

CITY OF SHORELINE

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

Monday, April 10, 2006
7:30 p.m.

Shoreline Conference Center
Mt. Rainier Room

PRESENT: Mayor Ransom, Deputy Mayor Fimia, and Councilmembers Hansen, McGlashan, Ryu, and Way

ABSENT: Councilmember Gustafson

1. **CALL TO ORDER**

The meeting was called to order at 7:35 p.m. by Mayor Ransom, who presided.

2. **FLAG SALUTE/ROLL CALL**

Mayor Ransom led the flag salute. Upon roll call by the City Clerk, all Councilmembers were present with the exceptions of Deputy Mayor Fimia, Councilmember Gustafson and Councilmember Hansen. Deputy Mayor Fimia arrived shortly thereafter.

Upon motion by Councilmember McGlashan, seconded by Councilmember Way and carried 5-0, Councilmember Gustafson was excused.

(a) Proclamation of "Donate Life Month"

Mayor Ransom read the proclamation and named the month of April, 2006 "Donate Life Month." He presented the proclamation to Patti Knight and Patrick Broadgate of the Living Agency Foundation.

3. **CITY MANAGER'S REPORT**

Bob Olander, City Manager, noted that the purchase of three-acres of South Woods has closed. He thanked the Shoreline School District, King County for the Conservation Futures Grant Program, and the residents of Shoreline. There was a bid opening for the Field A&B Improvements and the low bid was under the City's estimate. He announced that Seattle City Light (SCL) has an Energy Incentive Program that offers six monetary incentive programs to encourage residents and businesses to take action to reduce energy needs. He announced that Mayor Ransom swore in four new Planning Commission members: Rocky Piro, Sid Kuboi, David Pyle, and Michelle Wagner. Rocky Piro was nominated as the new chair and Sid Kuboi was nominated as the vice chair. On April 15th there will be a construction party at the Shoreview and Boeing Creek trails for City volunteers.

Councilmember Way added that the City has several Earth Day 2006 events planned and interested parties should refer to the City's website or Channel 21 for more information.

Mr. Olander also mentioned that there are several "Ivy Out" events scheduled throughout the parks and trails of the City and any interested parties should call the City for more information.

4. REPORTS OF BOARDS AND COMMISSIONS:

Councilmember Way announced that she attended the WRIA 8 meeting. She said it was a complex meeting and speakers talked about priorities and the processes for the committees. She noted that she also attended an excellent workshop on Crisis/Risk Management given by King County. She said the main topic of the workshop was to identify ways organizations deal with crisis situations.

Councilmember Ryu noted that on April 5th she attended a presentation given by Sergeant Leona Obstler on the City's Business Watch Program. Additionally, she said that even though the transfer station is being closed residents shouldn't stop recycling at their homes. She added that she went to a dinner given by Presidents Advisory Commission on Asian-American and Pacific Islanders on Thursday, April 6th. She concluded and announced that this week is "Small Business Week" as proclaimed by Governor Gregoire.

Councilmember McGlashan said he would be attending the Juvenile Justice Conference as part of the Northshore/Shoreline Community Network on May 1st.

5. PUBLIC COMMENT

(a) Chris Eggen, Shoreline, stated that the Parks bond provides improved sports facilities, ballfields, trails, and complete the Interurban Trail. He added that the City has a unique opportunity to acquire forest land. He urged the public to vote "yes" for the parks bond to purchase the three properties; South Woods' 12.6 acres, the Seattle Public Utilities' (SPU) property next to Hamlin Park 8.3 acres, and the Kruckeberg Botanic Gardens.

(b) Anne Fishburn, Shoreline, spoke in support of the parks bond on behalf of "ShoreDog", a group of citizens supporting an off-leash dog park in Shoreline. She said this bond is important for the acquisition and parks improvements throughout the City. She particularly supported the \$150,000 for an off-leash area in a City park. She reported that there are over 12,000 dogs in Shoreline and no off-leash area, while in Seattle there are 11 of them. She also said North Acres Park in Seattle has over 500 users per day. She felt that an off-leash park here would also mean fewer dogs would be lost in the City.

(c) Peter Henry, Shoreline, spoke in support of the parks bond and invited the public to come to the Shorecrest High School parking lot on April 15th to a rally in

support of it. He thanked the Mayor, the Deputy Mayor, the Council, and the City Manager for doing a fantastic job. Responding to Councilmember Way, Mr. Henry replied that the rally would be taking place at 11:00 am and King County Councilmember Ferguson and Representative Marilyn Chase would be attending.

(d) Greg Logan, Shoreline stated he is dismayed about the recall article and recent articles in the Enterprise about illegal City Council meetings. He said this is a horrible burden that has been put on the City and the Council needs to be doing something more meaningful like dealing with more serious issues such as juvenile behavior and homelessness.

6. APPROVAL OF THE AGENDA

Councilmember Way moved approval of the Consent Calendar, pulling Item 7(c) and moving it to Item 9(a). Deputy Mayor Fimia seconded the motion, which carried 5-0.

7. CONSENT CALENDAR

Deputy Mayor Fimia moved approval of the Consent Calendar as amended. Councilmember Ryu seconded the motion, which carried 5-0, and the following items were approved:

**Minutes of Special Meeting of February 21, 2006
Minutes of Workshop of March 6, 2006
Minutes of Special Meeting of March 20, 2006**

**Approval of expenses and payroll as of March 30,
2006 in the amount of \$2,742,080.60**

**Motion to authorize an Interlocal Agreement between the City
of Shoreline and the City of Lake Forest Park relating to
Recreation Program Reimbursement**

**Ordinance No. 419, updating City Funds and Amending
Chapter 3.35 of the Shoreline Municipal Code**

Councilmember Way asked that the public submit its ideas and priorities for the Council to consider at its Retreat on April 27-28. She noted there will be an input form on the City website called "Community Goals Survey" for the submission of ideas from residents.

Mayor Ransom added that emails, comment forms, and submissions that are sent via voicemail will also be accepted.

Councilmember Ryu asked that this be advertised on Channel 21 as well.

8. ACTION ITEM: PUBLIC HEARING

- (a) Public hearing to receive citizens' comments on Ordinance No. 421, extending a Moratorium on Hazardous Tree Exemptions; and

Ordinance No. 421, Extending a Moratorium and Interim Control pursuant to RCW 35A.63.220 Prohibiting the Cutting of Trees in Critical Areas and Prohibiting Land Clearing or Grading in Critical Areas until July 3, 2006

Mayor Ransom opened the public hearing.

Joe Tovar, Planning and Development Services Director, stated that staff has been refining the proposed permanent regulations regarding tree cutting over the past weeks. He estimated that a recommendation would be brought to the Council in early June since it's on the Planning Commission agenda for May 18.

1) Nancy Rust, Shoreline, favored extending the moratorium because she said Mr. Tovar is busy speaking to the residents on both sides of the issue and the Planning Commission still needs to work on this.

2) Elaine Phelps, Shoreline, concurred with the previous speaker, stating it has been a pleasure working with Mr. Tovar. There are many interests at stake and so is the City of Shoreline. This will effect how Shoreline works toward preservation and how the City retains, sustains, and improves critical areas.

Upon motion by Councilmember Way, seconded by Councilmember Ryu and carried 5-0, the public hearing was closed.

Deputy Mayor Fimia moved to extend the moratorium on hazardous trees until July 3, 2006. Councilmember McGlashan seconded the motion.

Deputy Mayor Fimia asked if the Planning Commission could have their public hearing earlier than May 18.

Mr. Tovar responded that due to notice requirements and the status of the final draft, it will not be possible to hold public hearing sooner then May 18. He noted that the public will be able to view the presentation at the May 4 Planning Commission meeting.

Councilmember McGlashan inquired if the Association for the Responsible Management of Innis Arden (ARM) and the Innis Arden Club had made any progress toward resolution of their disagreements. He said he would like to see both parties work out

their differences on their own and wondered if they were even meeting on their own any longer.

Mr. Tovar was not sure, but he has heard from several residents from both organizations.

Councilmember Way noted that this isn't only an Innis Arden issue. She said there are many trees in Shoreline that may need protection and hazardous trees to deal with. This matter involves everyone in the City. She noted that in Bellevue there are enormous trees that are allowed to stay despite the downtown development that City is experiencing. Our City needs to explore opportunities just like that. These trees add water/air quality and provide a healthy habitat. She stated that the City needs to work for the best outcome in the interest of the public.

Councilmember Ryu asked that the City Manager ensure the May 4 and May 18 Planning Commission meetings are aired on Channel 21.

Deputy Mayor Fimia inquired about the cost to televise the two meetings and whether or not there was money in the budget they could use for it.

Scott Passey, City Clerk, estimated a cost between \$700 - \$1,200 to record each meeting.

Mr. Olander responded that he would find the money in the budget.

Mayor Ransom expressed support for the extension because he is satisfied that staff is thoroughly covering this issue. He felt the two meetings concerning the hazardous tree regulations are important enough to televise and agreed with allocating funds towards it.

Councilmember Hansen arrived at 8:28 p.m.

Councilmember Way wanted Mr. Tovar to clarify the tree issues in the City.

Mr. Tovar replied that there are two different kinds of items that will be a part of the regulations; one involves what the regulation will be for hazardous trees. The next is what should happen to trees in critical areas that may not be hazardous, but impact views.

Councilmember Way wondered if any provisions of the proposed ordinance would preserve significant trees or heritage trees, or if this would be a separate topic.

Mr. Tovar said there are provisions in the Code for landmark trees and the staff will discuss them when it is presented to the Planning Commission and the Council. The staff report will provide a narrative summary on all of the City regulations that involve trees both on private property and in the public right-of-way.

A vote was taken on the motion to extend the moratorium on hazardous trees until July 3, 2006, which carried 6-0.

9. NEW BUSINESS

- (a) Motion to Approve a Professional Services Contract
or the Thornton Creek Corridor Preliminary Design Project

Councilmember Way requested that staff highlight what has been done with this project.

Jill Marilley, City Engineer, said that in 2001 the Council approved a \$5 million plan for Ronald Bog. In 2002, the new Public Works Director, Paul Haines, advocated for lower cost solutions to do more with less money. There were several maintenance projects which needed to be done downstream and upstream such as detention and incremental improvements which were done in 2003 and 2004. These have led to the elimination of any flooding problems in the bog over the past two years.

Jerry Shuster, Surface Water Manager, noted that they videotape the downstream flows of Ronald Bog and every year sections of the pipe are settling and reverse grade. Therefore, the focus of this project is directed at the downstream of Ronald Bog which potentially could cause some flooding of homes in the area if this work is not done.

Mr. Olander added that the downstream piping is full of roots and some pipe separation.

Ms. Marilley stated the system is older and is leaking.

Councilmember Way referred to page 42 of the packet and inquired what the system will look like.

Mr. Shuster said he is not sure what it will look like, but it will provide more water storage volume in Ronald Bog.

Councilmember Way asked if the structure would have a "naturalistic style" and fit into the look of the bog.

Mr. Olander said it may have to be a variable level wier to avoid the downstream issues.

Councilmember Way said she would be interested in identifying ways of improving the wetland functions at Ronald Bog and even at Cromwell Park from a natural aspect. She noted that the words "bypass pipeline" scare her and it refers to an engineered solution that was popular 10 or 15 years ago. She asked about the impact of using bypass pipelines.

Mr. Shuster responded that they do not have any idea what this system will look like because it is in the concept phase.

Councilmember Way asked how much sediment was being sent downstream. She said it outlined that no erosion has taken place in the creek. She state there was lots of sediment in Sunde Pond and it may be coming from other sites. Sediment, she said, is a big water

quality problem. She wished to know what this project will do to address the sediment issue.

Deputy Mayor Fimia moved to approve the Professional Services Contract for the Thornton Creek Corridor Preliminary Design Project. Councilmember Ryu seconded the motion.

Mayor Ransom wanted to know how much the piping in Ronald Bog would cost if it had to be replaced.

Mr. Shuster replied that it would cost \$1.5 million for this project and that is a fairly high estimate depending on the configuration.

Mr. Olander said part of it would be paid for by the Public Works Trust Fund Loan.

Deputy Mayor Fimia asked if the scope could be expanded on page 42 on property acquisition. She said the City could use properties to enhance the system and look at the pervious areas along the corridor and remove them. She argued that the City could devise an incentive program for commercial and residential property owners who wish to use a portion of their property to be less-impervious instead of the City having to do such a large capital project to accommodate all of the runoff.

Mr. Shuster responded that Corliss Avenue and Corliss Place are right-of-ways and the only impervious surfaces in the area except for homes.

Deputy Mayor Fimia noted that Echo Lake abuts several parking lots, some of which are probably unused. She felt the City should reclaim that pervious surface that is now impervious surface.

Ms. Marilley noted that Public Works is looking at utilizing different types of materials such as pervious pavement in parking lots to reduce impervious area.

Mayor Ransom asked if it would change the contract as written.

Mr. Shuster responded that it would not. He highlighted that this contract has a six-month term and they will have 30% designed by then.

Ms. Marilley explained that 30% design marks the “conceptual design phase” of the project. At this point, general cost estimates, timeframes, and general environmental impact and alternatives will be completed.

A vote was taken on the motion to approve the Professional Services Contract for the Thornton Creek Corridor Preliminary Design Project, which carried 6-0.

- (b) Motion to authorize to the City Manager an increase of \$120,000 in additional change order authority and to execute an amendment to the

Seattle City Light agreement not to exceed \$25,000, and adopt Ordinance No. 420 to increase the overall project programmed funds from \$9,971,831 to \$10,091,831 for the North City Project

Ms. Marilley highlighted that the project is on schedule and relatively on budget with the contingencies added. She said the project has stayed close to the 8.5% contingency level, but an additional \$120,000 is needed for specific City-related improvement. She clarified that \$25,000 is reimbursable, so the amount impacting the City is \$89,000.

Councilmember Hansen moved to authorize to the City Manager an increase of \$120,000 in additional change order authority and to execute an amendment to the Seattle City Light agreement not to exceed \$25,000, and adopt Ordinance No. 420 to increase the overall project programmed funds from \$9,971,831 to \$10,091,831 for the North City Project. Councilmember McGlashan seconded the motion.

Deputy Mayor Fimia inquired if the decision on this item could be delayed a week. She also asked if additional money for flaggers was approved a couple of months ago.

Ms. Marilley said it would delay some work items and potentially cause the contractor to charge the City more for the delay. She also said the money for the flaggers was approved in November for Seattle City Light (SCL) to use them so they can complete their portion of the work. SCL pays for 30% of the traffic control costs on this project.

Councilmember Ryu appreciated the response from staff and inquired if Qwest had any reimbursables to the City.

Ms. Marilley said the City's attempt to have some of the costs reimbursed by Qwest was unsuccessful.

Councilmember Way said she has heard some concerns that there may be some sidewalk issues. She wondered who was handling the quality control for them.

Ms. Marilley replied there are full-time inspectors on site from the construction management firm. She said there are some panels that are cracked which will be replaced. Since the project is not complete, there are items that need to be corrected. She said emails she received said the shading on the concrete was different, however, she said they will blend in and resemble each other.

Mr. Olander added that the 5% retainer does not get paid out to the contractor unless all project errors are corrected.

Deputy Mayor Fimia stated that she reluctantly supports this item. She said it is critical that staff take a close look at the concrete sections because they are very different in color.

Mayor Ransom said he was very concerned also, but he realized that the City is trying to keep the cost down on this project. He supported the item.

A vote was taken on the motion, which carried 6-0.

Deputy Mayor Fimia moved to televise the Planning Commission meetings of May 4 and May 18. Councilmember Ryu seconded the motion.

Mayor Ransom pointed out that the meeting on May 4 is a closed session with no public comment being taken.

Councilmember McGlashan inquired where the money would come from to televise these meetings.

Mr. Olander replied that the funds could come from the professional services line item in the Planning Department budget or the City Manager's budget.

A vote was taken on the motion, which carried 4-2, with Councilmembers Hansen and McGlashan dissenting.

- (c) Motion to adopt Ordinance No. 422, approving a Formal Subdivision for 18 Zero-Lot-Line Lots and One Critical Area Tract located at 1160 N. 198th Street

Mr. Tovar noted that this is the first example of a private project implementing low-impact development. He announced that many kinds of innovative projects will be processed by the Planning and Development Services Department (PADS) in the future. Deputy Mayor Fimia asked that Mr. Tovar explain to the Council any special process that is unique to this decision.

Mr. Tovar responded that the Planning Commission did have a public hearing on this proposal. Tonight's meeting, he said, is not a public hearing; it is to explain the Planning Commission's recommendation and answer questions about the application or the recommendation.

Councilmember Way asked how flexible the proposal was.

Mr. Olander replied that any additional conditions to the proposal should be fact-based and record-based; otherwise, the proposal should be remanded back to the Planning Commission.

Glen Pickus, Planner, outlined that the specifics of this subdivision was discussed in public hearing on March 16, 2006. He described the location, including the access requirements of the subdivision. He noted that the proposal is for 18 dwelling units in four buildings with a wetland, a buffer, rain garden, access via the adjacent property to the south. Zoning for the building is R-48 which would have been 55 dwelling units if

developed to full potential. The development also has three easements and one tract that will be set aside for the wetland and the buffer. The development has gone through a SEPA review, and a mitigated determination of non-significance (MDNS) was issued on February 7, 2006. Some of the MDNS conditions were acquiring a Hydraulic Project Application (HPA) permit from the state to do work in bodies of water. There were also MDNS conditions to clean up contaminated soil at the site, an underground storage tank, and a 55-gallon drum. There is a Type II wetland on the site which vested in September 2005, under the previous critical area regulations. The HPA permit was needed for the removal the top portion of an existing concrete bulkhead wall just above the ordinary high water mark in an effort to prevent erosion into Echo Lake. Additional staff requirements are for a raised boardwalk to protect the wetland and replacing invasive plant life with native vegetation. He noted that the drainage plan for this project will utilize bio-retention (gathering water in a vegetated area so it can permeate the ground), open grassy swales, and permeable pavement to generate less surface runoff, less erosion, and less pollution. He discussed the rain garden and displayed illustrations. He noted that they are protected and King County requires certain covenants and easements that go with the plat when a rain garden is established. He added that they can't be changed without the approval of the City.

Councilmember Hansen moved to adopt Ordinance No. 422, approving a Formal Subdivision for 18 Zero-Lot-Line Lots and One Critical Area Tract located at 1160 N. 198th Street. Deputy Mayor Fimia seconded the motion.

Councilmember Way stated she was excited to see innovations considered as a part of this project. She inquired as to where the wetland edge was located with the project and how far back that was from the existing wall.

Mr. Pickus replied that he wasn't sure of the exact distance, but estimated it was less than 20 feet.

Mr. Tovar said the path is on the lake side of the inside edge of the buffer.

Councilmember Way said originally there was a standard 100-foot buffer for this type of development and it was reduced to 50-feet because of all the mitigations being offered.

Mr. Pickus said the Code allows a 50-foot buffer if there is a habitat enhancement plan or if it is a low-impact development. He felt this project met both of those requirements.

Councilmember Way revealed that she knew Erik Davido from the Thorton Creek Alliance. She said she was discussing the permeable pavement topic with Planning Commissioner Michael Broili who told her that he has concerns about how permeable asphalt pavement performs after a hot summer takes place. She said it congeals and becomes less permeable.

Mr. Pickus noted that the King County Surface Water Design Manual specifies the types of pavement that are allowed. The site development stage has to be completed in order to

determine what type of pavement is going to be used. Staff will review and inspect the pavement once it is installed to ensure it is working properly.

Mr. Tovar noted that there was a lot of Planning Commission discussion on this point and Mr. Davido explained that there are ways to protect the pavement to prevent against any failures.

Councilmember Way made reference to page 166 of the packet and said the biologist found no fish in Echo Lake. She said just because one person doesn't see fish on a certain day doesn't mean there aren't any in the lake. She added that a letter from a neighbor reports they frequently see otter and heron on Echo Lake; animals that eat fish. She expressed concern about not seeing Echo Lake listed as draining into the McAleer Creek Watershed, a Chinook stream. She said she is also concerned about the environmental site assessment report with the underground storage tank, the 55-gallon drum, and the diesel fuel leak from an old abandoned flatbed truck. She inquired how the chemicals will be mitigated.

Mr. Pickus replied that all of the products found in the ground are all associated with gasoline. He said that the site is excavated up to 10 yards deep and the dirt hauled to a regulated site. Testing is then done to ensure all the contaminants are removed before the excavated site is filled.

Councilmember Way inquired if there was any other mitigation that needed to be done and how far down into the ground has the site been tested.

Mr. Pickus said there is no reason to think there was any significant damage done. He said it was from the fuel in the 55-gallon drum and he didn't know how deep into the ground the testing was done.

Mr. Olander also said it was a small spill and it has been relatively contained and there are procedures through the state which address the issue.

Councilmember Ryu expressed excitement about the project and thanked staff and the developer, Prescott Homes. She inquired how much more does a project like this one cost compared to a standard development.

Mr. Pickus estimated that this type of project will be less expensive in the long term.

Mr. Tovar stated that this type of low impact development would not work everywhere; this is just one location that it will work well.

Councilmember Ryu inquired what the filtration system lifespan is, to which Mr. Pickus responded that there is no limit on how long the system will last.

Mr. Olander added that it will last for a long time if it is maintained properly.

Responding to Councilmember Ryu about whether it would be appropriate to update our regulations to ensure people know how to maintain the system, Mr. Pickus said those provisions would be in the design manual and would be available to current and future owners of the property.

Mr. Tovar added that it would also be a part of the covenants of the homeowner's association.

Councilmember McGlashan inquired if the condominiums would be for adults only and how would a resident would access the park. He also asked why the entire concrete bulkhead wall wasn't proposed for removal.

Mr. Pickus responded that each unit would have three bedrooms so children would be a possibility and access to the park would be from Aurora Avenue with no access on 199th because it is a private road. He said the Washington Department of Fish and Wildlife told the developer that all of the bulkhead could not be removed.

Deputy Mayor Fimia expressed support for the project, noting there are developers that want to do these types of projects. She pointed out that the condominiums have three bedrooms each, which would attract families with children. Thus, she is concerned about split-rail fencing when children are present. She also commented on the lack of access to Echo Lake Park from this site.

Mayor Ransom wondered if the Council could add a condition for the developer to create a small, on-site "tot lot" for children to play.

Mr. Tovar said it is at the Council's discretion, but the Planning Commission felt that development had so many other amenities that it didn't want to make it a requirement.

Councilmember Way inquired where the tot lot could be placed on the property.

Mr. Pickus stated there is space at the end of the pervious path at the edge of the buffer.

Councilmember Hansen said he was glad to see the developer is willing to work under these conditions. He asked if the developer thought about oil-eating microbes to eliminate the spill. He suggested that the time to put restrictions on the project is at the building permit phase.

Mr. Olander clarified that the Council will not consider this project again if they approve it tonight.

Mayor Ransom expressed concerns with the difference in a 100-foot and a 50-foot buffer. He said there will be developers who inquire why this one site was allowed a 50-foot buffer. This will set a precedent and the Council needs to make it clear what the developer is doing differently on this site as compared to others.

Mr. Tovar noted that because this is a low impact development, it is able to have a smaller buffer with more enhancements. He mentioned that the Planning Commission has recommended revisiting the Department of Ecology (DOE) 2005 Wetland Manual for categorizing wetlands. He said this is a pilot project and doesn't really set a precedent in Shoreline.

Councilmember McGlashan said he would not support the item without a tot lot amendment. He felt that even with a tot lot on the premises, children would be attracted to play in the buffer area.

MEETING EXTENSION

At 10:00 p.m., Deputy Mayor Fimia moved to extend the meeting until 10:30 p.m. Councilmember Ryu seconded the motion, which carried 5-1, with Councilmember Hansen dissenting.

Responding to Councilmember Way, Mr. Pickus said that he wasn't sure of how much water percolates into the ground, but there is a natural setting there now and the proposal is to enhance water flows into the ground instead of into the lake. This will make the entire system amenable to infiltration.

Mr. Tovar added that this would be a substantial improvement to the quality and volume of flows if we believe in the 2005 DOE Wetland Manual.

Councilmember Way said she spoke to a neighbor about algae blooms. She added that the City needs to work backwards and improve the quality of the lake.

Mr. Tovar responded that he is working on another project at the south end of the lake and if all the properties had these types of low impact improvements the lake would be substantially better.

Councilmember Ryu supported the project with the tot lot condition and agreed to direct staff to work on it.

Mr. Pickus stated that the most logical spot for a tot lot on this development would be by the trail.

Deputy Mayor Fimia moved to add a condition in which the "developer shall provide a fenced tot lot on-site as per Shoreline Municipal Code 20.50.160." Councilmember Ryu seconded the motion.

Deputy Mayor Fimia said a fenced tot lot would assist in lowering the potential danger for children.

A vote was taken on the amendment, which carried 5-1, with Councilmember Hansen dissenting.

A vote was taken on the motion to adopt Ordinance No. 422, approving a Formal Subdivision for 18 Zero-Lot-Line Lots and One Critical Area Tract located at 1160 N. 198th Street as amended, which carried 6-0.

(d) Motion Authorizing Legal Defense of Recall Petition

Flannary Collins, Assistant City Attorney, explained that a petition was filed on March 30, 2006 with the same allegations as in King vs. Fimia et al. She outlined the criteria for providing defense as provided in the Shoreline Municipal Code. The City Manager's recommendation is that legal defense should be provided without a reservation of rights. In this case, the Superior Court will hold a hearing which will not inquire on the actual truth or falsity of the claim or allegation. There will be no findings, thus no reservation of rights is necessary. She said the two separate motions to be made are for the legal defense of Mayor Ransom and for the legal defense of Deputy Mayor Fimia.

Mayor Ransom called for public comment.

1) Frank Moll, Shoreline, suggested that the Council look at the petition closer. One aspect involves the provision of money for the defense, and another involves whether the recall parties should vote on it. He cited RCW 42.23.030 and the Shoreline Code of Ethics and said the Council should at all times avoid conduct that appears improper. He noted that he is one of the petitioners against the Council.

2) Elaine Phelps, Shoreline, said this recall suit is exactly like the previous suit. She felt the allegations in the suit are unsupportable and amount to harassment. She emphasized that if the City doesn't support it's Councilmembers against this kind of harassment then nobody will run for Council in the future.

3) Wendy DiPeso, Shoreline, thanked the City for its hard work and read an excerpt from the staff report which quotes a State Supreme Court ruling on this kind of case. She was in favor of providing legal defense.

Councilmember Ryu moved that the criteria for providing a defense under Shoreline Municipal Code Chapter 2.40 are met for Mayor Bob Ransom and the City Attorney is authorized to provide legal defense for the Mayor in his recall litigation. Councilmember Way seconded the motion.

Councilmember Hansen announced that he was made aware of this issue on Friday and has not had sufficient time to review it. He asked for it to be deferred for a week. He said if he must vote at this meeting he will vote against the motion.

Mr. Olander said this will move very quickly to a Superior Court hearing once the prosecutor certifies the petition. He believed there was a sense of urgency if the Council wished to provide defense.

Ms. Collins said that the prosecutor said the case should be on the Superior Court calendar within the next 2 to 3 weeks.

MEETING EXTENSION

At 10:30 p.m., Deputy Mayor Fimia moved to extend the meeting until 10:45 p.m. Councilmember Ryu seconded the motion, which carried 6-0.

Councilmember Way said the Councilmembers have already been served and legal counsel is required now so they can be prepared.

Councilmember Hansen replied that it can be done next week after the Council is better informed.

Councilmember Way felt the lawsuit was another attempt to intimidate Councilmembers. She said she will not be intimidated by these tactics. She believed this was brought by people who lost the last election. She noted that the Council has been working collaboratively and getting work done over the past several months.

Councilmember Ryu supported the motion based on the recommendation of the staff. She said the Council is obligated to provide support. This legal action, she said, is not strengthening the City.

Councilmember McGlashan agreed with Councilmember Hansen and said that this item was "thrown at the Council" on Friday. He said he spent several hours on his computer at home trying to understand the issue. He asked if there was some differentiation because this item involves the elections office.

Ms. Collins responded that it definitely involves the elections office because the King County Prosecutor has to do a ballot synopsis.

Mr. Olander added that it starts out being a legal issue. The legal test, he continued, is whether the allegations are true and if the allegations meet the recall requirements. There is a mix of the legal and elections process, he concluded.

Councilmember McGlashan outlined that RCW 35.21.023 states all recall defense expenses shall be paid by the city or town if the officials approve such defense.

Mr. Olander highlighted that in this type of case, there is no verdict of guilty or innocence. The electorate, at a later date, will make that decision at the polls. He added that the recall petition was filed 7-10 days prior to the meeting and a decision is needed as soon as possible.

Councilmember McGlashan agreed in that Councilmembers should expect legal defense when these matters arise.

Councilmember McGlashan moved that the City appoint in-house counsel through the City Attorney's Office for Mayor Ransom and Deputy Mayor Fimia instead of hiring an outside attorney. Councilmember Hansen seconded the motion.

Ms. Collins stated she spoke to City Attorney Ian Sievers and said since the Council is split on the issue, representation is not feasible.

MEETING EXTENSION

At 10:45 p.m., Councilmember Ryu moved to extend the meeting until 11:00 p.m. Deputy Mayor Fimia seconded the motion, which carried 6-0.

Mr. Olander advised that it may be a good idea to utilize the same counsel that represented the Councilmembers previously because the issues are similar and there would be some time and cost savings.

Councilmember Hansen moved to table this item until the April 17, 2006 City Council Meeting. Councilmember McGlashan seconded the motion.

Councilmember Way noted this item was triggered by outside citizens, not by the court.

Mayor Ransom said it is unreasonable to restrict the preparation of a case to one week before going before a judge, so he opposed the motion to postpone.

Councilmember Way agreed and said this is a violation of a Councilmember's right to defense.

A vote was taken on the motion to table this item until the April 17, 2006 City Council Meeting, which failed 2 – 4, with Councilmembers McGlashan and Hansen voting in the affirmative.

A vote was taken on the amendment to add "in-house" before "legal defense," which failed 2 – 4, with Councilmembers Hansen and McGlashan voting in the affirmative.

Mayor Ransom read a statement pertaining to a recent State Superior Court case involving the Port of Seattle from the staff report to illustrate that the state statute provides each councilmember a voting right on the question of legal defense, even when they may be the subject of the recall. He said the City Attorney confirmed this with a second opinion, so Mayor Ransom is voting in favor of the motion.

Deputy Mayor Fimia announced she is voting in favor and stressed that the case and the basis for recall are baseless. She felt this is only eroding trust and preventing the Council and residents from working collaboratively. She said she hopes the City can move beyond this, and the people who have brought the lawsuit have no evidence. Negative things are read into things like this, however, she said it will not stop the Council from moving forward and addressing City issues.

Councilmember Hansen said he will vote against it. He added that he is voting against it because he has not had adequate time to review it and come to a reasoned decision.

A vote was taken on the motion that the criteria for providing a defense under Shoreline Municipal Code Chapter 2.40 are met for Mayor Ransom and the City Attorney is authorized to provide legal defense for the Mayor in his recall litigation, which carried 5 – 1, with Councilmember Hansen dissenting.

Councilmember Way moved that the criteria for providing a defense under Shoreline Municipal Code Chapter 2.40 are met for Deputy Mayor Maggie Fimia and the City Attorney is authorized to provide legal defense for the Deputy Mayor in her recall litigation. Councilmember Ryu seconded the motion.

Councilmember McGlashan asked to have his previous questions and statements considered under this motion.

A vote was taken on the motion that the criteria for providing a defense under Shoreline Municipal Code Chapter 2.40 are met for Deputy Mayor Maggie Fimia and the City Attorney is authorized to provide legal defense for the Deputy Mayor in her recall litigation, which carried 5 – 1, with Councilmember Hansen dissenting.

10. ADJOURNMENT

At 10:57 p.m., Mayor Ransom declared the meeting adjourned.

Scott Passey, City Clerk

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