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CITY OF SHORELINE

SHORELINE CITY COUNCIL SUMMARY MINUTES OF REGULAR MEETING

Monday, February 10, 2003
7:30 p.m.

Shoreline Conference Center
Mt. Rainier Room

PRESENT: Mayor Jepsen, Deputy Mayor Grossman, Councilmembers Chang, Gustafson, Hansen, Montgomery, 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.

3. CITY MANAGER'S REPORT

City Manager Steve Burkett reminded Council that the next meeting will be held Monday, February 24 at 6:00 p.m.

4. REPORTS OF BOARDS AND COMMISSIONS: none

5. PUBLIC COMMENT

(a) LaNita Wacker, Shoreline, said that the most important issue facing Washington State in 2003 is restructuring the tax system to meet the needs of state/local government, counties, and school districts and that the tax data available through the Washington State Department of Revenue should be studied by everyone making financial decisions.

(b) Elaine Phelps, Shoreline, asked the Council to adopt a resolution to be sent to the U.S. President and Washington State Congressional delegation opposing the Iraq war.

(c) Patty Crawford, Shoreline, expressed concern that the rules regarding public comment are not consistently applied to everyone. She also emphasized the importance of knowing the costs to clean up the Greenwood/Dayton site before going

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forward with a Gateways project at that location. She suggested the City get a second legal opinion in the Gaston appeal matter, noting that it is not similar to the Aegis case.

(d) Richard Johnsen, Shoreline, clarified his comments last week regarding the Interurban Trail.

(e) Sean Quigley, Shoreline, asked Council to reconsider the change in Ordinance No. 318 that eliminates cabaret licensing. He felt that if cabaret licenses are eliminated, there is no way to ensure that establishments with live music are adhering to City ordinances. He noted that a tavern in his neighborhood does not adhere to the noise ordinance. He said King County does not issue cabaret licenses to establishments located in neighborhood business zones, and Shoreline should do the same.

Mayor Jepsen responded to various public comments. He then asked staff for additional clarification on proposed Ordinance No. 318.

Ian Sievers, City Attorney, said the City removed the cabaret license because it was unnecessarily linked to adult entertainment, and because its only performance requirement was compliance with other City ordinances and state laws. He said the noise ordinance and other laws already have adequate enforcement remedies.

Councilmember Ransom said he does not particularly support attacking Iraq without United Nations support, but he has strong reservations about taking action as a Council. He expressed support for getting a second legal opinion in the Gaston litigation, noting that the City not only lost the case, but the judge ordered the City to pay attorneys fees. He said Thornton Creek is becoming a big legal issue, and that Council should reconsider its tactics because they do not appear to be successful.

Mr. Sievers clarified that the attorneys fees were mostly statutory fees such as record production costs for the court. He explained that the Thornton Creek stream definition issue is not as critical to the City as the finality of subdivisions and boundary line adjustment procedures. Contradicting Ms. Crawford, he said there are issues in the Gaston matter of importance to the City.

6. APPROVAL OF THE AGENDA

Councilmember Hansen moved approval of the agenda. Councilmember Gustafson seconded the motion. Councilmember Gustafson moved to place Item 8(b) on the Consent Calendar. Councilmember Montgomery seconded the motion, which carried unanimously. A vote was taken on the motion, which carried 7-0, and the agenda was approved as amended.

7. CONSENT CALENDAR

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Councilmember Gustafson moved approval of the consent calendar as amended. Deputy Mayor Grossman seconded the motion, which carried 7 – 0, and the following items were approved:

**Minutes of Dinner Meeting of January 13, 2003
Minutes of Workshop of January 21, 2003
Minutes of Dinner Meeting of January 27, 2003
Minutes of Regular Meeting of January 27, 2003**

**Approval of expenses and payroll as of January 31, 2003
in the amount of \$653,240.95**

**Motion to authorize the City Manager to execute
the compost facility addendum to the Joint Use
Agreement with the Shoreline School District**

**Ordinance No. 320 amending the City's Official Zoning
Map Tile #440 to change the zoning of two parcels generally
located at 1440 Richmond Beach Road (Parcel Numbers
012609424 and 0126039039) from Residential 12 DU-AC
(R-12) to Neighborhood Business**

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

- (a) North City Business District/15th Avenue Corridor
Project

Mr. Burkett noted that the last meeting on this subject yielded questions about the proposal to narrow 15th Avenue NE from four to three lanes. He said staff will return on February 24th with a more definite list of costs and recommendations based on tonight's discussion.

Jan Knudson, Project Manager, introduced Joe Giacobazzi, Principal, KPG, Inc., who explained the concept of "Road Diets" and the proposed three-lane configuration of 15th Avenue NE. Mr. Giacobazzi's presentation included the following points:

- KPG understands the Council wishes to make work in the North City Business District the priority.
- "Road diets," or the narrowing of roads, has been practiced for decades in an effort to make them safer and more manageable.
- Three independent firms studied the NCBD plan and concluded that the three-lane configuration is advisable.
- Dozens of roads in the Puget Sound area have successfully implemented a three-lane road configuration, some with the capacity to carry 25,000 vehicles per day.

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- 15th Avenue NE is suitable for the three-lane configuration. It carries a maximum of 20,000 vehicles per day, but most of the corridor averages about 17,000-18,000 vehicles per day.
- KPG has determined that a three-lane configuration on 15th Avenue NE is more than adequate to service the adjoining Shoreline community.
- Although congestion will continue to occur after project completion, the purposes of the project are to create a sense of community, enhance pedestrian safety, calm traffic, improve access to adjacent properties, and create a pedestrian-friendly commercial zone. Four-lane roads do not accomplish these purposes.
- While KPG understands Council's intent to make the NCBD portion of the project a priority, two items will potentially affect the project schedule: 1) securing easements from property owners; and 2) undergrounding utilities. He clarified that scheduling will depend on the cooperation and coordination of both property owners and utility companies.

Mayor Jepsen called for public comment.

(a) Anthony Poland, Shoreline, expressed opposition to reducing roads from four to three lanes because the City is supposed to be building for 20 years expansion. He disagreed with trying to create a "sense of place," noting that people simply want to get from Point A to Point B. He said North City property owners have no intention of granting easements.

(b) Roger Chouinard, Shoreline, said his neighborhood is extremely concerned about the high traffic flows on 15th Avenue NE, especially during peak driving hours. He said the Kirkland daily traffic flow example is not a fair comparison to Shoreline. Although he does not object to the NCBD, he said the Ridgecrest neighborhood will be negatively impacted by excess traffic flows.

(c) Gretchen Atkinson, Shoreline, president of North City Business Association, expressed support for the project. She said business owners met with City staff and KPG and are very happy with the proposed design. She reported that over 80 people attended the NCBD open house, and that 23 people gave input on the driveway designs. She approved of the way the City handled citizen's requests.

(d) LaNita Wacker, Shoreline, expressed support for the proposed plan, noting that it will address the pedestrian safety issues. She said slowing down traffic is a laudable goal for 15th Avenue NE. The project, which will allow people to shop and create a mixed-use retail/residential center, is a vision created by the Council and the North City neighborhood. She said the investment of tax money is appropriate because tax dollars should be used to improve safety and achieve a sense of place.

(e) Richard Johnsen, Shoreline, said he attended the NCBD open house and agreed with the design, although Mr. Giacobazzi did not address his concern about southbound traffic from Ballinger Way into the NCBD. He suggested that the sudden change from four lanes to three, coupled with a reduced speed limit, may present a

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congestion problem. He also expressed concern about a three-lane configuration between NE 145th Street to NE 175th Street, implying that parking would be sacrificed to an infrequently used center left-turn lane. He expressed a preference for installing traffic signals at NE 170th Street and NE 150th Street.

Mayor Jepsen asked for clarification about easement acquisition. It was his understanding that the City is designing entirely within the right-of-way.

Mr. Giacobazzi responded that some properties have not granted easements for the existing sidewalk. He explained that the proposed roadway section actually exceeds the existing sidewalk by 2.5 feet, so it will be necessary to acquire easements. He said if some owners do not grant easements, the sidewalk can simply be narrowed at given locations. He said there will still be a usable sidewalk facility, although it would be preferable if everyone grants easements.

Mayor Jepsen asked Mr. Giacobazzi to speak to the issue of overall average daily traffic flows versus peak volumes.

Mr. Giacobazzi said he anticipates approximately 600 peak-hour trips diverting off 15th Avenue NE. This is based on the Puget Sound model that analyzes traffic in the northbound P.M. movement, the greatest traffic flow of the day. He said KPG proposes building the three-lane configuration as far south as possible (NE 150th Street) in order to create more dispersion through the neighborhood. He projected that there would be anywhere from 40 to 50 additional vehicles on any one route. Although he does not anticipate problems because neighborhood traffic will be diluted, he said the proposal includes monitoring and mitigation if necessary.

Responding to Mayor Jepsen, Mr. Giacobazzi noted that the 600 peak-hour trips represents approximately 25 percent of the total number of evening trips.

Councilmember Montgomery noted that the reconfiguration of NE 185th Street was more successful than she had anticipated. She described her commute experience on Greenwood Avenue N, noting that it is by far the slowest route, even though it is shorter than other alternatives. She questioned if the Greenwood problem is due to three-lane configuration, unsynchronized traffic signals, or some other explanation.

Mr. Giacobazzi was not familiar with Greenwood Avenue, but recognized that some roads are slower after reconfiguration. He noted that such roads are usually congested originally. He said roads can either be designed for the two peak-hour times, or for the other 22 hours of the day. He said if 15th Avenue NE is designed to address peak-hour traffic only, lanes should be added, not reduced. He said the goal is to make the road work more efficiently, noting that the three-lane carries almost the same capacity as four lanes. He felt confident that 15th Avenue NE will operate much like the reconfigured roads in Kirkland.

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Following up on Mr. Johnsen's concern, Councilmember Gustafson asked if the transition from four to three lanes will present a congestion problem for southbound traffic entering North City.

Mr. Giacobazzi did not think it will present a problem since there is an existing traffic signal and only one lane feeding the road now. He said that depending on funding, KPG would propose that the transition begin at the bottom of the hill.

Councilmember Gustafson asked if the parking lanes could be converted during peak hours. Mr. Giacobazzi suggested that they could not because convertible roads would preclude certain vital elements such as curb bulbs and safe pedestrian crossing movements. He explained that simple restriping would achieve a three-lane/convertible parking configuration, but that is not what is envisioned for a vibrant, pedestrian-friendly commercial district.

Responding to Councilmember Gustafson, Mr. Giacobazzi confirmed that all three independent firms that evaluated the plan agreed with the proposed configuration. He said the firms highly recommended implementing the three-lane model as far south as possible to allow for traffic dispersion in the NE 170th Street area.

Responding to Councilmember Hansen's comment that a public easement would already exist in the North City Business District because of the establishment of sidewalks, Mr. Sievers said if a roadway is established on private property, rights accrue to the municipality through adverse possession. He clarified that the City would probably acquire that prescriptive right as well for sidewalks, but it is less clear than roadways.

Councilmember Hansen noted his initial opposition to reconfiguring NE 185th Street, but said he was pleasantly surprised with the positive results. He asked about current traffic counts for 15th Avenue NE, and Mr. Giacobazzi said traffic ranges from 15,000 vehicles per day to around 19,500 vehicles per day. He noted that the average for most of the corridor is about 17,000 vehicles per day.

Councilmember Ransom expressed concern about traffic going onto residential streets such as 10th Avenue NE. He asked Mr. Giacobazzi for his observations of the NCBD open house, noting that some businesses characterized it as a very contentious meeting.

Mr. Giacobazzi said he observed a mixture of reactions. He said the City went through an extensive design charrette a few years ago with business owners to arrive at the plan as it is. He said the plan does not change access points or existing driveways and does not impact existing parking.

Responding to Councilmember Ransom's question if some of the larger businesses on 15th Avenue NE expressed any concerns at the open house, Mr. Giacobazzi said the two businesses he spoke to expressed concerns about access and change in general. He noted that a few property owners are in the process of redeveloping based on the NCBD plan.

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Councilmember Ransom expressed concern that the plan could not be implemented without fully supporting alleyways for businesses. He said the City should take a strong stand and commit to building alleyways.

Mt. Giacobazzi said his firm had the same concern initially, but the proposed plan accomplishes all the goals of NCBD Subarea Study and still allows the driveways to remain in operation until the sites can redevelop and get the alleyways in place. He noted that an office building on the west side of the road blocks alleyway alignment, so the City would have to purchase the building at substantial cost in order to make the alleyway work. He assured Councilmember Ransom that the subarea plan's basic premise is maintained, the only difference is that alleyways will not be constructed in the interim.

Mayor Jepsen said he shared Councilmember Ransom's concern about alleyways, but was convinced that property owners will work to redevelop within the parameters of the subarea plan.

In response to Councilmember Chang's concern about easements, Mr. Giacobazzi noted that the City will need to acquire nearly 30 easements in the NCBD for sidewalks.

Councilmember Chang asked what kind of solution is planned to address the diverted cars into north end neighborhoods, to which Mr. Giacobazzi responded that monitoring and mitigation measures planned for the south end would also be employed in the north end. He thought diverted cars would not cause a problem in neighborhoods since most of them will be diverted onto arterials.

Councilmember Chang expressed concern that the three-lane configuration may not be adequate to meet long-term traffic needs since 15th Avenue NE is the only arterial in the immediate area. He asked what options Shoreline has if the design does not meet expectations.

Mr. Giacobazzi expressed confidence that the road will remain an arterial that can adequately serve the needs of the community. He said if increasing capacity is the goal, then the three-lane configuration is not the answer. He anticipated that 30 percent of traffic on 15th Avenue NE is "cut-through" traffic (traffic going to points outside Shoreline), which is not good for neighborhoods or businesses anyway.

Deputy Mayor Grossman asked whether the pedestrian bulbs designed for North City could also be used at intersections in the south end of the corridor. Mr. Giacobazzi affirmed they could, although it would increase the budget.

Deputy Mayor Grossman asked if the project includes signal coordination to mitigate the problem of long queues at NE 175th Street. Mr. Giacobazzi responded that any coordination efforts would be made through a signal timing perspective rather than through a "hard-wire" connection. He noted that the traffic signals on 15th Avenue NE are fairly evenly spaced. He said KPG is considering a westbound right turn lane at NE 175th Street since 15th Avenue NE can be a challenge in the southbound direction.

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Deputy Mayor Grossman expressed support for the project, noting that business access concerns can be resolved with the three-lane configuration, and that pedestrian bulbs preserve all current access points and driveways. He said the plan seems to combine the grand vision of the charrette process with the practical realities of existing businesses.

Mayor Jepsen acknowledged that not everyone who attended the open house approved of the plan, noting that the main concerns focused on cut-through traffic and change in general. Despite those concerns, he felt that Council should move forward with the plan. He asked for clarification on where the 600 displaced peak-hour trips would likely go, and about the magnitude of easement acquisition. He encouraged staff to be proactive with the utility companies to ensure they understand the project is a priority.

Mr. Burkett concluded that staff will bring back an amendment to the consultant contract on February 24 that will describe the scope and costs for the various elements of the project.

- (b) Ordinance No. 318 amending Chapter 5.10 of the Shoreline Municipal Code related to the regulation of adult entertainment businesses

City Clerk Sharon Mattioli introduced this item and reminded Council that there is a motion on the floor to adopt the ordinance.

Ian Sievers, City Attorney, reviewed the concerns expressed by Sugar's attorney, Gil Levy, at the Council meeting of January 13 and in his submittal to the Council. Mr. Sievers pointed out that Ordinance No. 318 in the Council packet has been amended slightly to address some of these concerns.

Continuing, Mr. Sievers responded to concerns outlined in a letter Mr. Levy submitted on February 7. Mr. Levy's letter discusses whether Shoreline should be regulating this form of nighttime entertainment business at all, since it has far fewer requests for police response than other Aurora Avenue businesses. A second concern reiterates Mr. Levy's earlier comment on the level of knowledge required to hold the cabaret operator responsible for violations of the business employees, contending that a strict liability standard is unconstitutional. A third concern addresses the lack of administrative remedy for failure to act on a license application, and lack of judicial review if a license is either denied or not renewed.

Mr. Sievers disagreed with the study comparing Sugar's to other businesses because of the difference in the nature of police calls. He said the issue of which businesses should be licensed will be reviewed comprehensively with Council later this year. He said the City does not employ a strict liability standard, and the current process provides for administrative remedies and judicial review.

Mayor Jepsen called for public comment.

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(a) Anthony Poland, Shoreline, suggested that Shoreline Municipal Code Chapter 5.10 be changed to reflect that there is only one adult cabaret operating in Shoreline. He objected to the comparison of Shoreline to other cities regarding secondary impacts that can result from adult entertainment businesses. He objected to the use of fingerprint cards, which he said will allow opportunities for fraud. He also objected to the definitions of sexual conduct contained in SMC Chapter 5.10.

(b) Gilbert Levy, Seattle, attorney for Sugar's, expressed concern that the proposed legislation does not comply with the legal principle that the status quo must be maintained pending judicial review. He said there is no provision for a temporary business license if the Clerk fails to act within 14 days of the time application is made. He noted that a stay is applied only if the Clerk acts (denies an application), but there is no stay if the Clerk fails to act on an application. He said the ordinance is defective because a business cannot be closed until it has had an opportunity to exhaust its administrative and judicial appeals. He concluded that although the defect is technical, it is important because his client applies for renewal every year.

(c) Sean Quigley, Shoreline, reiterated his support for preserving cabaret licenses in Shoreline. He said the City still needs some regulation of cabaret businesses.

The motion made on January 10 to adopt Ordinance No. 318, which was moved by Councilmember Montgomery and seconded by Councilmember Hansen, was on the floor. Mayor Jepsen asked if the maker of the motion and the seconder agreed to substituting the amended Ordinance No. 318 as printed in the Council packet. They did.

Responding to Mayor Jepsen, City Clerk Sharon Mattioli explained that both the Police Department and City Clerk's office require applicants to show picture identification along with fingerprint verification, so the potential for fraud is limited. She said the new process will require applicants to submit fingerprints before filing the City application, which will improve coordination. She clarified that fingerprints are kept on file at the police station, and the city receives a card verifying that fingerprinting took place.

Responding to Mr. Levy's comments, Mr. Sievers felt the proposed ordinance maintains the intent to preserve administrative/judicial review. He said if the Clerk failed to act on applications within 14 days, for whatever reason, applicants could exercise their right to immediate administrative appeal, which would stay the non-issuance and allow the business to operate during the entire administrative/judicial review period. He clarified that this policy applies to all three types of licenses: adult entertainers; managers; and adult cabarets operators.

Mayor Jepsen asked Mr. Sievers to explain the advantages and disadvantages of eliminating the cabaret license. Mr. Sievers said the City is not effectively enforcing the cabaret license because the definition is so broad that it would likely include a whole range of uses that Council would not want to regulate.

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Ms. Mattioli added that the license application has no requirements regarding noise, which is a separate type of enforcement. Therefore, the issuance of the cabaret license is not a way to regulate noise issues.

Mr. Sievers noted that the tavern referred to earlier would still exist as a non-conforming use, regardless of whether the City eliminated its cabaret license.

Councilmember Ransom suggested that Council wait to act on this item until it can have a broad discussion on developing a comprehensive and integrated business policy for all businesses in the City. He expressed interest in establishing a business registration system similar to the City of Edmonds, noting that the Chamber of Commerce indicated that some kind of business registration system would be desirable. He expressed concern about the legality of trying to hold employers responsible for the illegal actions of their employees. He said King County's effort to close Sugar's did not prove successful, and the City's own undercover police work, litigation, and enforcement efforts have not successfully abated it. He suggested that the City try a new approach rather than waste money on consulting attorneys year after year.

Councilmember Ransom moved to postpone the motion indefinitely. Councilmember Chang seconded the motion, which failed 2-5, with Councilmembers Chang and Ransom voting in the affirmative.

Mayor Jepsen said the Council has never instructed staff to purposefully put Sugar's out of business. He contended that the only reason the City has spent money on this is because the business has not followed existing ordinances.

Councilmember Hansen clarified that the proposed ordinance relates to any adult cabaret that happens to operate in the City of Shoreline, not just to Sugar's. He expressed approval of the ordinance, emphasizing that it is almost impossible to draft perfect legislation.

Councilmember Gustafson expressed support for the ordinance, noting that business registration is a separate issue that could be discussed at a different time.

Councilmember Ransom said he was not speaking against the ordinance so much as trying to force a discussion on business policy, which is continually postponed.

Councilmembers Hansen and Gustafson suggested that Council discuss business registration/policy at its upcoming Council Retreat in April.

A vote was taken on the motion, which carried 7-0, and Ordinance No. 318 was adopted.

9. CONTINUED PUBLIC COMMENT

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(a) LaNita Wacker, Shoreline, reminded Council to discuss the Fircrest issue with the legislative delegation at its upcoming meeting. She said Council should view Fircrest in terms of its economic impact on the community because it employs over 700 people. She encouraged Council to begin a dialogue on tax restructuring this year and work with the state legislature and local citizens to create a tax structure that works.

(b) Richard Johnsen, Shoreline, asked for clarification about the Puget Sound model of traffic planning that Mr. Giacobazzi mentioned. He concurred with Mr. Chouinard's concerns about increasing neighborhood traffic as a result of the NCBBD project. He noted that the Interurban rail route did not stop at N 200th Street but continued to Aurora Village and across N 205th Street. He agreed that the three-lane configuration at N 185th Street and N 155th Street has helped to slow traffic and improve safety, but the configuration wastes space and took residential parking. He discussed the traffic configuration at N 160th Street and Greenwood Avenue N and suggested that the City participate in Shoreline Community College's comprehensive planning.

(c) Anthony Poland, Shoreline, contended that the definitions of sexual conduct in SMC Chapter 5.10 are deficient and may make some legal conduct illegal.

Mayor Jepsen noted that Council will discuss the Fircrest issue with the legislative delegation at its upcoming meeting. He reported that discussion at the Council dinner meeting with the Chamber of Commerce Board largely focused on tax structure issues. He expressed interest in discussing Mr. Johnsen's concern relating to the Interurban Trail at N 200th Street/N 205th Street at a future date.

10. ADJOURNMENT

At 9:38 p.m., Mayor Jepsen declared the meeting adjourned.

Sharon Mattioli
City Clerk

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