

CITY OF SHORELINE
SHORELINE CITY COUNCIL
SUMMARY MINUTES OF BUSINESS MEETING

Monday, March 3, 2014
7:00 p.m.

Council Chambers – Shoreline City Hall
17500 Midvale Avenue North

PRESENT: Mayor Winstead, Deputy Mayor Eggen, and Councilmembers McGlashan, McConnell, Roberts and Salomon

ABSENT: Councilmember Hall

1. CALL TO ORDER

The meeting was called to order at 7:00 p.m. by Mayor Winstead.

2. FLAG SALUTE/ROLL CALL

Mayor Winstead led the flag salute. Upon roll call by the City Clerk, all Councilmembers were present except for Councilmember Hall.

Upon motion by Councilmember McConnell, seconded by Deputy Mayor Eggen and carried 6-0, Councilmember Hall was excused from the meeting.

3. REPORT OF THE CITY MANAGER

Debbie Tarry, City Manager, provided reports and updates on various City meetings, projects and events.

4. COUNCIL REPORTS

Councilmember Solomon said it was an honor to represent Shoreline and be a leader of residence at a Leadership Institute sponsored by his alma mater, Western Washington University. He met with staff from the science, human services and other departments to network leadership issues and made presentations at both a senior and professional class level regarding issues he deals with as a Councilmember and attorney.

Deputy Mayor Eggen reported on his attendance at a Growth Management Planning Council (GMPC) meeting where the discussion focused on efforts by both Issaquah and Sammamish to annex an unincorporated area of King County. The GMPC also discussed doing a Buildable Lands Update to identify whether cities have zoning and planning in place that will allow them to accept additional density and jobs. Although Shoreline does not currently have enough room to accommodate jobs, he was assured they are working with the Planning Department to resolve the issue.

5. PUBLIC COMMENT

Sean Osborn, Shoreline, asked if the proposed Chronic Nuisance Ordinance 675 would apply to all properties in Shoreline. He specifically noted that the Definition for “Chronic Nuisance Property” in Section 9.30.020(B) only mentions residential and commercial properties.

Rachael Markle, Planning and Community Development Director, advised that the ordinance was meant to cover mainly residential and commercial properties; and campus zones, such as Fircrest, were not considered when the ordinance was written. The ordinance would be applicable to any residential and commercial uses on the site, but not social service uses. Mr. Osborn pointed out that the ordinance would not apply to residentially-zoned properties that are owned by the school district, either. The Council agreed to discuss this concern after the staff report on Ordinance 675.

6. APPROVAL OF THE AGENDA

There was unanimous consent to adopt the agenda as presented.

7. CONSENT CALENDAR

Upon motion by Councilmember Roberts, seconded by Councilmember McConnell and carried 6-0, the following Consent Calendar items were approved:

- a) **Minutes of Business Meeting of February 3, 2014**
Minutes of Business Meeting of February 10, 2014

8. ACTION ITEMS

- a) Adoption of Chronic Nuisance Ordinance Number 675

Rachael Markle, Planning and Community Development Director, explained that the Chronic Nuisance Ordinance would provide the City an enforcement tool to hold property owners and other responsible individuals, such as tenants, accountable for alleviating repeated occurrences of both criminal and civil code violations on their properties. She presented staff’s analysis and response to the feedback Council provided on January 12 as follows:

1. *Provide more information on constitutional protections within the Chronic Nuisance Ordinance.* While there is no guarantee that any law will withstand a constitutional challenge, all a local government can do is adopt a solid ordinance that has a strong potential for surviving a challenge. There are currently no appellate court decisions that have addressed the constitutionality of a chronic nuisance ordinance. Staff has insured that the ordinance contains a sufficient level of due process and incorporates probable cause in determining whether criminal chronic nuisance activities have occurred.
2. *Include a provision for multi-unit properties in the definition of nuisance activity.* The definition of “Chronic Nuisance Property” now includes a chart that defines the number of nuisance

activities in relationship to the number of units for both multi-family residential and multi-tenant commercial properties. However, the ordinance retains the provision that if a single unit meets the definition, the City may determine that the unit is a chronic nuisance.

3. *Add staff discretion in the enforcement process.* Concern was expressed that the ordinance, as drafted, did not allow discretion to make sure the activities truly added up to a nuisance that impacts surrounding property owners' health, safety and welfare. The definition of "Chronic Nuisance Property" was changed to include the designation of "Chronic Nuisance Property" as per SMC 9.30.040, allows the Chief of Police and the Director of Planning and Community Development the discretion to meet and determine whether the property meets the purpose of the ordinance.
4. *Clarify whether specific examples of types of calls to the police would be defined as "Chronic Nuisance Activities" for the purpose of the ordinance.* Questions were specifically asked about whether the definition of "Chronic Nuisance Property" would be met if police are called to respond to a trespass on a property that has a "no trespass order" or to an activity such as a car prowling or shoplifting on commercial property. Both of these types of calls would be considered calls from a victim. As per proposed SMC 9.30.020(E)(4), "Police incident reports generated by calls for service to aid victims on the property shall not be used to determine a chronic nuisance."

Ms. Markle advised that, also in response to input by Council, "fraud related offenses" were removed from the list of criminal activities defined as "Chronic Nuisance Activities", and the section was renumbered accordingly. She highlighted a few additional numbering errors in the amended Exhibit A to correct. Ms. Markle recommended that Council adopt Ordinance 675, with amended Exhibit A, and the additional numbering changes.

Councilmember Roberts moved for adoption of Ordinance 675 as presented by staff, with amended Exhibit A and the additional changes included in the desk packet. Deputy Mayor Eggen seconded the motion.

A question was raised about why staff is recommending that "fraud-related offenses" be removed from the list of "Chronic Nuisance Activities," when other criminal type activities would remain on the list. Shawn Ledford, Chief of Police, explained that fraud, by itself, might not result in a disturbance to the neighborhood. However, it tends to go hand-in-hand with other offenses such as possession of stolen property. Search warrants to address the activity of fraud would meet the definition of "Chronic Nuisance Activity."

The Council discussed Mr. Osborn's question and whether or not the ordinance would apply to all properties in Shoreline, including those that are zoned as "campus." Ms. Markle clarified that the ordinance speaks to uses (commercial and residential) and not specific zones. The ordinance would apply to all residential or commercial uses regardless of the zoning designation.

Specific concern was expressed that the Police Department receives frequent calls from Fircrest to mediate disturbances. It was asked if these calls would meet the criteria of a nuisance property. Chief Ledford expressed his belief that these situations would be considered calls for service, and someone is

most likely a victim. As discussed earlier, these calls would be exempted by the proposed language in SMC 9.30.020(E)(4). Julie Ainsworth-Taylor, Assistance City Attorney, reminded the Council of the proposed change to SMC 9.30.040, which provides for discretionary review by the Chief of Police and Director of Planning and Community Development to determine if the community is negatively impacted. Fircrest is isolated, and it is not likely that impacts will spill over into the neighborhoods. It was also discussed that it takes a certain intentionality to be guilty of disorderly conduct. Under the eyes of the law, residents of Fircrest would be deemed incapable of forming intent.

A question was asked about whether group homes and assisted living facilities would fall under the criteria of a chronic nuisance, since the police frequently receive calls to respond. Chief Ledford explained that while these situations, as well as situations involving domestic violence, shoplifting, and possession of narcotic at school, might technically meet the definition of a chronic nuisance, they would not be counted as such. It is important that people not be discouraged from calling when they need help.

The Council discussed that the time period should not start over if a property owner meets the requirements of a compliance plan. Chief Ledford agreed and said that, as per the proposed ordinance, the property would still be classified as a chronic nuisance if there is additional activity within the 24-month time period. It was recommended that the City establish a policy of sending out a letter to affirm that the conditions a property owner was required to undertake have been completed. However, the letter should give no indication that the clock would restart. Any further violations within the time period would require the property owner to go through more process.

The Council asked if staff feels confident that the ordinance adequately covers all of the potential property uses. Chief Ledford expressed his belief that the ordinance is well written and addresses problems from a police perspective. He summarized that the Police Chief, Director of Planning and Community Development, and City Attorney would work together to establish probable cause, and he is comfortable that the process would be fair and objective.

The Council discussed the definition for “Chronic Nuisance Property” in SMC 9.30.020(B), noting that Item 1 would specifically apply to single-family residential and single-unit commercial properties and Item 3 would specifically apply to multi-family residential and multi-tenant commercial properties. They discussed changing the language in these two sections to be consistent with the language in Item 2, which applies to “any type of property.” They also discussed altering Item 1 to apply to single-unit properties and Item 3 to multi-unit properties without regard to zoning type or use. They ultimately decided to support the language, as proposed by staff.

The motion to adopt Ordinance 675 was unanimously approved.

9. ADJOURNMENT

The meeting was adjourned at 7:43 p.m.

Jessica Simulcik Smith, City Clerk