NW 200 Street	8 Ave NW	10 Ave NW	467	21	1,090
N 175 Street	Aurora Ave N	Midvale Ave N	341	52	1,970
N 175 Street	Midvale Ave N	Meridian Ave N	2,310	43	11,037
NE 174 Street	5 Ave NE	1 Ave NE	1785	30	5,950
NE 170 Street	5 Ave NE	1 Ave NE	1662	30	5,540

**CITY OF SHORELINE  
2000 OVERLAY PROJECT**

STREET	FROM	TO	LENGTH	WIDTH	SQUARE YARDS
1 Ave NE	NE 174 Street	NE 170 Street	992	31	3,417
2 Ave NE	NE 174 Street	NE 170 Street	996	31	3,431
3 Ave NE	NE 174 Street	NE 170 Street	992	31	3,417
4 Ave NE	NE 174 Street	Endroute (S)	1357	31	4,674
3 Ave NE	NE 170 Street	NE 165 Street	1533	20	3,407
2 Ave NE	NE 167 Street	EndRoute (W)	520	18	1,040
NE 167 Street	5 Ave NE	EndRoute (W)	1169	21	2,728
NE 195 Street	5 Ave NE	EndRoute (E)	488	20	1,084
7 Ave NE	NE 195 Street	NE 198 Street	622	20	1,382
NE 198 Street	7 Ave NE	EndRoute (E)	465	20	1,033
6 Ave NE	7 Ave NE	NE 200 Street	957	20	2,127
NE 201 Street	6 Ave NE	NE 202 Street	1085	28	3,376
6 PI NE	6 Ave NE	EndRoute (N)	317	28	986
6 Ave NE	6 PI NE	NE 205 Street	788	31	2,714
7 Ave NE	NE 201 Street	NE 204 Street	856	28	2,663
8 Ave NE	NE 201 Street	NE 204 Street	933	28	2,903
NE 202 Street	NE 201 Street	8 Ave NE	485	28	1,509
NE 180 Street	15 Ave NE	5 Ave NE	2877	24	7,672
9 Ave NE	NE 180 Street	NE 185 Street	1340	30	4,467
NE 185 Street	8 Ave NE	10 Ave NE	666	41	3,034
NE 185 Street	10 Ave NE	12 Ave NE	663	23	1,694
NE 185 Street	12 Ave NE	14 Ave NE	528	19	1,115
NE 187 Street	NE 188 Street	12 Ave NE	690	22	1,687
NE 188 Street	10 Ave NE	15 Ave NE	1005	25	2,792
12 Ave NE	NE 188 Street	NE 187 Street	625	22	1,528
<b>TOTAL</b>			<b>51,984</b>		<b>149,721</b>

## ATTACHMENT C

### 2000 SLURRY SEAL PROJECT DATA

**CITY OF SHORELINE**  
**2000 Slurry Sealing Project**

STREET	FROM	TO	LENGTH	WIDTH	SQUARE YARDS
NW 197 Street	20 Ave NW	Richmond Bch Dr	2,295	22	5,610
NW 196 Pl	20 Ave NW	21 Ave NW	330	24	880
NW 198 Street	Richmond Bch Dr	East End	400	20	889
26 Ave NW	NW 198 Street	NW 195 Pl	1,065	21	2,485
Richmond Bch Dr	NW 205 Street	NW 196 Street	2,758	20	6,129
23 Ave NW	NW 196 Street	NW 198 Street	573	22	1,401
22 Ave NW	NW 190 Street	North End	1,636	22	3,999
21 Ave NW	NW 190 Street	NW 195 Street	1,333	22	3,258
20 Ave NW	NW 190 Street	NW 195 Street	1,407	22	3,439
NW 193 Street	22 Ave NW	17 Ave NW	1,370	22	3,349
NW 192 Street	22 Ave NW	East End	130	24	347
NW 190 Street	20 Ave NW	22 Ave NW	675	22	1,650
NW 195 Street	20 Ave NW	22 Ave NW	644	23	1,646
17 Ave NW	NW 193 Street	16 Ave NW	753	13	1,088
16 Ave NW	NW 192 Street	17 Ave NW	660	23	1,687
18 Ave NW	NW 197 Street	NW 201 Street	1,173	28	3,649
NW 203 Street	17 Ave NW	18 Ave NW	27	20	60
16 Pl NW	NW 205 Street	North End	497	24	1,325
NW 201 Street	15 Ave NW	12 Ave NW	1,343	27	4,029
NW 195 Street	15 Ave NW	14 Ave NW	640	26	1,849
14 Ave NW	NW 195 Street	NW 196 Street	300	22	733
NW 196 Street	14 Ave NW	West End	220	15	367
12 Ave NW	Richmond Bch Rd	North End	520	27	1,560
NW 190 Street	Richmond Bch Rd	8 Ave NW	1,124	22	2,748
11 Ave NW	NW 190 Street	North End	900	20	2,000
10 Ave NW	NW 190 Street	North End	290	22	709
NW 193 Street	8 Ave NW	West End	520	29	1,676
NW 197 Street	8 Ave NW	West End	234	28	728
NW 196 Street	12 Ave NW	East End	450	26	1,300

**CITY OF SHORELINE**  
**2000 Slurry Sealing Project**

STREET	FROM	TO	LENGTH	WIDTH	SQUARE YARDS
NW 191 Street	15 Ave NW	East End	613	25	1,703
NW 186 Street	15 Ave NW	West End	481	24	1,283
NW 186 Street	15 Ave NW	East End	424	25	1,178
NW 185 Street	15 Ave NW	West End	317	22	775
NW 185 Street	15 Ave NW	East End	276	22	675
15 Ave NW	NW 186 Street	Richmond Bch Dr	2,006	25	5,572
Innis Arden Dr.	Richmond Bch Dr	Ridgefield Dr. NW	714	44	3,491
Ridgefield Dr.	Innis Arden Dr.	NW 188 Street	1,276	21	2,977
NW 188 Street	Springdale Ct.	15 Ave NW	1,000	21	2,333
17 Ave NW	Springdale Pl NW	Endroute (N)	460	20	1,022
17 Ave NW	Springdale Pl NW	Endroute (S)	413	20	918
14 Ave NW	Springdale Pl NW	Endroute (N)	557	20	1,238
13 Ave NW	NW 177 Street	Innis Arden Rd.	1,438	23	3,675
13 Ave NW	Innis Arden Dr.	Endroute (N)	590	22	1,442
5 Ave NW	N 200 Street	End Route ( S )	957	34	3,615
NW 197 Street	5 Ave NW	6 Pl NW	251	26	725
NW 198 Street	5 Ave NW	3 Ave NW	690	26	1,993
NW 203 Street	3 Ave NW	Greenwood Ave N	1,315	20	2,922
Greenwood Ave N	NW 200 Street	NW 205 Street	1,312	24	3,499
Dayton Ave N	NW 205 Street	NW 195 Street	2628	20	5,840
N 201 Street	Greenwood Ave NW	3 Ave NW	1,322	20	2,938
2 Ave NW	NW 201 Street	End Route ( S )	238	20	529
1 Ave NW	NW 201 Street	End Route ( N )	146	34	552
Palatine Ave N	NW 201 Street	NW 200 Street	480	20	1,067
2 Ave NW	NW 200 Street	End Route ( S )	242	26	699
N 201 Street	Dayton Ave N	End Route ( E )	294	26	849
N 201 Street	Whitman Ave N	Fremont Ave N	1031	30	3,437
N 199 Street	Linden Ave N	Aurora Ave N	616	20	1,369
N 198 Street	Fremont Ave N	Aurora Ave N	1268	20	2,818

**CITY OF SHORELINE**  
**2000 Slurry Sealing Project**

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