

CITY OF SHORELINE

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

Monday, August 20, 2007 - 6:30 p.m.
Shoreline Conference Center
Mt. Rainier Room

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

ABSENT: None

1. CALL TO ORDER

Mayor Ransom called the meeting to order at 6:33 p.m.

2. FLAG SALUTE/ROLL CALL

Mayor Ransom led the flag salute. Upon roll call by the City Clerk, all Councilmembers were present, with the exception of Deputy Mayor Fimia, who arrived shortly thereafter.

3. REPORT OF THE CITY MANAGER

Bob Olander, City Manager, reported on the success of the various events at the Celebrate Shoreline festival. He noted that the Annual National Night Out Against Crime was held on Tuesday, August 7. The second Civic Center/City Hall Community Meeting will be held Tuesday, August 21 at Shorewood High School and the next regular meeting of the Parks Board will be held Thursday, August 23 at the Spartan Recreation Center.

4. COUNCIL REPORTS

Councilmember Way commended everyone for participating in the Celebrate Shoreline parade and other events and commented favorably on the North City Jazz Walk. She urged everyone to get out and vote on primary election day tomorrow. Mayor Ransom announced that Medic One was passed by the King County Council with the 30 cent levy.

Deputy Mayor Fimia added her thanks to the citizens who organized all the block watch parties and other events.

Councilmember McGlashan concurred, noting his attendance at eight block watch events.

Councilmember Gustafson commented favorably on Celebrate Shoreline and thanked staff for their time and energy in making it a success.

Councilmember Hansen noted that the Shoreline Rotary sponsored the 8th Annual Fun Run, which had the largest participation in Shoreline history.

Mayor Ransom also commented on the success of Celebrate Shoreline and the excellent public turnout.

5. GENERAL PUBLIC COMMENT

(a) Keith McClelland, Shoreline, announced that he is the Vice president of the Shoreline-Lake Forest Park Arts Council and reported on the success of the North City Jazz Walk. He explained that five different ensembles performed at five different venues along 15th Avenue NE, which brought in 450 to 500 customers. He thanked the City staff and the event sponsors, including the North City Business Association, Shoreline Small Business Forum, and the City of Shoreline for providing funding and logistical support. He concluded that the event could not have happened without the capital improvements along North City.

(b) Charlotte Haines, Shoreline, said she was amazed to hear the comments from some Councilmembers regarding the awards the City gives to people and organizations in the community. She said it was a surprise to hear Deputy Mayor Fimia and Councilmember Way take issue with Shoreline Star awards and proclamations because many have been honored to receive them. She said some people have expressed disappointment with their comments.

(c) LaNita Wacker, Shoreline, discussed Deputy Mayor Fimia's comments about secrecy at the December 12 City Council meeting. She added that Councilmember Gustafson arrived at that meeting with no knowledge about the firing of City Manager Burkett and that a first phone call should have been made by the Mayor to convene an executive session at a City Council meeting. She added that the risk pool at the Washington Cities Insurance Authority (WCIA) had a duty to write a legal contract for the exiting City Manager, but the four Councilmembers had no authority to negotiate it. She believed that a conspiracy occurred. Mr. Burkett's contract was legally drafted, but the negotiations in getting it drafted violated the Open Public Meetings Act (OPMA). She pointed out that candidate-elect Ryu had knowledge about the firing of City Manager Burkett, but candidate-elect McGlashan wasn't informed. For that reason, Councilmember Ryu was named last week by Kevin Grossman in the lawsuit because she had knowledge of the alleged actions.

(d) Steve Dunn, Shoreline, Capital Campaign Chair for the YMCA, reported on the success of the YMCA groundbreaking ceremony, noting that the goal is to have the facility open by August 2008. However, he said there is another \$2 million outstanding and he wanted the audience to communicate the YMCA needs to the community. He commented that the Council and the community need to work towards being more civil. He said he doesn't think Councilmembers are bad people, and calling each other names "lowers the bar." He encouraged the Council to "raise the bar" and focus on the needy. He urged everyone to make Shoreline a better City.

(e) Chris Eggen, Shoreline, discussed the proposed Code amendments. He said item #9 of the Code amendments relate to a proposal to increase the maximum density. He

thought this item was mistakenly put on the list of technical changes because it has a significant potential impact on the face of Shoreline. He felt there needs to be public comment on the item.

(f) Lillian Hawkins, Shoreline, requested that the Council add budget resources for subsidized child care because other cities have it. Additionally, she questioned why there aren't many events scheduled in the City on Martin Luther King, Jr. Day. She said this is one of the only cities that don't have a celebration. She urged the City and the communities to celebrate diversity.

Mr. Olander responded that the City has a Human Services Advisory Committee that assists with funding decisions. Additionally, Rob Beem can provide information regarding the funding process. He also stated that the City has had Martin Luther King, Jr. Day recognitions, but not general celebrations. He thanked Ms. Hawkins for her concerns.

(g) Dennis Lee, Shoreline, discussed the open meetings act lawsuit. He said he has been doorbelling for a candidate running for City Council and has found out that very few people know about the case or have an opinion. This, he said, leads him to believe that there are a minority of people trying to do something. He said the City Council is on the defense and it's in process, but he is quite angry about the case. He noted that doorbelling gets him in touch with the people in the community.

(h) Lila Smith, Shoreline, thanked the Council for being public servants and for opening up the process. She apologized that people use this venue to inappropriately attack others. She said if public servants get attacked, there will be nobody left to do the work. She said she doesn't want a Council made up of "deep-pocket" interests. She supported providing legal coverage to the accused Councilmembers since they're working for the City. On another topic, she said the proposal to change density requirements in commercial zones is the most profound change since incorporation. She said everyone needs to know about this because it affects everyone.

Mr. Olander said the City Planning and Development Services Director, Joe Tovar will address this in the staff report. He added that there is some misinformation about the proposal because the City isn't proposing increased densities. The proposal is for increasing densities within existing commercial zones that are within 1,300 feet of Aurora Avenue North. This is a much smaller subset, he commented, and is not as radical as some assume.

(i) Terry Scott, Shoreline, discussed citizen concerns about development code changes. He encouraged the City to do a more deliberate process to engage the residents in those areas who are concerned about how all of this may impact residential areas bordering business zones.

(j) Gerty Colville, Shoreline, stated he has been a resident of Shoreline for 13 years. She said in the last year she has noticed a problem with people burning garbage in the Meridian Park Neighborhood. She said this is hazardous and a serious problem because she gets sick when she goes outside. She noted that there are toxins in burning garbage, which

causes cancer. She said he has complained to the City's Customer Response Team (CRT), the Shoreline Fire Department, and the Puget Sound Clean Air Agency. She asked the Council for their assistance and appreciated Deputy Mayor Fimia's telephone call.

Deputy Mayor Fimia added that she also has seen smoke coming from the 175th Avenue North and Meridian Avenue North area.

Mr. Olander said the City staff is in contact with the clean air agency on this issue.

(k) Tom Dunnihoo, Shoreline commented that the City needs to ensure contractors put their patches in correctly on 15th Avenue NE. He said there are at least 15 patches that you can feel significantly if you drive over them. Next, he said the changing density along Aurora Avenue North and Ballinger Way sounds like someone wants to do major development without going through the proper means. He asked the City staff and Council to talk in "plain English" and not use acronyms when discussing information with the residents. He said there are too many problems in Shoreline's government, and someone needs to do something.

(l) Elaine Phelps, Shoreline, opposed Ms. Wacker's statements. She said a conspiracy is an allegation, and it has been denied by the accused. She said Ms. Wacker should have said it is her belief rather than stating it as a fact. She said Councilmembers shouldn't just admit guilt; innocent people must defend their name. The City has an obligation to ensure they are cleared or convicted, and to say they're guilty in advance is wrong. She felt that there are political issues that are being tried by the plaintiffs in the Council Chambers; the correct place to do that is in court. She urged the plaintiffs to dismiss the "frivolous" lawsuit.

Mr. Olander responded to Mr. Dunnihoo and he will check on the 15th Avenue NE patches.

Councilmember Way said there are strict rules on burning garbage and asked what tools the City has in place.

Mr. Olander said the Puget Sound Clean Air Agency should enforce burning restrictions because the smoke is hazardous. He added that the City is working with the Puget Sound Clean Air Agency.

6. APPROVAL OF THE AGENDA

Councilmember Hansen moved to approve the agenda. Councilmember Gustafson seconded the motion, which carried unanimously.

7. ACTION ITEMS: OTHER ORDINANCES, RESOLUTIONS, AND MOTIONS

- (a) Ordinance No. 478 amending the Shoreline Municipal Code Title 20.30.560 Categorical Exemptions, and 20.50.020(2) Densities and Dimensions for Residential Development in Nonresidential Zones

Mr. Olander stated that the Planning and Development Services Director, Joe Tovar and Planner II, Steve Szafran will provide the staff report.

Mr. Tovar noted that this item came to the Council from a recommendation from the Planning Commission. He said the Council discussed it at that time and there was a motion to approve and the resulting vote was a tie; thus there was no decision. He said the two items deal with revising the categorical exemptions under SEPA for small projects and residential densities in Community Business (CB) zones. He said the staff has prepared maps showing where the areas are, what the current zoning map says, and what the Comprehensive Plan says. He said people look to the zoning map to see what can be built; the Comprehensive Plan map shows the potential future land uses. These two items should be consistent under State law, however, some codes are not and we should make them consistent. He described the zoning map and said it displays where the CB zone density would be recalculated, which should be the same for the Regional Business zone. He said the numbers 1,300 has been mentioned by the public with this proposal and he explained what the lines reflect. There is a proposal from three properties to rezone their R-8 property to R-48, however, amendment #9 only applies to the designated areas where the Comprehensive Plan shows it is permitted. The Planning Commission recommended that areas that are already zoned CB within some distance of Aurora or Ballinger should have their density limits treated the same as the RB zones. He explained that this limited scope is recommended by the Planning Commission. The scale of this change is nowhere near what has been described in the letters sent to the City staff and the Planning Commission. He concluded that there are several biased concerns in the public and that the City is not proposing to rezone everything within 1,000 feet of Aurora Avenue and Ballinger Way.

Mr. Olander asked Mr. Tovar to point out what the options were for the Council. Mr. Tovar said the Council can approve it, deny it, continue it to a future Council meeting for more discussion, remand it back to the Planning Commission, have a public hearing, or hold a joint hearing. He noted that if it is remanded back to the Planning Commission it is helpful to provide direction.

Mayor Ransom asked what notice was given for the March/April hearing.

Mr. Tovar responded that legislative changes get published in the official newspaper of the City, posted on the notice boards at City Hall, and on the website. This is an amendment of the zoning code and is not a quasi-judicial rezone. However, the rezone to R-48 is a quasi-judicial rezone and it has been mailed to people within 500 feet of the rezone.

Mayor Ransom called for public comment.

(a) Ginger Botham, Shoreline, said she started attending meetings after she learned about a development proposal in her neighborhood. She said she got the R-48 notice in the mail. She said she sees how zoning and Comprehensive Plan changes happen and everything on each side of Aurora Avenue North and Ballinger Way is at risk. She commented that she is surprised this isn't going through the Comprehensive Plan process. She

said she wished there was a public hearing on this issue. She encouraged the public to write comments and give them to the City Clerk before the meeting ends.

(b) Lisa Twing, Shoreline, said she is frightened by rezone but is relieved by what she has heard at this meeting. She said she resides in the area in question and asked to have a more widespread public comment period. She said she would like to hear more about this and there needs to be more public meetings about this.

(c) LaNita Wacker, Shoreline, said the documents referring to the rezone specifically say this will occur in non-residential zones. She commented that this ordinance is technical because the zoning map already has certain zones and the Comprehensive Plan has permission for higher densities. The Comprehensive Plan has already gone through a thorough public process and this simply grants the authority on non-residential properties to have Mixed Use density. The City wants to have more density along Aurora. There needs to be affordable housing and more rentals. If these are built above businesses you can have more rentable units in that space. This has nothing to do with residential zones, she stated. She said that categorical exemptions have to do with raising the threshold for the size of storage units, etc. She commented that she is in favor of it. The City has sensitive areas protections in the law and these exemptions will speed up the protection process.

(d) Bill Bear, Shoreline, said he expects the Council to put interest of citizens above personal interests. He felt Councilmembers should recuse themselves from the vote if they have any direct or indirect financial involvement with any of the properties that are being discussed. He questioned the use of term "people" notified within 500 feet from a rezone. He explained that the definition of people should be human beings, not just property owners. The City has an obligation to inform everybody. He felt there is runoff that is creating an environmental impact on Lake Ballinger and Echo Lake. He commented that fish and people are dying and the City should consider what happens when density is increased.

(e) Bonnie Biery, Shoreline, said she lives within the affected area and wasn't provided any notification. She said in the past she has not received notice until after the meetings have occurred. She has lived in the same location for 42 years and has seen huge changes in density within 500 feet of her home. This, she commented, could be a dramatic change that is not needed at this time. She said she would like to see the undeveloped properties along Aurora Avenue developed before expanding the density. She inquired why the Comprehensive Plan takes precedence over the zoning map. She said she would prefer the one with the lowest density be accepted by the Council. She deduced that there will be higher traffic counts, noise, and crime and a reduced sense of personal safety and "community." The City's budget, she explained, can't support essential services once a development of this scale begins. She urged the Council to fully consider this item and suggested that they postpone their vote so public meetings can be held.

(f) Dennis Lee, Shoreline, said this item appears to be simple, but he has lots of concerns. He said he used to follow everything and there have been unintended consequences in this City and people are reacting to them now. He added that there is confusion, past unintended consequences, and mistrust. He said the residents don't know where the City is in

the Comprehensive Plan process. He suggested there be another thorough Comprehensive Plan review without any master plans or other confusing things added to it so it is a housing comprehensive plan review. Residents are not against apartments, but the City needs more affordable housing and ownership opportunities. He summarized that something is wrong with the process if there's this much opposition.

(g) Michelle Cable, said she is in favor of the amendment based on the Planning Commission recommendation. She said she is a commercial property owner, and prior to that she was a business owner. She commented that the development code amendment is a good change and it will result in no substantial changes in the cityscape because of public process. She said it is difficult for people to do projects in the City, and she just wants to do something positive for the community. She explained that the packet shows that the City needs more places for people to live, and there would be approximately 1,000 more units if this passed. At the June 11th City Council meeting, the Council discussed three concerns. The first concern was the amount of public involvement. The second was the availability of mass transit, and the third was the City's infrastructure capacity. She explained that these concerns have been addressed and the Planning Commission went through a six-month public process. She urged the Council to adopt the amendment.

(i) Brian McCulloch, Shoreline, said he is speaking at the request of his neighbors. He said they are concerned and have questions about growth. He commented that any City proposal this large should go through the same process that took place with the Aurora Project. He said this is not a technical change. Additionally, there may be a need to change the Comprehensive Plan, but the neighbors don't understand this and what changing the Comprehensive Plan would mean. He urged the Council to reject this and to instruct the Planning Commission to have more open public meetings on this to let the citizens know what is coming.

(j) Jim Abbott, Shoreline, highlighted that he is a long-time proponent of the Aurora Corridor process and is pleased at what he has seen with the project. He said there have been several residents, including some of the Council who, as a part of the Aurora Corridor process, discussed how the City could increase the units in Shoreline and have more housing available without having a significant impact on residential areas. He commented that he supports this item because it seems like a perfect place to increase unit count because it is close to transportation and commercial areas. The areas highlighted in the staff report are the best areas to do that. He added that there are some Councilmembers that support increased density along Aurora, and that's the way to go. He noted that he owns property across from Fred Meyer and it is a good example of what the staff is talking about. The property is zoned community business (CB) and it currently allows him to build a "box" on his property. The amendment, he explained, would only allow a change in the number of units he could put in that "box." Currently, he said, the code allows 15 units on his property and if the amendment is adopted he can add an addition 10 on the same property.

(k) Doug Paris, Shoreline, considered this to be a "transformation of government that exists for the benefit of the community, to a community that exists for the benefit of government." He said he the way to cover budget shortfalls is to increase the tax base by

bringing in more taxable development. However, he felt there needs to be a greater understanding of GMA and the critical areas ordinance and the way we use land in Washington. This process occurs by going into rural communities and stealing development rights and bestowing benefits on special interests in terms of the density that people don't want, he said. He said there is a market approach in America that has now changed into a centralized government planning approach that was pioneered in countries like Romania, Bulgaria, East Germany, Yugoslavia, Hungary, and Russia. This approach will give us communities like those in Singapore and Havana. He felt that higher densities mean poorer quality of life and is anti-freedom, anti-American, and immoral. He concluded his comments by stating that he supported Martin Luther King, Jr., and said that he stood for equality, not diversity, and the two are not the same.

(l) Wendy DiPeso, Shoreline, said in the past the City didn't engage public process for cottage housing and the first mile of the Aurora Project. She added that the process for Phase 2 & 3 is positive and the residents don't need to be afraid of it. She added that when public process is done with the affected stakeholders, there is participation as equal partners. This produces a better outcome than what a small group making all the decisions would produce. Questions about the potential impacts need to be answered through a public process so people can air concerns and get educated. She felt increased density and mixed use can be positive through correct design.

(m) Joe Ripley, Shoreline, stated that he is more confused now than before the meeting started. He doesn't understand why the zoning map is different from the Comprehensive Plan, and that the proposal sounds like rezoning CB into RB. He said he isn't opposed to it, just uncertain and confused. He said he would like to see new maps showing RB and CB zones and the 1,000 – 1,300 foot lines shown. He asked how this proposal would affect or be impacted by what is occurring in Lake Forest Park in terms of Ballinger Way. He concluded that he doesn't want radical changes to the residential, single-family nature of Shoreline and suggested the Council table this item for further review.

(n) Jim DiPeso, Shoreline, felt that more deliberation on this issue is warranted. He said there are concerns about the implications of these changes and the residents need to better understand some of them. Having walkable communities is a fine thing, but moving more residents into these areas doesn't mean transit will be used. He encouraged more deliberation and more understanding of some of the issues, then the Council can proceed in the best interest of the community.

(o) Richard Tinsley, Shoreline, expressed concerns about easing SEPA regulations. He said this item needs more review and a wider audience. He urged the City to notify people and table this item for further public discussion.

Mr. Tovar commented that the City isn't looking at 205th Avenue NE because there isn't any RB or CB zoning there. He clarified that state law requires the Comprehensive Plan to be different from the zoning, and that the zoning takes precedence. Regarding the SEPA threshold, he said the SEPA exemption for all new residential structures in the City is four. Additionally, the commercial threshold for new commercial structures is up to 4,000 s.f.

However, the Planning Commission recommends raising the threshold for residential structures up to 20 dwelling units and up to 12,000 s.f. for commercial structures. He highlighted that all of these were the requirements the City had in place before the formation of surface water regulations and clearing/grading standards. The Planning Commission concluded that the SEPA thresholds are too low for these. Additionally, since this is already being regulated it is redundant and adds cost to smaller projects.

Mr. Olander added that when the City first incorporated the SEPA was used, but Council has adopted more detailed regulatory controls such as the stormwater manual, clearing and grading permits, environmental runoff regulations, and the critical areas ordinances. All of these much more detailed regulations have replaced the need for the more generalized SEPA review.

Mayor Ransom asked the Assistant City Attorney to clarify why Councilmember McGlashan is not required to recuse himself from this item.

Flannary Collins, Assistant City Attorney explained that there is no appearance of fairness issue on legislative actions, as it would only apply to a quasi-judicial, site-specific rezone. She added that creating law is a legislative matter.

Councilmember Gustafson moved to adopt Ordinance 478 amending the Shoreline Municipal Code Title 20.30.560 Categorical Exemptions, and 20.50.020(2) Densities and Dimensions for Residential Development in Nonresidential Zones. Councilmember Hansen seconded the motion.

Councilmember Gustafson confirmed that this item is a recommendation of staff and the Planning Commission. He added that there have been two public hearings with the Planning Commission. He asked Mr. Tovar if there was any opposition to the amendments in the public hearings. Mr. Tovar responded that there was no opposition to this item.

Councilmember Gustafson said this involves the Growth Management Act (GMA) which requires the City of Shoreline to increase its density. He urged the public to listen to the presentation by Dan Burden from Walkable Communities, Inc. His proposal was that if the City needs to increase densities it should be done along the corridors which provide walking, bus, and bicycle transportation areas. He believed that an additional 600 - 1000 units is not that significant. The City needs affordable housing, he stated.

Deputy Mayor Fimia moved to substitute for the main motion that the Council direct staff to conduct a further public process as follows: "Schedule two additional Public Hearings regarding Amendment #5, Increase the SEPA Exemptions for minor new construction and Amendment #9 – Residential density in CB Zones within walking distance of transit and services along Aurora and Ballinger Way. These Hearings will be held by the City Council jointly with the Planning Commission, after which the Council will schedule final action on Ordinance #478. One meeting shall be held at a site in the Central Aurora Avenue area and one in the Ballinger Area. They should be scheduled to take place as soon as possible this fall." Councilmember Ryu seconded the motion.

Councilmember Hansen supported the original motion and stated it has been on the table for months. He added that state law requires that the zoning plan correspond to the Comprehensive Plan, and this item is a step in the right direction. He supported the staff recommendation.

Councilmember Way appreciated the public comment. She felt that the Council hasn't had a chance to discuss the substance of these proposals and she is opposed to reducing the use of SEPA. She felt the SEPA is the best tool for the public to be involved with the development impacts of their communities. She said the public has fewer rights without SEPA, as the SEPA appeal process alerts the City that there might be a significant issue. SEPA, she explained, is an opportunity for more information to be revealed about a potential development. She felt this issue is about consistency versus predictability and developers like to have predictability and SEPA allows the code to be more flexible.

Councilmember Way wished to add "for the staff to return with a process for Comprehensive Plan amendments" after "Ballinger Way" at the end of the first sentence.

Mr. Olander explained that the City has an annual Comprehensive Plan process which can be initiated by any citizen, Planning Commissioner, Councilmember, or City staff. He noted that the text was addressed last time but not the major map land use issues. He added that if the Council wants to re-address some of the land use issues in the Comprehensive Plan it's a significant multi-year work effort and rather than make a motion tonight it would be best to discuss it with the Planning Commission at the September joint meeting. If the conclusion is to go forward, the City staff will work out a process and a timeline.

Deputy Mayor Fimia asked the City staff if they could support the substitute motion.

Mr. Olander commented that there are good arguments on both sides. For example, the GMA promotes increasing density on corridors and Dan Burden, and the residents don't want densities in the residential neighborhoods, he said. However, there are still questions and confusion which has led to discomfort. He felt it wouldn't hurt to have additional time to talk about this and the City staff could support it, but it is a Council decision.

Councilmember Ryu said she is glad for the technical aspects of the SEPA process because it enforces her decision that more public input and an open public process is needed. She inquired about opposition at the Planning Commission level and how many public comments were in favor of this item.

Mr. Tovar responded that there were three people who spoke in favor of the item at the Planning Commission meeting.

Councilmember Ryu stated that three doesn't represent a huge outpouring of public engagement. Now people are expressing their concerns and there is a need for more public process. There are lots of questions and discomfort in the City. She stated she would appreciate broader participation and felt it will be in the best interest of the community.

Mayor Ransom highlighted that there were two public hearings on this item and only a couple people participated. He pointed out that the Planning Commission supported it and it is obvious that there is public concern. He agreed that the Council needs to hear it further and he supported the substitute motion. He felt if the item is aired out and everyone works together, something will be drawn up that everyone will support.

Councilmember Way questioned how this item could be formed in the Comprehensive Plan if the Council embarked on that process.

Mr. Olander responded that it depends on the intent and what areas need to be amended. If amendments need to be done in the housing element, then the Council should wait until the committee work is done. If the intent is to amend the RB and CB zoning, the concerns should be specified and the scope of Comprehensive Plan amendments should be identified. He also suggested that the Council respect the Planning Commission process, adding that the Council can divide the question and vote on the issues separately.

Councilmember Way stated that the code amendments are tied to the Comprehensive Plan amendments. She asked how the City can inform the public about the Comprehensive Plan process.

Deputy Mayor Fimia commented that this process will reveal whether there needs to be Comprehensive Plan amendments or zoning changes within the Comprehensive Plan.

Councilmember Gustafson opposed the substitute motion, stating that the Council represents the community. He continued and said that the job of the Council is to study the issues, work with the City staff and the Planning Commission then move the issues forward. He concluded that there are times when the Council has the responsibility to make decisions and move forward.

A vote was taken on the substitute motion, which carried 4–2, with Councilmembers Hansen and Gustafson dissenting and Councilmember McGlashan abstaining.

RECESS

At 8:56 p.m., Mayor Ransom called for a five minute recess. Mayor Ransom reconvened the meeting at 9:08 p.m.

Deputy Mayor Fimia moved to direct staff as follows: "To include on the next Joint Council/Planning Commission agenda a discussion of techniques to better alert and engage the public in the review and comment on legislative amendments to the development code, including both map and text amendments. The Council asks that the Staff and the Planning Commission present a summary of the methods used to date and a list of possible additional methods to increase the public's awareness, understanding of and participation in the City's land use policy-making process." Councilmember Way seconded the motion.

Deputy Mayor Fimia said the motion that was just passed was an acute issue, but we have more systemic issue. She felt there are enormous challenges and possibilities and this motion would be a discussion at the next joint meeting concerning the City's public process around this planning process.

Mr. Olander said a quasi-judicial issue is fairly simple, as notices are mailed to property owners and people within a certain distance. However, that isn't done when there are legislative issues. The City staff relies on the Planning Commission and general notice. However, these do impact people and it is hard to get notice out to the residents. He felt it is worthwhile to have a discussion.

A vote was taken on the motion, which carried 4-1, with Councilmember Gustafson dissenting and Councilmembers McGlashan and Hansen abstaining.

(b) Contract Amendment for Legal Services

Flannary Collins, Assistant City Attorney, provided background and staff report details on the proposal to approve an amendment to the 2006-2007 contract with Foster Pepper PLLC for an additional \$171,000 to bring the new total contract amount to \$341,000. She reminded the Council that the only Councilmembers that can vote are those who are not named in the lawsuit, and that the City staff recommends approval of the item.

Mayor Ransom asked if this amount includes legal defense of the City.

Mr. Olander responded that it did not, since the defense of the City will be done by the City Attorney. He added that there is a fairly strong precedent when cities act as the insurer. The City has an enhanced obligation to provide defense and must act in a role of an insurance company to pay those bills. He additionally suggested that the Council postpone item 8(a) and add it to the August 27 agenda.

There was Council consensus to postpone Item 8(a), 15th Avenue NE Roadway Configuration Options, until the August 27th City Council meeting.

Mayor Ransom called for public comment.

(a) Bronston Kenney, Shoreline, said there was a flyer sent out by Progress/Pro Shoreline that states "the worst of politics has been brought to Shoreline." He said the lawsuit alleging the illegal meeting is unfounded. He said he asked Pro Shoreline about their funding and didn't get an answer. He added that cottage housing was a giveaway to special interests to "bleed property values into the pockets of developers." He said Pro Shoreline should persuade its members to drop the lawsuit instead of sending out flyers. He felt Pro Shoreline has brought an appalling level of incivility into Shoreline. Councilmembers, he stated, need to be defended and the only reasonable course of action is to continue to fund their defense. He is confident that the court will find in favor of defendants.

(b) LaNita Wacker, Shoreline, reminded the Council that they are sworn to uphold the law and have a fiduciary responsibility to taxpayers. She questioned the original vote for the defendants which was for an amount not to exceed \$75,000 because there wasn't a quorum. That original amount was extended to \$120,000 and she questioned the administrative advance of \$50,000 without knowledge of Council. She said if the Council is an insurance body and the taxpayers' protector, they have a duty to cap this. She doesn't think one more cent should be spent on the defense. She commented that this issue will primarily rest on Councilmember Ryu who has campaigned on fiscal conservatism. However, tonight's vote will center upon whether or not she expends public tax dollars for her personal friends or whether she preserves public tax dollars for the citizens. She concluded that she has no viewpoint concerning the legal case and it will be decided by a judge and based on the points of law.

(c) Dan Thwing, Shoreline, implored the Council to vote for this and fund the defense. He said the Council has a fundamental right to political free speech and Councilmembers need to be defended. This issue needs to be determined in a court of law.

(d) Bill Will, Shoreline, said he has a personal and professional interest in this matter since he deals with open records meeting issues. He said there's a wide range of opinion and strong feelings on this matter. He urged everyone to remain civil. He opined that the City "shouldn't throw good money after bad" and the case should be ended. He has no doubt if this matter goes before a judge, the defendants will be found guilty of violating the Open Public Meetings Act (OPMA) and the state auditor will issue an audit report confirming it. Additionally, these cases rarely get decided at the district court level and always end up in the appeals court, then at the state supreme court level. Meanwhile, the legal tab runs higher and higher. He concluded that the defendants are not evil, and they don't deserve to have their names dragged through the dirt. The fact that they made a mistake means that they are human. They need to admit their mistake and the City needs to move on.

(e) Dennis Lee, Shoreline, said defense is required and it will be neat to see what happens afterward.

(f) Donna Eggen, Shoreline, felt the City should continue paying defense costs. She felt that the people who complain the most about the expense are the people who brought the suit. She urged the plaintiffs to drop the suit.

(g) Bill Bear, Shoreline, commented that during his campaigning he is running into residents that say "What's the use?" He said they give examples like the vote against Safeco Field and note that when they vote against things, they occur anyway. He said when the lawsuit was brought by people who lost the election the message was "democracy's not working for us." He said the case is about democracy and so are open meetings. This lawsuit is about stopping the democratic process, he felt. He said the next step when this lawsuit is won by the defendants is to ask the court to reimburse court costs and legal fees.

(h) Kevin Grossman, Shoreline, said he is one of the plaintiffs. He agreed with previous speakers that this issue is about democracy, transparency, and integrity, but unfortunately it's not happening. He said the firing of former City Manager Burkett was done inappropriately and procedurally incorrect, and that the defendants acknowledged the illegality of the meetings in depositions. He said the defendants tried to hire Mr. Mauer, an unqualified, friend of Deputy Mayor Fimia, but then residents got upset and hundreds objected to the action. There was no apology or acknowledgement by the defendants that they had made a mistake. He said the defendants were so anxious to exert their new power that they circumvented their own Councilmembers, the public, and the City staff dozens of times. He concluded that it is time to treat this like any other City litigation instead of a "personal spending pot" for the four defendants.

(i) Stan Terry, Shoreline, felt that the time has come to say "enough is enough." He said this has already cost taxpayers far more than estimated, whether the violation was intentional or unintentional. If there isn't a violation found, then there was a violation of the intent and spirit of the OPMA. The purpose of the OPMA is to provide transparency, and this was a secret attempt to take action which has already cost far too much. He felt that it is time for the plaintiffs to plead guilty, apologize, and pay fine.

(j) Carol Solle, Shoreline, said the Pro Shoreline flyer alleges there were illegal actions by Mayor Ransom and Deputy Mayor Fimia and asked what was untrue about it. She said the residents have a duty to learn the truth and make decisions based on fact and not on "sound bytes." She said the defendants took action in the firing of Mr. Burkett without informing others. An attorney-negotiated agreement and Deputy Mayor Fimia's deposition shows her knowledge of the OPMA violation, she stated. She said Deputy Mayor Fimia feared that procedural action might prevent them from putting Mr. Burkett's termination on the meeting agenda.

(k) Steve Dunn, Shoreline, stated that he was contacted by both sides of this issue and it is sad it has come to this. If this goes to trial he thought the defendants should be defended. He preferred that both parties come to a settlement instead of going through court. He said he has given some funds to Pro Shoreline, but is not a "crony." He urged the parties to save \$170,000 by settling. He discussed the growth issue, stating that people have been given six months to say "yes" or "no" and it seems like a waste of time to postpone anymore. He hoped the parties in the lawsuit find a way to work it out.

(l) Judy Allen, Shoreline, asked the City Manager about the definition of the term "not to exceed." She said she has read all the depositions and everything is clearly documented. She has read the oaths of office for the defendants, and it is the taxpayer's money that's being squandered. Public funds and trust are precious commodities and the defendants have ruined both. She noted that Deputy Mayor Fimia and Mayor Ransom are seeking reelection, and she hopes voters hold them accountable.

(m) Virginia Paulsen, Shoreline, said the lawsuit was brought by three former Councilmembers who are all current members of Pro Shoreline. There were two other lawsuits brought against Deputy Mayor Fimia -- one was a public records lawsuit, which was

dismissed without merit, and another was a recall petition, which was dropped. She said these highly questionable lawsuits are costing the City of Shoreline hundreds of thousands in legal fees and are motivated by political revenge. The citizens elected Fimia, Ryu and Way because they were greatly dissatisfied with those they voted out of office. Council members are entitled to defense, and the City of Shoreline and the citizens of Shoreline must pay the legal fees. However, it could have been avoided if Pro Shoreline didn't bring suit. She urged the plaintiffs to cease and desist legal harassment and respect the will of the majority of the Shoreline citizens who elected them.

(n) Joe Ripley, Shoreline, said it is a political case and the losers are now suing the winners. He said this is a matter of principle and there may or may not have been a minor infraction of some obscure law, with no on-going breaking of the rules. However, the main question is "Will the City defend Councilmembers?" This is precedent-setting, and if the City refuses to defend them, no City Council will be safe from lawsuits. He warned the four that are voting that they could be sued next. He compared this to the Aurora Project and said the City had to spend more to get the first mile done. The City is facing Aurora Phase 2 and is still going forward, which is what needs to happen in this lawsuit case. He said this lawsuit should be funded until it is settled or dropped. He felt the plaintiffs should be charged for the court costs if they lose.

(o) Christa Tenney, Shoreline, said she is concerned and deeply disappointed. She said she has read the depositions and it seems the defendants decided to circumvent the process. She added that she has known Deputy Mayor Fimia for many years and felt she was person of integrity, but doesn't feel that way anymore. She said all of us care deeply about City and a process should have been followed. She inquired if the defendants would have done it the same way if they could go back. She commented that this is taking money away from the City that they claim to care so much about. She concluded that the agenda needs to accurately represent how much time the Council spends on public process.

MEETING EXTENSION

At 10:00 p.m., Councilmember Hansen moved to extend the meeting until 11:00 p.m. Councilmember Ryu seconded the motion, which carried 7-0.

(p) Wendy DiPeso, Shoreline, said this case represents a difference in interpretation of the law. She commented that if you have more than four Councilmembers meet together it is a quorum and constitutes meeting. If the court decides that a serial meeting constitutes a violation, it will frustrate the system and it will not be good for process. She added that the lawsuit sounds "outlandish" and the depositions show this is frivolous. She said this lawsuit shows who can benefit from undermining the integrity of the defendants. She highlighted that the City has an obligation to support the continuing financial burden. She noted that the plaintiffs walked away from the negotiation table. This, she added, is key to knowing if this is all about the money. Lastly, she determined that the inclusion of the City in the lawsuit means that the plaintiff's legal fees would be paid by the City.

(q) Richard Tinsley, Shoreline, commented that he hated politics and the best we can hope for is to get someone elected who really represents people. He said everyone outside this case seems to know if the defendants are innocent or guilty, except for him. He said the actions that the defendants are accused of are similar to the actions taken against the first City Manager when Connie King was the Mayor. This reminds him of "down and dirty, nasty politics." He urged the plaintiffs to withdraw their lawsuit. If not, defendants must have their day in court and City must provide defense.

(r) Nancy Morris, Shoreline, felt the City has an obligation to continue legal funding and the plaintiffs should withdraw their lawsuit. She suggested the funds saved could be donated to the YMCA, but this is a political battle, she said. She felt the Councilmembers have a great deal of integrity and have acted with utmost restraint and have not exhibited any kind of ill behavior that the plaintiffs have. She hoped the Council can continue to lead Shoreline into the future.

(s) Noreen Federow, Shoreline, said there are a lot of people at this meeting and a lot of involvement. She agreed with the previous speaker and said this has gone from a disagreement to a strategy to "line the pockets of lawyers." She stated that it is very sad and the only positive thing is that it's waking people up. Whatever the defendants did, they have been showing a lot of caring, listening, and concern. She added that a thing like this only tarnishes the pool of future Council candidates because they would be reluctant to run for Council. She highlighted that it is better to pay the fine and say you're doing it because you love Shoreline because the funds can be used on other important things.

(t) Elaine Phelps, Shoreline, said there are dedicated Councilmembers here who give up family life to do this job. She said they are like volunteers. She commented that three Councilmembers who can't vote are the defendants, and three of the other four who get to vote are either supported by, members of, or support Pro Shoreline. What kind of integrity are they going to display tonight with their vote when members of Pro Shoreline have brought the lawsuit? She added that something else besides paying the fine will save the City, and that is to drop the lawsuit. She challenged the remaining Councilmembers to do the ethical thing and fund this defense. She feared what kind of precedence this will create if the lawsuit wins.

Councilmember Gustafson submitted that former Councilmember Scott Jepsen is not a plaintiff in this lawsuit. He added that Connie King, Kevin Grossman, or any of the three Councilmembers currently sitting on the Council are not members of Pro Shoreline. He also stated that Connie King never lost a Shoreline election, and Mr. Grossman did lose his seat to Fimia two years prior to this lawsuit.

Councilmember Ryu said the speakers referred to depositions and referred to a conspiracy. She also said there was a mentioned of her name. She asked that the deposition by Steve Burkett be read for the record.

Mr. Olander responded that he cannot verify this is in a deposition and the public can read it.

Councilmember Ryu said Mr. Burkett said he had a severance package in Tallahassee and that the severance package he got from Shoreline wasn't the first time it had occurred.

Deputy Mayor Fimia clarified that there was an allegation made that she had a discussion with three other Councilmembers about Burkett's resignation. She added that three of the Councilmembers are on record in supporting the City Manager removal since November 3, 2004. Therefore, there was no need to have the same discussions a year later. She said they called the Washington Cities Insurance Authority (WCIA) after Councilmember Way was sworn in. She also said Mr. Burkett's contract was up for renewal and the four Councilmembers didn't want to renew it. Once Councilmember Ryu and Councilmember Way won their seats, his review date was moved up by Mayor Ransom. Councilmember Way could take office immediately so there was no timing issue. She commented that the plaintiffs are now at a point where they want the defendants to cover their own legal costs, therefore, the new lawyers named the City in the suit as of August. There was no evidence concerning the most recent case, so the plaintiffs pulled in another meeting from 2004. She said the plaintiffs walked away from table and she asked last week if she could pay \$100 and not admit any guilt. She was told that it couldn't be done legally. She concluded that she will not say that she broke the law and it is regrettable this entire lawsuit was initiated.

Mayor Ransom disagreed with Mr. Grossman's statement that the illegal meetings were acknowledged in the depositions. He said he isn't guilty and has had legal council throughout. He reminded the Council that any lawsuit can be brought against any Councilmember.

Councilmember McGlashan said he received training on the Open Public Meeting Act (OPMA) from the Association of Washington Cities (AWC), and the safest way to circumvent the OPMA is by using the phone. He added that all seven Councilmembers can get together and talk about anything as long as they are not discussing City business.

Councilmember Ryu moved approval of an amendment to the 2006 – 2007 Contract with Foster Pepper, PLLC for general litigation in the amount of \$171,700 increasing the new not-to-exceed amount to \$341,700.

Ms. Collins reminded the Council that the three defendants cannot vote on the motion.

Deputy Mayor Fimia asked what would happen if this item did not pass. Ms. Collins stated that it would be up to Foster Pepper to continue providing legal defense and it would either be paid by the three defendants or by them.

Councilmember Ryu said the City has a duty to three Councilmembers and a former Councilmember in this case. She asked about the legal impact on the City if the City breaches the contract and refuses to pay for legal defense.

Mr. Olander stated that this topic moves into executive session material, which cannot be discussed in a public meeting.

Councilmember Hansen moved to postpone action on this item until September 4. Councilmember Gustafson seconded the motion.

Councilmember Hansen felt there was more information given out at the meeting that should be reviewed. He added that the executive session needs to happen prior to a decision. He felt the taxpayers have been asked to pay too much, and there are legal ramifications that have to be considered. He concluded that after the executive session discussions a decision can be made.

Councilmember McGlashan added that he has fifteen questions concerning this item and they need to be answered before he votes.

Mr. Olander questioned Ms. Collins if the full Council can vote to postpone this item. She responded that all of them can vote concerning an extension as it was done earlier this year.

A vote was taken on the motion to postpone action on this item until the City Council meeting of September 4, 2007. The motion carried 4-3, with Deputy Mayor Fimia and Councilmembers Ryu and Way dissenting.

Deputy Mayor Fimia asked whether the defendants could have used the City Attorney's Office if the City had been named in the lawsuit originally. Ms. Collins responded that she and City Attorney Ian Sievers are conflicted out of the case because they are named as witnesses. Unfortunately, she added, the City would also have to retain outside counsel if brought into the case.

8. ADJOURNMENT

At 10:44 p.m. Mayor Ransom declared the meeting adjourned.

Scott Passey, City Clerk