

CITY OF SHORELINE

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

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

Shoreline Conference Center
Mt. Rainier Room

PRESENT: Deputy Mayor Fimia and Councilmembers McGlashan, Gustafson, Ryu, and Way

ABSENT: Mayor Ransom and Councilmember Hansen

1. **CALL TO ORDER**

The meeting was called to order at 7:38 p.m. by Deputy Mayor Fimia, who presided.

2. **FLAG SALUTE/ROLL CALL**

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

Upon motion by Councilmember Gustafson, seconded by Councilmember McGlashan and carried 5-0, Mayor Ransom and Councilmember Hansen were excused.

3. **CITY MANAGER'S REPORT**

Bob Olander, City Manager, provided updates and status reports on the following items:

- North City Business District improvements include the removal of all overhead poles and wires. A ribbon-cutting ceremony will be held on August 17.
- Aurora Corridor Project – concrete poured on the Aurora Bridge and the girder installation at 155th is tentatively scheduled for July 26. Also undergrounding taking place on the east side from 145th Street to 152nd Street. Project is on schedule.
- The summer concert series starts on July 11 at Richmond Beach Saltwater Park.
- The Council will hold a Special Meeting on July 18 regarding the Capital Improvement Plan.

Councilmember Way commented that North City looks nice and citizens have said the ivy planters near Walgreen's needs to be removed. She added that a business owner wanted to know when the driveways and sidewalks would be completed.

Mr. Olander responded that he would research that, but some of the poles and tape cannot be removed until the project is completed. Those poles, he said, cannot be removed until the rest of the undergrounding project is complete. He added that they are still working on property restoration, which will occur near the end of the project.

Councilmember Way announced that she attended the Northwest Summer Games and saw the Seattle Cascades perform at Shoreline Stadium. She stated it was a remarkable show and congratulated them on their performance.

Councilmember Gustafson announced there would be beach naturalist at the Richmond Beach Saltwater Park at 11:00 a.m. for the low tide event.

4. GENERAL PUBLIC COMMENT

(a) Chris Eggen, Shoreline, discussed the 3rd Annual Renewable Energy Fair, which will highlight alternative energy sources. He said there are over 150 exhibitors as well as events for children. He invited all residents, Councilmembers, and local politicians to attend the event on Saturday, July 22nd from 10:00 a.m. to 6:00 p.m. at Meridian Park Elementary School. He added that the elected officials are scheduled to be there to speak from 10:30 a.m. to 12:00 p.m.

(b) Harley O'Neil, Shoreline, commented that the Aurora Corridor Project takes a lot of time and appreciates that it is for the future. However, he said businesses are suffering, and he wished the project could have been completed quicker. He asked if the Council could investigate additional ways to provide assistance to the businesses along Aurora Avenue affected by the construction. He wondered if a business could be compensated by showing that their tax returns were at a lower level since the start of the project. He said he hopes the next phase is smoother and things get cleaned up quicker.

(c) Bob Barta, Shoreline, Council of Neighborhoods Representative for Highland Terrace, stated he is also on the Emergency Management Council in Shoreline. He expressed interest in teaching residents how to become emergency-prepared. He said he counted 103 suggestions from the City Council Community Workshops relating to emergency readiness. He encouraged the Council to keep this active in the community.

(d) Henk Kunnen, Shoreline, owner of the animal clinic on 15th Avenue NE, discussed traffic recommendations on 15th Avenue NE. He said cars are merging just south of the post office and drivers are ignoring the traffic light. He recommended that 15th Avenue NE be reconfigured back to four lanes. He feared there will be accidents there and suggested more lines designating pedestrian lanes and crosswalks.

(e) Wendy DiPeso, Shoreline, thanked the City Council for adopting the ten priorities last week. Regarding Aurora Project Phase II and III, she assumed there are some contractual obligations that the City must fulfill and wanted to know how they will be affected if the grant money doesn't materialize. She inquired if removing medians

from the safety plan would also jeopardize the grant application. She highlighted that the majority of the accidents on Aurora Avenue occur at intersections, adding that there is more that can be done at those intersections for safety. She felt medians reduce shoppers and prevent adequate surface water detention and retention. She also inquired if the City was utilizing the 100-year or the 500-year storm water design criteria to manage the flows. She mentioned that since the start of Aurora Phase I there has been silting in Boeing Creek; under federal law the City has an obligation to maintain the viability of the creek as a salmon-bearing stream. She suggested a zero-impact development model to reduce the need to spend more money on reducing siltation and runoff. She favored a design that allows continued access to businesses and reduces the likelihood of pedestrians crossing at inappropriate locations.

Mr. Olander responded that the Aurora Corridor Project has impacted several businesses; however, those on the west side are starting to “bounce back.” He said the project is on time and there is a balance of traffic flow during rush hours. The focus is to limit construction during the rush hours and he felt that was going well. However, he stated they will continue to consider ways to mitigate impacts. He outlined that there are strict limitations regarding compensating private businesses. He added that emergency preparedness is one of the top ten Council goals, and the Council has doubled training funds. Responding to Ms. DiPeso, he stated there is no obligation for citizens to pay for any lacking grant funding the City does not receive. As far as the storm water design and medians for the next phase of the Aurora Corridor, the City has not reached the design phase. These issues have been discussed, but there are several concepts that are in discussion and there will be many opportunities for comments in the future. Finally, he stated that a representative from Public Works will investigate Mr. Kunnen’s suggestions and contact him directly.

Councilmember Way inquired if the emergency preparedness grant has been accepted for Spartan Gym.

Mr. Olander responded that the City did receive a grant of over \$50,000 for electrical generation and electrical work for the Spartan Recreation Center and Gym since it is designated as a City emergency shelter.

6. APPROVAL OF THE AGENDA

Councilmember Way requested that the minutes of the Business Meeting of June 26, 2006 be pulled from the Consent Calendar. There was Council consensus to move item 9(a) to the Consent Calendar as item 7(e). Upon motion by Councilmember Gustafson, seconded by Councilmember Ryu and carried 5-0, the agenda was approved as amended.

7. CONSENT CALENDAR

**Councilmember Gustafson moved approval of the Consent Calendar.
Councilmember Way seconded the motion, which carried 5-0, and the following items were approved:**

**Minutes of Regular Meeting of April 10, 2006
Minutes of Regular Meeting of May 15, 2006
Minutes of Special Meeting of June 5, 2006
Minutes of Community Workshop of June 6, 2006
Minutes of Community Workshop of June 14, 2006
Minutes of Workshop Dinner Meeting of June 12, 2006
Minutes of Business Meeting of June 12, 2006
Minutes of Workshop Dinner Meeting of June 26, 2006**

**Approval of expenses and payroll as of June 29, 2006
in the amount of \$2,271,632.10**

**Ordinance No. 435 amending the public records act in Shoreline
Municipal Code Chapter 2.35 by updating the RCW references and
clarifying procedures, and amending the public records fee schedule
in SMC Chapter 3.10**

**Ordinance No. 432 renewing the franchise agreement with
Electric Lightwave**

**Ordinance No. 433 increasing the General Fund appropriation in the
2006 budget to add a new development review engineer position and
an on-call contract for engineering services to perform permit review;
and amending Ordinance No. 404, Ordinance No. 414 and Ordinance
No. 420**

8. ACTION ITEM: PUBLIC HEARINGS

- (a) Public hearing to receive citizens' comments on proposed amendments to City of Shoreline Hazardous Tree Regulations; and

Ordinance No. 434 amending the Shoreline Municipal Code
To update regulations relating to tree cutting, amending SMC
20.50.310 regarding exemptions from permit requirements for
hazardous trees

Matt Torpey, Planner, outlined the staff report and background information, including the public comments that were received. He explained that the proposed changes essentially expand the Director's authority to review hazardous trees. He noted that this section of the Code only addresses hazardous trees in critical areas.

At 8:16 p.m. Mayor Ransom opened the public hearing.

(a) Nancy Rust, Shoreline, stated she is an Innis Arden resident and expressed support for retaining as many trees as possible. She supported the amendment and said it helps ensure these trees are truly hazardous.

(b) Wendy DiPeso, Shoreline, stated that the old rules were too vague and too broad for City staff to interpret. She said it is the duty of the City staff to protect the public and prevent unnecessary tree cutting in Shoreline.

(c) Elaine Phelps, Shoreline, complimented City staff and the Planning Commission for the time and effort they invested in considering revised regulations. She said she was impressed with the interaction and how they arrived at the final result. She supported the comments of Ms. DiPeso because the previous regulations were inadequate. However, she expressed concern about the lack of definition for the term "recreational trails." She said that term can be misused to allow cutting in the future, so the definition should be fairly narrow.

(d) Paul Blauert, Shoreline, stated he got involved when there were over 100 trees cut in Eagle Reserve over the past two years. He noted that he has reviewed some of the hazardous tree evaluations, and many trees were rated utilizing improper criteria. He said he likes having a City Arborist to supervise the inspections. He also felt all trees should be rated on existing circumstances, not future circumstances. He wished to ensure that buffers were also included in the evaluation of hazardous trees because there have been seven landslides in the vicinity of his house due to the tree cutting. He concluded that the self-assessment of trees in Shoreline must stop.

Joe Tovar, Planning and Development Services Director, highlighted a letter from realtors indicating there was a concern on what occurs when the Director is not available. He noted that section 1b states that "Director" means the Director of the Department of Planning and Development Services or his/her designee. He noted that whenever he is not in the office the Customer Response Team (CRT) will be designated as the acting director if a call comes in after hours. CRT fields the call and can authorize verbally if someone demonstrates there is an active and imminent hazard.

Councilmember Way suggested that the record be kept open until the Council is ready to act.

Mr. Olander stated this item is scheduled for action next week, so he suggested it be closed.

Councilmember Way added that there are people are out of town, so it might be good to leave it open until next week.

Councilmember McGlashan said the Planning Commission has had its review and the meetings were well attended. He felt that the public has had their say and the public hearing should be closed at this time.

Councilmember McGlashan moved to close the public hearing. Deputy Mayor Fimia seconded the motion.

RECESS

At 8:28 p.m., Deputy Mayor Fimia called for a recess. At 8:35 p.m., the Council meeting reconvened.

A vote was taken on the motion to close the public hearing, which carried 5-0.

Councilmember McGlashan said he keeps hearing two different numbers for the amount of trees that can be cut. He asked staff to clarify the conflicting language in the packet materials.

Mr. Torpey clarified that the language on page 169 is an error; the correct number is six trees in 36 months.

Councilmember McGlashan inquired about the arborist on staff.

Mr. Olander highlighted that there are two certified arborists in the Public Works Department.

Councilmember McGlashan asked why the City was soliciting for an arborist if there was one on staff.

Mr. Torpey responded that the intent was to do a Request for Qualifications (RFQ) for an arborist.

Mr. Olander added that Public Works utilizes their resources as needed and they have a full workload.

Councilmember McGlashan asked who would be liable if a tree is topped and it hits a house.

Mr. Tovar said if there is no active or imminent hazard that is apparent to the Director, it will take some time for the arborist to come out and do a report. He said the intent is to reduce the risk of the tree falling by letting people know not to approach the tree. He also noted that there should be further clarification on what occurs if a tree is not an active or imminent hazard in the proposed language.

Councilmember Way asked for elaboration on the "recreation trails" definition.

Mr. Torpey noted that there is an explanation in Title VIII and in the Parks Master Plan that he could forward to the Council.

Councilmember Way wanted to see if there was a need to craft wording to address the concerns so trees won't be cut down because they are on a trail.

Mr. Tovar responded that the suggestion was made to insert recreational trail in the interim controls. When the recommendation from the Planning Department went to the Planning Commission, the "recreational trail" language was dropped and the proposed language "any trail as proposed by the property owner and approved by the director" was added for purposes of this section. He said the rationale was that it doesn't matter if the trail is used for recreation or just someone walking to school, etc. The Planning Commission reinserted the term "recreational trail," so there is some ambiguity. The original proposal from City staff was to remove the term.

Councilmember Way suggested both terms should be described. She noted the Council and staff needed to work on the "recreational trails" issue. She said she is also interested in the buffer issue. She said sometimes people don't remember that there is a buffer to consider. She hoped the buffers could be defined and the arborist would have to consult with the Council and staff on this. Councilmember Way also noted that the trees can be made into snags.

Mr. Tovar said he would appreciate the opportunity to craft language to address the issue.

Councilmember Gustafson wanted to know what classifies woody debris as a fire hazard.

Mr. Tovar said he would be making that determination based on information from the arborist. He said generally it would be a certain amount of woody debris sitting and drying out. He added he would like to confer with an arborist or forester about this, however, a forester would have more expertise.

Councilmember Gustafson inquired about the cost of a hazardous tree evaluation.

Mr. Torpey stated that the normal cost to a resident is \$100 per tree. He clarified that whoever calls the arborist off of the list would be the person who pays the arborist.

Councilmember Gustafson asked about trees in critical areas that are on City-owned property.

Mr. Torpey stated the Parks Department would take care of it.

Councilmember Gustafson inquired about the critical areas in Innis Arden.

Mr. Olander responded that the Innis Arden board should maintain those. He said if there is a problem with trees in the critical areas in Innis Arden then a resident of Innis Arden should be notifying their board of the condition.

Councilmember Gustafson asked for clarification on the Viking decision from 2005.

Mr. Tovar stated that the decision reflected that covenants do not trump the regulations of municipalities.

Ian Sievers, City Attorney, stated that the court said covenants cannot control City's land use laws any more than the property rights that a property owner has. He noted that the City can factor this in when formulating policies related to the Growth Management Act.

Councilmember Gustafson stated a resident asked him how they would get a tree pruned in the public right of way to improve their view.

Mr. Torpey said those calls should be referred to the Public Works Street Manager, who evaluates and makes those decisions.

Mr. Sievers said the City inspects those trees for hazards, broken limbs, and so forth.

Paul Haines, Public Works Director, added that the City would pay for the work if the tree is determined to be a hazard. He said he is not aware of any trimming being done by the City in response to a resident having a view issue.

Councilmember Ryu said the Planning Commission and the City staff has done a great job in crafting this Ordinance. She inquired if there is a limit on the number of times the Planning Director or his designee can enter private property to inspect trees.

Mr. Tovar said he will add some language to clarify the intent that once an investigation has been closed, there would be no need to enter the property again.

Mr. Sievers said there may be a need for some performance monitoring. The purpose would be to check the status if there have been a number of trees cut or to ensure trees that have been replanted are well-established.

Councilmember Ryu said that a City-approved arborist makes sense for the City. She pointed out that Mr. Tovar said he preferred a set fee and she asked whether that would need to be included in the language.

Mr. Tovar concurred and said he did feel all of the arborists should have the same fees.

Councilmember Ryu suggested in section H to remove "recreational trails" and add "including recreational trails" at the end. She also suggested in section I to add "creation of snags" after the word "removal" or some acceptable language to convey that the City doesn't believe removal is the only solution to this issue. She concluded that she would support this when the details are worked out.

Deputy Mayor Fimia suggested including the language “in critical areas and buffers” after the word “vegetation” in the Statement of Purpose.

Mr. Tovar stated his concern is that these regulations apply City-wide, including areas that are not critical areas and buffers. He said he would suggest language that would fit the next time this is reviewed before the Council.

Deputy Mayor Fimia wondered if it would make sense if the last sentence of section H was deleted.

Mr. Olander stated there is a benefit for this language specifying “for future directors.”

Deputy Mayor Fimia asked about the scenario if someone wants to cut down a tree that is in an area that is walked on, but isn’t “established” per the City.

Mr. Tovar stated they could look to the person asking for the evaluation to show the City it is a trail. He said his department can provide more specificity.

Deputy Mayor Fimia stated there should be language that this needs to be approved by the Director prior to cutting down a tree.

Mr. Olander agreed that it comes down to the determination of the Planning Director.

Deputy Mayor Fimia commented that she attended an Association of Washington Cities (AWC) workshop and it was noted that covenants will never trump the Growth Management Act (GMA). She added that there is a bald eagle that lives in a tree near her house, and creating snags is a good idea when considering tree removal.

Councilmember Way commented that the Innis Arden issue involved a “mutually restricted easement,” not a covenant as referred to by the Council.

Councilmember Gustafson said he had some questions but will put them in writing for the City Manager and staff.

Councilmember McGlashan asked if a mutually restricted easement is just an old term for a covenant.

Mr. Sievers responded that it is something less than a full covenant and it puts a burden on another person’s property. A covenant controls a property owner’s use of property.

Councilmember McGlashan inquired if the two terms had been defined in any of the court cases.

Mr. Sievers said there are only two court cases and there has not been any distinction between the two terms. He noted that covenants come up in the stewardship plan, but the

discussion tonight is about hazardous trees. He said there are no vested rights against ordinances that address health, safety and welfare issues in Washington State.

Mr. Olander added that this is a fairly narrow issue which basically tightens up the definition of a hazardous tree.

10. ADJOURNMENT

At 9:16 p.m., Deputy Mayor Fimia declared the meeting adjourned.

Scott Passey, City Clerk