

CITY OF SHORELINE

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

Monday, June 23, 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.

- (a) King County Councilmember Peter von Reichbauer/Heart Walk

On behalf of Councilmember von Reichbauer, King County Councilmember Carolyn Edmonds encouraged the City Council and the City of Shoreline to participate in the Heart Association's annual Heart Walk, being held in September.

3. CITY MANAGER'S REPORT: none

4. REPORTS OF BOARDS AND COMMISSIONS: none

5. PUBLIC COMMENT

(a) Janet Way, Shoreline, representing the Thornton Creek Legal Defense Fund, commented that although her organization and the City worked together to resolve some concerns regarding the Critical Areas ordinance, there are still two remaining issues to be resolved: the reasonable use permit process and the State Environmental Protection Act (SEPA) checklist items involving fish and migration routes in Thornton Creek. She said there are several sources that indicate there are salmon in Thornton Creek. She said that proper protections must be in place to avoid degradation of shoreline and habitat.

(b) Patty Crawford, Shoreline, representing Twin Ponds Fish Friends, affirmed that a Seattle Public Utility survey indicates that salmon were found in Twin

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Ponds. She expressed concern that if the City's street fund is cut as indicated in the *Currents* newsletter, then street sweeping will be reduced, thereby contributing to an unhealthy watershed. She also opposed the code changes because they would allow Mr. Gaston to develop as a reasonable use, when he made an illegal boundary line change with no public notice.

(c) Tim Crawford, Shoreline, said that changes to the Critical Areas ordinance will remove clearing/grading from the public purview and allow anyone to develop property at will. He emphasized the fact that the City must rely on public input to determine where sensitive areas are because the City cannot trespass on private property. He said Judge Erlick will sign the order this week to have the north Aegis building torn down. He expressed disappointment that the Capital Improvement Plan (CIP) does not mention beach access in Richmond Beach.

(d) Elaine Phelps, Shoreline, said the proposed changes to the Critical Areas ordinance only promote the welfare of land developers. She asked for an accounting of City expenses, asserting that large amounts of money are being spent on insurance and legal services. She suggested that Council should think about what kind of legacy it wants to leave, noting that environmental protection and public involvement should be top priorities.

(e) Ros Bird, President of the Shoreline/Lake Forest Park Arts Council, encouraged the Council and the City of Shoreline to participate in the Shoreline Arts Festival this week. She described the various activities planned for this year's event and noted that over five hundred art entries were received.

(f) Walt Hagen, Shoreline, said that the City does not have the citizens' well-being in mind, and that Shoreline citizens do not want the Development Code changed. He said the City does not care about the input from the Washington Department of Fish & Wildlife (WDFW) and that City staff lied about the WDFW position. He expressed concern about the possibility of another "tent city" in Shoreline and asserted that the Planning Director has sole discretion whether to approve or disapprove it. He said the Planning Director does not represent the City and has never presented sincere ideas regarding the Development Code.

Mayor Jepsen asked staff to respond to concerns about tent city, particularly about the City expectations of church congregations who ask for such permits.

Bob Olander, Deputy City Manager, explained that a temporary use permit (TUP) allows tent cities up to 90 days, but the last tent city permit was issued for 60 days. He noted that Council controls the TUP through Development Code ordinances, and that staff must follow criteria related to the TUP. He said there is a rumor that a local church may propose sponsoring a tent city, but no applications have been received. He emphasized the need for churches and neighborhoods to work out any potential conflicts prior to application.

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Mayor Jepsen pointed out that the Planning Director cannot permit a tent city based on a whim. Mr. Olander affirmed that any proposal is subject to SEPA review and various criteria under the code.

6. APPROVAL OF THE AGENDA

Councilmember Hansen moved approval of the agenda. Councilmember Gustafson seconded the motion. Councilmember Ransom pulled item 7(d), Parker's Casino Special Use Permit, from the consent calendar. A vote was taken on the motion, which carried unanimously, and the agenda was approved as amended.

7. CONSENT CALENDAR

Councilmember Hansen 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 Workshop Meeting of June 2, 2003
Minutes of Dinner Meeting of June 9, 2003
Minutes of Regular Meeting of June 9, 2003**

**Approval of expenses and payroll as of June 13, 2003
in the amount of \$1,070,001.82**

**Motion to authorize the City Manager to enter into
the Commute Trip Reduction Agreement with King County**

8. ACTION ITEMS: PUBLIC HEARING

- (a) Public hearing to receive citizens comments on the 2004-2009 Capital Improvement Plan

Debbie Tarry, Finance Director, reviewed the schedule for adoption of the CIP and highlighted information presented last week on the components of the three CIP funds: General Capital (16 projects, \$21 million), Roads Capital (19 projects, \$99.7 million), and Storm Water Capital (8 projects, \$9.4 million). She explained that the largest proportion of expenditures are on transportation projects such as the Aurora Corridor, and capital projects such as City Hall. She explained that approximately 70 percent of expenditures for major transportation projects will be funded through grants. Significant surface water projects include Ronald Bog Drainage Improvements and 3rd Avenue Drainage Improvements. She went on to explain the changes in this year's CIP and to describe some of the new projects that are proposed for each fund.

Responding to Council questions from last week's meeting, Ms. Tarry explained that the City collected approximately \$13,000 in 2002 for the sidewalk "in lieu" program. This money will help fund the sidewalk program. She said so far through June 2003 the City

has collected \$4,000. Responding to a Council question about full time equivalent (FTE) allocation to CIP projects, she explained that five project managers are dedicated to CIP projects, as well as other positions that provide support. She said approximately three FTEs are allocated to CIP projects themselves.

Responding to prior Council inquiries, Kirk McKinley, Aurora Corridor Project Manager, handed out two information sheets outlining estimated utility connection costs along Aurora Avenue and right-of-way (ROW) widths in Phase 2 of the Aurora Project. He said several factors affect the cost of underground connections, including trench lengths and level of service (the higher the amperage, the higher the cost). He noted that of the 34 properties that connect from Aurora Avenue, four are estimated to cost less than \$5,000 per hookup; 16 are estimated at \$5,500; 11 are estimated at \$6,400; and four are estimated at \$6,800. He described the ROW widths that exist on Aurora Avenue from NE 165th Street to NE 205th Street, noting that it varies from 90 feet all the way up to 150 feet. Finally, he said staff is still working on a cost estimate for the grade-separated crossing at NE 185th Street and Aurora as proposed by the Shoreline Merchants Association.

Mr. Olander pointed out that Initiative 776 caused reductions in street maintenance but the service level for street sweeping has not changed.

Mayor Jepsen opened the public hearing.

(a) Patty Crawford, Shoreline, opposed the fact that a higher priority has been placed in the CIP on transportation projects than on habitat projects. She said 70 percent of the CIP is spent on transportation projects, which can potentially harm the environment. She suggested that the City rely more on its own funds rather than state and federal grants, adding that the City needs to be more accountable to downstream neighbors who help fund grants. She contended that the money budgeted for habitat restoration is not spent on habitats but rolled back into the CIP to be used for conveyance and treatment. She asked for clarification on the line item entitled "storm water ROW acquisition" (\$120,000), and wondered if the Gaston development might qualify for it.

(b) Tim Crawford, Shoreline, questioned the purpose of ROW acquisition funds, noting that the last time he heard the term "acquisition" the City was trying to condemn his house in order to build a fire station. He reiterated that Council needs the public to tell it where sensitive areas are. He said the stream inventory and the Thornton Creek catch basin inventory are both issues that require public input.

(c) Janet Way, Shoreline, representing the Paramount Park Neighborhood Group, said accountability and responsible budgeting should be the main objective of the CIP. She questioned whether City Hall and Aurora Avenue should be priorities when there have been budget reductions to Surface Water, habitat restoration, and road maintenance projects. She expressed concern that the Interurban Trail would terminate at NE 155th Street, a location she felt was dangerous for pedestrians. She agreed with the Paramount Park Open Space Acquisition line item, but felt that Surface Water fees

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should be spent on stream and watershed mitigation. She said additional clarification on the Stormwater ROW acquisition is needed. She asked if the sidewalk proposal was going to use Seattle's environmentally-friendly "Sea Street" model of sidewalk design.

(d) Ginger Botham, Shoreline, said that based on a community survey, citizens believe stormwater issues, roads, parks, and sidewalks are more important than the City Hall project. She suggested the City was placing too much emphasis on lower priority items, noting that only 13 percent of citizen's rank City Hall a priority.

Upon motion by Councilmember Hansen, seconded by Councilmember Gustafson and unanimously carried, the public hearing was closed.

Councilmember Gustafson and Ms. Tarry clarified that the CIP will be adopted on July 21.

Councilmember Ransom noted that several businesses along Aurora indicate they have multiple utility connections, and that they anticipate much higher costs for utility connections than does Mr. McKinley. He asked if Mr. McKinley was implying that the City's budget would cover nearly all the costs for undergrounding.

Mr. McKinley clarified that the City's budget would not cover the entire cost, noting that the estimate used for undergrounding costs in the 145th to 165th section totals \$450,000.

Councilmember Ransom wondered why the businesses' estimated costs and number of utility connections was more than the City's estimate.

Mr. McKinley reiterated the factors affecting cost, including trench length, amperage, and business configuration. He noted that some connections are made from walls and rooftops, and some buildings have one main connection to the street that distributes power to individual units. Mr. McKinley stated that certain sites may have special needs that could cost more. He maintained that the City will work with individual properties to help minimize costs.

Councilmember Chang commented that his business has two utility connections because it consists of two separate buildings. He expressed interest in seeing the detailed breakdown of undergrounding costs used by Seattle City Light and CH2MHill, noting that the City of Federal Way was quoted \$180/foot for undergrounding.

Councilmember Ransom expressed concern that the businesses at 200th Street could be pushed further to the east, much like they are between NE 175 and NE 185 Street, due to the 90-foot ROW width.

Mr. McKinley said there is no analysis of that area yet because staff has concentrated on the Central Subarea to this point. He said staff would likely follow the "32 points" guideline of shifting the ROW where possible in order to minimize impacts.

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Councilmember Ransom speculated that if the ROW is firmly established in the Central Subarea, it would most likely be duplicated in the northern phase, which will impact businesses. He then asked for clarification as to why habitat restoration funds have not been spent in the past.

Ms. Tarry said that prior to 2003, the City only spent \$12,000 from this category. She clarified that the proposed CIP includes \$25,000/year for that program, although no funding is proposed for 2004 in anticipation of a completed Surface Water Master Plan.

Responding to Mayor Jepsen, Ms. Tarry clarified that Public Works Trust Fund Loans are proposed be used to complete major projects because there are not enough revenues coming in from management fees. She said it makes good financial sense to use the money up front and then repay it over time.

Mayor Jepsen clarified that the City did not try to condemn Mr. Crawford's house for use as a fire station because the fire district is a separate taxing district whose actions have nothing to do with the City.

Deputy Mayor Grossman explained that City Hall did not rate high on the community survey because people are understandably interested in issues that directly affect them, like surface water. He said the City Hall issue is similar to the decision people make about renting versus buying, noting that it makes more long-term sense to buy rather than rent.

Councilmember Gustafson asked staff to clarify the \$117,000 line item in the CIP for Spartan Gym Upgrades. Ms. Barry noted that the joint use addendum with the school district requires the City to invest up to \$650,000 for these improvements. Ms. Tarry clarified that the \$117,000 figure is the balance of what is owed on the upgrades.

Noting the pre-design study for the North 160th Street at Greenwood Avenue N intersection, Councilmember Gustafson asked if there was a potential completion date for that project. He said this project should be a high priority due to the traffic problems there.

Mr. Haines suggested that the Transportation Master Plan and Shoreline Community College's master planning process would provide additional recommendations on how to address that troublesome intersection.

Councilmember Chang noted that each segment of Phase 2 of the Aurora Project costs approximately \$4 million more than Phase 1. He wondered if those figures represent property acquisition and the complex construction solutions that will occur in Phase 2.

Mr. McKinley said the planning has not extended beyond the overall concept that was done in the late 1990's for the full three miles, so the true costs in Phase 2 will not be known until the environmental, design, and engineering issues are resolved. He

suggested there could be some big challenges and tough choices to make due to the geographic features of Phase 2.

Mr. Haines said the estimates reflect the best information the City has at this particular time, but those estimates will be refined as more information comes available in the future. He said he would do his best to find other resources in order to keep the City's contribution proportional.

Councilmember Chang felt that property acquisition will cost much more than the City is budgeting. He said Council should consider minimizing the costs for City Hall so it can concentrate on citizens' priorities such as storm water.

Responding to Mayor Jepsen, Mr. Haines said the Sea Street is the technique of combining environmental edge treatments, water quality, traffic calming, and pathways all into a single project. He said he would like to explore opportunities to propose such improvements.

Deputy Mayor Grossman also expressed interest in the Sea Street concept, noting that he was recently involved in a project that utilized permeable concrete. Responding to the comment that most CIP funds are spent on transportation rather than habitat restoration, he pointed out that transportation projects like the Aurora project have substantial line items that improve stormwater drainage and water quality.

Councilmember Gustafson felt comfortable that the proposed CIP is fiscally responsible and accountable to the citizens of Shoreline.

Mr. Haines explained that the Advanced Stormwater ROW Acquisition line item is based on the belief that the City needs to have some funding available for potential opportunities to enhance the stormwater system. He noted that the City has a completed inventory of the conveyance/manhole/catch basin system.

9. ACTION ITEMS: OTHER ORDINANCES, RESOLUTIONS AND MOTIONS

- (a) Ordinance No. 324 amending the Development Code to further clarify and add administration and procedures for critical areas, including amending the Shoreline Municipal Code Chapters 20.10, 20.20, 20.30, and 20.80

Mr. Olander made introductory remarks, noting that staff has tried to incorporate some of the comments made at the public hearing into tonight's proposal. Although staff felt confident the amendments did not alter protective standards, the City prepared a SEPA checklist and issued a Determination of Non-Significance on the amendments. He emphasized the need for the Critical Areas ordinance to maintain the proper balance between environmental preservation and private property rights.

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The consultant who advised the City, Paul Ingrham, described the model developed by the Office of Community, Trade and Economic Development to give guidance to municipalities as they update their critical areas regulations. He said the model is intended to be a tool to help planners draft their own code language.

Mr. Olander commented that the model is set up so local planners can utilize relevant portions to help fill gaps and strengthen their own codes.

Anna Kolousek, Assistant Director of Planning and Development Services, explained that all the comments on this proposal were submitted after the SEPA Determination of Non-Significance (DNS) was issued and do not respond directly to the SEPA checklist itself. She described meetings with representatives of the Thornton Creek Legal Defense Fund to review their suggestions. She described the review process and emphasized that the SEPA checklist is tied to this non-project action, so individual projects will be required to have their own SEPA checklists.

She then outlined the additional changes staff is proposing in response to public input as outlined on page 165 of the Council packet. The changes made respond to concerns about the definition of building footprint, reasonable use, qualified professional, and utility. Other changes specify the requirements for pre-application meetings and clarify the purpose of the Critical Area Special Use Permit.

Councilmember Ransom moved to adopt Ordinance No. 324. Councilmember Hansen seconded the motion.

Councilmember Ransom commented that the new definition of qualified professional does not completely reflect his recommendation.

Ms. Kolousek explained that staff did not have the exact wording from Councilmember Ransom's proposed definition, so staff tried to create a definition that would capture his intent. She said staff is open to additional revision, although many qualified people feel the proposed definition is adequate.

Councilmember Ransom moved to amend the definition as follows: "A person with experience, training and competence in the pertinent discipline. A qualified professional must be licensed to practice in the State of Washington in the related professional field, if such a field is licensed. If not licensed, a qualified professional must have a national professional certification in the pertinent field, based on education, experience, and a qualifying examination." Councilmember Hansen seconded the amendment.

Councilmember Hansen felt the additional language did not change the definition substantially. Councilmember Montgomery concurred.

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Councilmember Gustafson asked why the additional language requiring a qualifying examination was necessary. Councilmember Ransom explained that there are many national certifications that do not require a qualifying examination.

Councilmember Hansen asked how the amendment would provide additional protections.

Councilmember Ransom explained that many professions offer certifications that are not based on strict standards, so the amendment would prevent the City from receiving unqualified opinions.

Responding to Mayor Jepsen, Ms. Kolousek said although this issue was briefly discussed with the Thornton Creek Legal Defense Fund, their only concern was that some professionals might be disqualified because of a lack of qualifying examination. Councilmember Ransom said the amendment includes language that provides for professionals that have education and experience in lieu of an exam.

Ian Sievers, City Attorney, pointed out the additional language does not establish measures of experience, education, or the difficulty of the qualifying examination. He felt that the certification clause had the greatest amount of variability.

A vote was taken on the amendment, which failed 2-5, with Councilmembers Chang and Ransom voting in the affirmative.

Councilmember Ransom reiterated his suggestion from an earlier meeting that the decision-making body for the Critical Areas Reasonable Use Permit should be the City Council rather than the Hearing Examiner. He moved this amendment, but it died for lack of a second.

Councilmember Ransom asked if staff responded to the concerns expressed in the letter from the WDFW. Ms. Kolousek pointed out her written response to WDFW on page 151 of the Council packet. She noted that she tried to contact Mr. Pentico several times by telephone. Mayor Jepsen commented on his unsuccessful attempts to contact Mr. Pentico.

Councilmember Hansen noted that the response from WDFW does not necessarily assert that the proposed changes will create greater environmental impacts. Mr. Olander felt Ms. Kolousek's letter adequately responded to their concerns.

MEETING EXTENSION

At 10:00 p.m. Councilmember Hansen moved to extend the meeting to 10:30 p.m. Councilmember Ransom seconded the motion, which carried 6-1, with Councilmember Montgomery dissenting.

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Mayor Jepsen noted that letters from the TCLDF and WDFW expressed concerns about buffers. The Mayor and Ms. Kolousek confirmed that buffer requirements would be addressed in the next phase of the Critical areas update.

Councilmember Hansen mentioned that critical area buffers are covered in several places in the code, noting that they have also been incorporated into the procedural changes. Ms. Kolousek said the issue of buffers was referenced in order to clarify its actual purpose.

Councilmember Ransom asked if the proposed changes would enable developers such as Aegis and Gaston to circumvent prior court actions and apply for permits under new standards.

Mr. Sievers said the proposed changes simply clarify ambiguities in the code, noting that developers have more options, including the Reasonable Use Permit, under the City's current standards. He said Gaston's attorney wanted clarification so that he could reapply without having to argue a particular interpretation of the existing criterion.

Councilmember Ransom asked if these new procedures make any substantive changes in the procedures.

Mr. Sievers said it was the view of the City that no substantive changes have been made, noting that the correct interpretation of the criteria is not to bar projects such as Gaston that have a vested lot.

Ms. Kolousek emphasized that fact that the changes now limit the Critical Areas Special Use Permit to public agencies and utilities.

Councilmember Hansen and Gustafson pointed out typographical errors in Exhibit 1.

Responding to Councilmember Gustafson, Mr. Olander explained that one small part of the stream inventory is still undergoing scientific review. When that is completed, it will return to the Planning Commission for consideration.

Responding to Councilmember Gustafson, Ms. Kolousek said these last changes had not been reviewed by the Planning Commission. In the audience, Planning Commission Chair Brian Doennebrink had no concerns with the changes.

Councilmember Chang questioned the wisdom of acting on this item now, since the City will have much more information through the stream inventory and the adoption of the Surface Water Master Plan.

Ms. Kolousek stressed the importance of clarifying the procedural requirements now, noting that the protective standards will be addressed in the next phase.

Councilmember Ransom asked Mr. Sievers to clarify whether it was his professional legal opinion that the proposal does not include substantive changes to the code.

Mr. Sievers felt confident that there is a division between procedures and substantive protective standards, although there are arguments that can be made on both sides of the issue. He said the City decided to be overly cautious and prepare a SEPA checklist. He also noted that "best available science" issues are not addressed in the procedural phase, but in the next phase.

Mayor Jepsen said the attorney for TCLDF commented that the proposed changes do "tighten up" the regulations, although there are still a few areas they would like to modify.

A vote was taken on the motion, which carried unanimously and Ordinance No. 324 amending the Development Code was passed.

- (b) Motion to authorize a Notice of Intent to Form a Municipal Court and temporarily waive arbitration for the purpose of entering discussions for district court services

Councilmember Hansen moved to authorize a Notice of Intent to Form a Municipal Court and temporarily waive arbitration for the purposes of entering discussions for district court services. Councilmember Gustafson seconded the motion.

There was consensus to waive the Council's rules and allow testimony by Shoreline District Court Judge Douglas Smith.

Judge Smith affirmed that the judges wish to provide court services and will be open to discussions. He said this motion provides an opportunity for all sides to be open.

Responding to Councilmember Ransom's question as to why the City must waive its right to arbitration, Eric Swansen, Senior Management Analyst, said that King County Executive Ron Sims will not discuss the district court issue unless municipalities waive this right. Mr. Swansen said at this point the City is entering into discussions, not negotiations, about this issue.

Councilmember Hansen noted that municipal courts was a very controversial issue at the Association of Washington Cities conference. He was hopeful that the City could move forward and renegotiate a new proposal that will benefit the City.

A vote was taken on the motion, which carried 7-0.

MEETING EXTENSION

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At 10:30 p.m. Councilmember Ransom moved to extend the meeting to 10:35 p.m. Councilmember Chang seconded the motion, which carried 4-3, with Mayor Jepsen and Councilmembers Gustafson and Montgomery dissenting.

- (c) Ordinance No. 329 granting a Special Use Permit to Parker's Casino

Councilmember Ransom moved to adopt Ordinance No. 329. Councilmember Gustafson seconded the motion.

Councilmember Ransom asserted that the Parker's proposal to provide off-track betting does not expand a gambling use and should not require additional parking. He felt Parker's should not be required to provide more parking because this type of expansion does not necessarily increase the number of patrons.

Mr. Sievers noted that parking is a code requirement, not a condition of this permit.

Rachael Markle-Oleson, Planning Manager, said that because this is an intensification of the gambling use, not an expansion, the City would require Parker's to increase parking if a parking problem arises in the future. However, until that happens no additional parking is required under this ordinance.

A vote was taken on the motion, which carried 7-0, and Ordinance No. 329 was adopted granting a Special Use Permit to Parker's Casino.

10. ADJOURNMENT

At 10:35 p.m., Mayor Jepsen declared the meeting adjourned.

Sharon Mattioli
City Clerk