

CITY OF SHORELINE

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

Monday, February 14, 2005
7:30 p.m.

Shoreline Conference Center
Mt. Rainier Room

PRESENT: Mayor Hansen, Deputy Mayor Jepsen, Councilmembers Fimia, Grace, Gustafson, and Ransom

ABSENT: Councilmember Chang

1. **CALL TO ORDER**

The meeting was called to order at 7:30 p.m. by Mayor Hansen, who presided.

2. **FLAG SALUTE/ROLL CALL**

Mayor Hansen led the flag salute. Upon roll call by the City Clerk, all Councilmembers were present, with the exception of Councilmember Chang.

Upon motion by Councilmember Fimia, seconded by Councilmember Ransom and unanimously carried, Councilmember Chang was excused.

(a) Proclamation of Shoreline's 10th Anniversary

Mayor Hansen presented the proclamation to the 10th Anniversary Committee, staffed by Lynn Devoir, Recreation Superintendent, and Dick Deal, Parks, Recreation and Cultural Services Director.

Ms. Devoir described the structure of the Anniversary Committee, noting it is comprised of four groups: 1) Accomplishments; 2) Shoreline Stars; 3) Gala Celebration; and 4) Marketing/Promotion. She listed all the members of each committee, outlined the committees' various work plans, and concluded by thanking all those involved in ensuring the anniversary celebration is a success.

(b) Mayor's State of the City Address

Mayor Hansen delivered the State of the City address, emphasizing the City's past accomplishments, current condition, and future challenges. He described the City's present condition as "excellent," owing in part to the City Council's conservative approach to finances. He outlined the City's major goals, objectives, vision and values that have shaped the City's development over the past ten years, including improved

infrastructure and basic services. He noted that Shoreline has accomplished the following since incorporation:

- Paved nearly 25 lane-miles of roadway;
- Added or repaired over 7,000 linear feet of sidewalk;
- Added over 170 new sidewalk wheelchair ramps;
- Added over 3,000 linear feet of curbs and gutters;
- Dredged 1,500 cubic yards of sediment from Hidden Lake;
- Had more than 15,000 people participate in waste reduction and recycling events;
- Approved nearly \$140,000 in neighborhood mini-grants;
- Logged over 150,000 hours of park maintenance time;
- Upgraded three existing park facilities – the Pool, the Richmond Highlands Recreation Center and Paramount School Park; and
- Built three new major park facilities – the Skateboard Park at Paramount Park, the Spartan Gym and the new fields at Shoreview Park.

He then reported on the status of various City projects, including the Third Avenue NW Drainage Improvement Project, the Interurban Trail, City Hall, North City, and Aurora Avenue. He commented that these projects will enhance the lives of residents and bring safety, economic growth, and recreational opportunities to Shoreline. He commented on the City's development of major planning tools such as the Comprehensive Plan, the Development Code and the Capital Improvement Program. He thanked the hundreds of community members who volunteer their time to the City and who have contributed positively to Shoreline's progress. He thanked City staff for their commitment to the City's goals and objectives.

Mayor Hansen concluded his address by outlining Shoreline's major challenges for the next ten years. He noted that despite conservative budgeting, the cost of maintaining current services is expected to outpace revenues in the coming years, mainly due to a slow economy and voter initiatives that reduced local tax revenues. However, the City continues to look for cost savings and efficient service delivery. He said the Council will be coming to the Shoreline community for help in setting priorities for the services we provide and how we pay for them. He expressed confidence that by working together, the City will maintain its financially stable position and continue to make significant accomplishments in the coming years.

3. CITY MANAGER'S REPORT

City Manager Steve Burkett briefly reported on the following items:

- Installation of the raven sculpture on the Interurban Trail (donated by the Rotary Club)
- The Council's recent tour of cottage housing developments
- Opening of the North City bids on March 10
- Volunteer training done at the police neighborhood centers

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- The meeting of the Sno-King Environmental Council with members of the City Council
 - The hiring of Shoreline's new police captain, Dan Pingrey.
4. REPORTS OF BOARDS AND COMMISSIONS: none
5. PUBLIC COMMENT
- (a) Gretchen Atkinson, Shoreline, supported the Echo Lake site for the City Hall project, outlining the various public benefits it would provide. On another topic, she urged the Council to ask the post office for one or two unique postal codes for Shoreline. She hoped that a zip code change could coincide with the dedication of a new City Hall.
- (b) Dennis Lee, Shoreline, commented on the meeting between the Sno-King Environmental Council, Planning Commission members, staff, and City Councilmembers. He emphasized the importance of having an open dialogue and considering the history of changes to the Comprehensive Plan. He noted that several of them have weakened the document, making it less restrictive. He expressed concern about the effort to "wordsmith" the document, noting that the original policies were written with specific purposes in mind. He urged the Council to consider citizens advisory committees and encourage more citizen input.
- (c) Janet Way, Shoreline, representing the Sno-King Environmental Council and the Thornton Creek Legal Defense Fund (TCLDF), expressed concern about consent item 7(e), City Hall delivery process. She felt consideration of this item was premature since the Council has not yet authorized the land purchase and has not finished the Comprehensive Plan review process.
- (d) Vicky Westberg, Shoreline, provided background on her father, who had a great influence on her current respect for living things and the natural environment. She said this is a healthy attitude to have as the City works together toward achieving a healthy community.
- (e) Virginia Paulsen, Shoreline, thanked the Council for meeting with members of the Sno-King Environmental Council to discuss specific concerns relating to protection/enhancement of the environment. She hoped there would be more such meetings between Councilmembers, citizens, and staff. She said it is essential to ensure streams, wetlands, and shorelines are preserved, since society is dependent upon them for survival. She expressed continued concern about the City's fiscal policies, urging the Council not to spend the \$11 million it has "hoarded" for a new city hall. She hoped the Council would listen to concerned citizens and take their comments into consideration when deliberating the Comprehensive Plan.
- (f) Michael Rasch, Shoreline, questioned the appropriateness of the meeting between Councilmembers and special interest groups. He noted that the meeting with SKEC was not widely noticed, nor was it televised. He was concerned about the

potential precedent this would create, noting that the comments submitted by SKEC have not been discussed in open meetings. He stated that the group is proposing some “radical changes,” such as prohibiting all development in critical areas. He asked if other special interest groups, such as the Innis Arden Club, would have similar access to express its opinions on trees and views. Finally, he asked about the process for requesting a special meeting.

(g) Egill Johnsen, Shoreline, noted that the City has changed the street configuration in certain locations from two travel lanes/two parking lanes to travel lanes/bicycle lanes, thereby eliminating spaces for parking. He said to sell the public on the idea of cityhood, Vision Shoreline established several goals, including local control of zoning, citizen impact through public hearings, and protecting private property. He asserted that these goals have been ignored, and that the traffic revisions have the appearance of a “secret affair.” He said bicycle lanes have been preplanned in secret for other streets, including Meridian Avenue N. He said this is completely unnecessary because bicycles have access to all roads.

(h) Richard Johnsen, Shoreline, noted that the 10-year anniversary proclamation failed to mention Vision Shoreline, the organization that preceded the transition team which brought Shoreline into existence. He described his participation as a member of the advisory board, noting his contribution to the financial study that determined if cityhood was a viable option for Shoreline. He said the Mayor has a duty and an obligation to “set the record straight” and ensure that Vision Shoreline is equally represented in the proclamation.

(i) Cindy Ryu, Shoreline, urged the Council to remove item 7(e) from the consent calendar, noting that the lease-to-own/design build delivery method for City Hall does not comport with the conservative financial approach the Mayor described in the State of the City address. She emphasized the disadvantages of the design/build option, noting her preference for a hybrid of the two options. She expressed skepticism that the Echo Lake site could adequately accommodate all of the planned features. She stressed the need for more discussion.

(j) Fran Lilleness, Shoreline, also expressed concern about Council’s meeting with SKEC. She said the group proposes an amendment to protect critical areas that would impact the property rights of others. She explained that public views throughout the City of Seattle are required to be protected through responsible pruning, trimming, and removal of invasive slope vegetation and replanting with non-invasive species. She said every single tree in Shoreline does not require protection, and people have a right to enjoy the views of the water and mountains.

(k) Rick Stephens, Shoreline, supported the City Council, staff, and citizens getting together to discuss differences, express opinions, and find common ground. He felt the SKEC meeting will “change the way things happen in Shoreline,” because now people have way to express their views. He said more such meetings are needed, and communication is always the best goal.

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(l) Peter Eglick, Lake Forest Park, noted that he represents the Innis Arden Club, which includes 538 lots and over 1,000 City residents. He said the covenanted community is "second-to-none" in its stewardship of the 50 acres of reserve open space, and that his clients would like to have had a special meeting with members of the Council. He objected to the lack of widespread public notice.

There was Council consensus to watch an eight-minute video presentation provided by Dot Brenchley of Fircrest. The video described the potential impacts on Fircrest residents if the facility is closed.

6. APPROVAL OF THE AGENDA

Councilmember Fimia asked that the minutes of January 18 and February 3 be pulled. Councilmember Ransom asked that item 7(e) on the City Hall delivery system be pulled from the consent calendar. It became Item 9(b). Councilmember Gustafson moved that item 9(b) regarding the Hidden Lake pump station be placed on the consent calendar. Deputy Mayor Jepsen seconded the motion, which carried unanimously. Upon motion by Councilmember Gustafson, seconded by Deputy Mayor Jepsen and unanimously carried, the agenda was approved as amended.

7. CONSENT CALENDAR

Deputy Mayor Jepsen moved approval of the consent calendar as amended. Councilmember Grace seconded the motion and the following consent items were approved unanimously:

Minutes of Regular Meeting of January 10, 2005
Minutes of Regular Meeting of January 24, 2005
Minutes of Special Meeting of January 31, 2005
Minutes of Special Meeting of February 5, 2005

Approval of expenses and payroll as of February 3, 2005
in the amount of \$2,863,497.53

Ordinance No. 368 amending the Development Code
Chapter 20.40, adding tent city to the use tables and
requiring the applicant to hold a neighborhood meeting
prior to application

Ordinance No. 373 reclassifying a Finance Technician
position in the Finance Department to a new classification
entitled Accounts Payable Technician and amending
Ordinance No. 366, by amending the 2005 non-exempt
salary table to add this classification

Motion to authorize the City Manager to execute an agreement with Metro for improvements related to the Hidden Lake Pump Station/Boeing Creek trunk sewer upgrade and approval of Metro easements for Boeing Creek Park

8. ACTION ITEMS: PUBLIC HEARING

- (a) Public hearing to consider citizens comments on the 2004 Update of the Comprehensive Plan and the master plans for Transportation, Surface Water and Parks, Recreation and Open Space

Mayor Hansen opened the public hearing.

(a) Rick Stephens, Shoreline Merchants Association (SMA), outlined the SMA's recommended changes to the sign code. He urged the Council to delete the prohibition on billboards, noting that they are a legal form of advertisement. He said courts have ruled that signage is a form of speech that is protected under the first, fifth, and fourteenth amendments of the U.S. Constitution. Turning to transportation, he noted that the traffic plan does not provide improved Level of Service (LOS) in the long-term for various segments of Aurora Avenue. He described the traffic congestion on Aurora Avenue caused by increased "green time" for east-west traffic. He said there is no way to implement an economic development plan without an economic development manager who knows the "real-world" issues.

(b) Harry Obedin, Shoreline, noted that trees are living things, but if people treat them as sacred objects then people are, in effect, committing "economic terrorism." He said trees lose their ability to be useful when they exceed a certain size and start to decay. He outlined the various hazards that trees can cause to both people and to the sensitive areas the City wants to protect. He said although some environmental activists have good intentions, they are not concerned with view preservation, which is very important because views determine property values. He urged the City to practice responsible forestry by conducting periodic evaluations of every tree within the City. He said trees that have outlived their usefulness should be replaced with other trees of similar or superior characteristics.

(c) Ewa Sledziewski, Shoreline, opposed the changes proposed by SKEC regarding tree preservation, noting that it is totally nonsensical to require stringent regulations for removing trees or branches on slopes. She said there is no scientific proof that removing a branch or even a tree from such a slope is detrimental to the slope, and that people making such proposals have no clue about biology, trees, slopes, or geotechnical matters. She said Innis Arden was developed over 60 years ago as a result of a clear-cut, but there were no mudslides at that time. She said the two mudslides in Innis Arden Reserve M took place on slopes with huge trees, but the trees did not prevent mud from sliding down. She said pruning is required to maintain tree health and to

maintain property values. She said it is a great limitation on personal freedom to “come to a bunch of bureaucrats for a permit to cut a branch on my tree.”

(d) John Hollinrake, Shoreline, also expressed concern about the SKEC proposals, which he felt are adverse to the interests of Innis Arden residents. He said the current law allows residents to work with the planning department and the City Attorney to manage views in a scientifically and environmentally friendly manner. He said this often involves arborists, geotechnical engineers, and stream scientists. He said the purpose of government is to protect the interests of people and their property, hence the need for the police department, fire department, building codes, inspectors, etc. He emphasized that “people come first, and trees come second.” He said many residents have lost property value in the range of \$40,000-\$90,000 due to a loss of view. He encouraged the Council not to adopt the proposed changes by SKEC, but to streamline the process and “fine tune it” so it works for all the citizens of Shoreline.

(e) Janet Way, Shoreline, representing SKEC, TCLDF, and Paramount Park Neighborhood group, said her organizations are proposing changes to the Comprehensive Plan because they care about the safety and beauty of the community in which they live. She noted that the SKEC meeting was announced at a previous Council meeting and was open to the public. She outlined her contributions to the improvement of Paramount Park, which contains over six acres of wetlands, streams, trails, habitat, and meadows. She said hundreds of residents use the park on a daily basis, and they are delighted to have natural places to go for passive recreation. She said parks and critical areas have great meaning to her because they provide habitat and maintain the character of neighborhoods. She said the precious and fragile places must be safe and protected from harm. She urged the Council to work with her groups to craft amendments that comply with GMA requirements and that reflect the spirit of the community.

(f) Vicky Westberg, Shoreline, urged the Council to carefully consider any proposals to “streamline” the permit process. She said while she would like the permit process to be speeded up, she does not want to lose any environmental protections as a result.

(g) Virginia Paulsen, Shoreline, described the circumstances that allowed her to purchase a home in Shoreline. She explained that since that time, a significant portion of her retirement income is spent on property taxes and maintenance. She noted that heating oil has increased from 98 cents per gallon in 1998 to \$2.12 today. She expressed concern about increased property taxes and bond rates resulting from the purchase of City Hall. She feared that the City’s fiscal plans would not enable her to stay in her home.

(h) Roger Lowell, Shoreline, urged the Council not to adopt measures that would place more restrictions on tree management. He encouraged the City to avoid “another bureaucracy in the City or a situation where neighbors tattle on neighbors about trees.” He concurred with previous speakers that residents have lost property value through view loss due to tree mismanagement. He said restrictions would decrease the City’s revenue base and leave the City vulnerable to lawsuits for taking property without

due compensation. He said further restrictions would erode the City's fiscally conservative approach spoken of by the Mayor.

(i) Michael Rasch, Shoreline, asked the Council to consider modifying the Comprehensive Plan policies to allow the planting of non-native species in specified areas. He said after King County passed the sensitive areas ordinance in the early 1990s, many native trees have grown and have become problems for property owners. He said the Planning Commission recommends adopting language that any mitigation or replanting should be done with native species. However, many of the native species grow to "towering heights" and become problematic for property owners. He asked that Council consider adding the language "unless otherwise approved" in policies requiring the planting of native species. He noted that the Innis Arden Club is discussing the idea of creating an arboretum that would contain a wide variety of species of trees. He said this could provide a park-like setting for the community while still providing the same type of habitat and soil stability that native trees provide.

(j) Judy Allen, Shoreline, agreed with previous Innis Arden speakers, noting that the City relies on a tax base of \$322 million in property value represented by Innis Arden residents. She said the majority of this figure comes from the value of view property. She said the people proposing the restrictions do not live in Innis Arden and do not pay the taxes. She urged the City to continue working with the Innis Arden Club and its reserves committee.

(k) Bob Allen, Shoreline, said he is bothered that people seek control over how residents manage their own environment. He asserted that property owners have a higher interest in managing the environment, and that trees provide a value and spiritual uplift for present and future generations. He was concerned that a group of "like-minded people" express their opinions to the Council in unpublicized meetings as though they represent the community's will. He said people should give more credit to Innis Arden residents and not regard them as people who want to destroy the environment.

(l) Peter Henry, Shoreline, urged the Council to change its policy on applause, and complimented the Friends of Fircrest for their presentation. On another topic, he noted that the people living at the Holiday Resort mobile home park represent the opposite end of the spectrum from those in Innis Arden. He said it is shocking and reprehensible that the City waited until a meeting was convened with the King County Housing Authority to explore how it could help the dislocated residents. He said government is here to help people, but the City seems to be "helping them get kicked out." He urged the City to provide more help.

(m) Diana Stephens, Snohomish, agreed with the economic development goals of the Comprehensive Plan, but said many of them will be difficult to accomplish without an economic development manager. She encouraged the City to move forward with hiring someone as well as creating an advisory committee. She urged the City to follow up words with action and to look at Renton, Edmonds, and Snohomish County for ways to expedite the permitting process.

(n) Cindy Ryu, Shoreline, commented on item #234 of the Comprehensive Plan matrix relating to traffic safety. She said although safety for pedestrian and bicycle traffic is a commendable goal, Shoreline residents still rely heavily on vehicles for transportation. She said until there is expanded bus service, vehicular traffic is still a high priority in Shoreline. She commented on the possibility of degraded LOS in the Transportation Master Plan, noting that LOS for Aurora Avenue and Ballinger Way NE would likely decrease. She said intersection delays would likely increase due to lack of capacity, thereby causing a high level of driver frustration. She said until the City can fund more sidewalks, walkways, bicycle lanes, and buses, it needs to improve the LOS rather than degrade it.

(o) Peter Eglick, Lake Forest Park, said Innis Arden has a constituency at least as important to the City as SKEC to justify a meeting with the Council. He invited the Council to contact him to arrange a meeting so Innis Arden can express its concerns about the Comprehensive Plan and trees. He said the main issues include 1) stewardship and liability, 2) view, and 3) solar access. He said the State Supreme Court recognized that a view right can be created by an easement. He further explained that the courts unanimously hold that a property owner is entitled to just compensation if the easement or property right is taken or damaged. If the City adopts regulations that make it impossible for the view easements to be enforced in a reasonable way, there is a taking and the City ultimately has to pay for it. He expressed concern that the language of the Comprehensive Plan moves the City unnecessarily "closer to a collision course with easement rights." He then outlined Innis Arden's stewardship responsibility, noting that every tree in the Innis Arden reserves has a number and is on a surveyor's map. He pointed out that Innis Arden does not have the same immunity from liability that is provided to cities through state law, so it must take extra care to manage the reserves in a way that reduces danger or the risk of causing harm to persons or property. He said the Comprehensive Plan moves in a direction that makes it more difficult to accomplish that stewardship.

(p) Brian Derdowski, Bellevue, representing Public Interest Associates, SKEC, and TCLDF, said nothing in the testimony of SKEC is intended to affect the rights of the people of Innis Arden. He said there is no interest in "micromanaging people's property," but there is interest in protecting the functions and values of wetlands and streams that are at risk. He said the City has the responsibility to do the kind of detailed analysis that Mr. Eglick described in compliance with the GMA and best available science. He said the prevailing view is that trees are not to be removed in critical areas, but there are many ways to manage problems such as those in Innis Arden. He asserted that a covenant does not take precedence over state law, but reasonable language can be drafted to protect the legitimate interests of both Innis Arden and SKEC. He said it is not unusual for local governments to invite special testimony, noting there is tremendous value in committee work. He thanked members of the Council, Planning Commission, and staff for meeting with SKEC.

Councilmember Grace moved to close the public hearing. Councilmember Gustafson seconded the motion, which carried unanimously.

9. **ACTION ITEMS: OTHER ORDINANCES, RESOLUTIONS, AND MOTIONS**

- (a) Ordinance No. 369 amending the Development Code Chapter 20.50.550 to allow an exception to offsite sign prohibition

Tim Stewart, Director of Planning and Development Services, briefly reviewed the staff report, noting that two issues came up during the workshop discussion of this item: 1) whether the word “may” or “shall” should be used; and 2) whether shared common access should be required to qualify for the exception to the off-site sign prohibition.

Mayor Hansen called for public comment.

- (a) Rick Stephens, Shoreline Merchants Association, reported on the meeting between the SMA, Chamber of Commerce, and City staff, characterizing it as a “very healthy discussion about signage.” He said it is becoming apparent to businesses today that access, signage, visibility, and parking are equally as important as location. He questioned the rationale for linking the sign ordinance to land use, noting that everyone at the meeting agreed that signage should be separate from land use regulations. He disagreed that “shared common access” should be a requirement of the off-site sign exemption. He said the City should support consolidation of signage even if joint access is not available. He noted that good signage can grow a business, but small or poorly located signs can cause business failure. He said he is surprised to see Mr. Stewart now supporting the “shared common access” requirement.

- (b) Jim Abbott, Shoreline, spoke on behalf of the Gateway Plaza development in support the amendment. However, his group does not support linking off-site signage to joint access. He noted that the Gateway Plaza reached an agreement with Seattle City Light (SCL) to have signage on the right-of-way; the current proposal is for two monument signs. Currently there are about 15 signs on the property, all of which would be grandfathered in as having existed prior to the enactment of the code. He said the two signs would be preferable to having a number of different signs.

- (c) Peter Henry, Shoreline, said it seemed that some of the City’s justification for changes to the sign code was for safety reasons. He noted that signage such as the “No War” banners draped on the overpass on Interstate 5 is regulated by the Washington State Department of Transportation. He felt the City should not duplicate what the state is already regulating.

Councilmember Fimia moved to pass Ordinance No. 369 with Attachment B as Exhibit A. Councilmember Ransom seconded the motion.

Councilmember Fimia said the Buxton Company's economic development study indicated that signage is very important to businesses not located directly on arterial streets. She said she understands why staff and some Councilmembers might want to link signage and access, but she would rather do it in the form of an incentive than in the form of coercion. She felt businesses should not be precluded from having signs if they are not located on the right-of-way. She also expressed concern that there are different opinions on the outcome of the signage meeting.

Councilmember Ransom pointed out that Gateway Plaza, Goldie's Casino, and 24-Hour Fitness have all testified that they do not want shared common access as a condition of the offsite sign regulation. There has been no comment from the Joshua Green property. He said it is very concerning that the planning department claims this amendment benefits businesses, yet it was not discussed with Goldie's or 24-Hour Fitness. He supported the motion, noting this approach is supported by the SMA and the Chamber.

MEETING EXTENSION

At 10:00 p.m. Deputy Mayor Jepsen moved to extend the meeting until 10:30 p.m. Councilmember Ransom seconded the motion, which carried 6 – 0.

Deputy Mayor Jepsen moved to change the word "shall" to "may" in Attachment B. Councilmember Gustafson seconded the motion.

Responding to Councilmember Ransom, Deputy Mayor Jepsen clarified that he supports Exhibit A with the inclusion of "shall" and "sharing common access." Otherwise, he supports a version of Attachment B that replaces "shall" with "may" and strikes "sharing of common access."

Councilmember Fimia felt using "may" would be regressive and not achieve the goal of assuring businesses that their signage will be permitted.

Councilmember Gustafson asked Mr. Stewart's opinion on the amendment to change "shall" to "may."

Mr. Stewart said although the word "may" allows for a higher level of discretion, it really wouldn't make much difference because the permit will be issued if it meets the standard criteria.

Councilmember Fimia felt staff could still deny a permit based on the absence of language relative to shared access. She said if the amendment passes she would offer an amendment that says shared access is not required.

Mr. Stewart clarified that staff reviews sign permit applications with the presumption that the permit will be granted. He said staff would need sufficient reason to deny a joint sign package if it meets the criteria.

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Councilmember Fimia asked for the rationale of changing “shall” to “may” if it makes no difference. She wanted to be sure the process is predictable for permit applicants.

Deputy Mayor Jepsen felt the amendment would allow staff some flexibility.

A vote was taken on the motion, which failed 3-3, Councilmembers Fimia, Grace, and Ransom dissenting.

Councilmember Grace felt that Attachment B would be an appropriate change to the code, since it allows several business owners to put together a joint sign package as long as it conforms to applicable development standards.

Mayor Hansen said while he has mixed feelings about it, he would support the motion based on the Planning Director’s testimony that it is probably not a significant change.

Councilmember Gustafson said he supported Deputy Mayor Jepsen’s amendment because there is always an exception to the rule. He noted that judges or City officials need some degree of flexibility because every situation is different. He said despite his reservations, he would support the motion, although it might be advisable to revisit the issue in the future.

A vote was taken on the motion, which carried unanimously and Ordinance No. 369 with Attachment B as Exhibit A was passed.

Councilmember Fimia asked Mr. Stewart about the difference of opinion between City staff and the SMA and how it could be avoided in the future.

Mr. Stewart said in his 25 years of planning experience, the sign code has always been part of the land use code. He clarified that he never implied that the land use code was not the appropriate place for the sign code.

- (a) Motion to authorize the Lease-to-Own/Design-Build delivery method for the City Hall project

Mr. Burkett described the advantages and disadvantages of this delivery method as outlined in the staff report. He explained that staff and Council have been considering this delivery method for several years, and there have been many discussions and analysis by staff, consultants, and legal experts about this option. He emphasized that the Lease-to-Own/Design-Build option is used by many other cities and public agencies. It allows the City to select an architect/contractor team in a competitive process that would construct and deliver the City a finished product within the City’s quality requirements at a fixed price. It avoids the problems caused by the low bid process and transfers risk for unknowns from the City to the developer/contractor team. A higher quality project can usually be assured because the City selects the contractor/architect/developer team, as opposed to the low bid process where there is limited ability to eliminate questionable contractors. He said this method allows the City to begin advertising for proposals while

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the Council is reviewing this particular site, so the process could be done concurrently rather than consecutively. This method is independent of the site the Council ultimately chooses for City Hall. If the Council decides that it does not want to proceed with a purchase agreement for the Echo Lake site, staff still recommends this delivery method for City Hall.

Councilmember Gustafson moved to authorize the Lease-to-Own/Design-Build delivery method for the City Hall project. Councilmember Grace seconded the motion.

Mayor Hansen called for public comment.

(a) Dave Fagerstrom, Shoreline, expressed support for this delivery method, noting that it worked successfully in Redmond.

(b) Brian Derdowski, Bellevue, noted that there is less control, flexibility, and ability to be innovative with the Design/Build method. This is why most entities do not use it for products that are meant to be special. He said a reasonable person could conclude that the City is making the decision on Design/Build because it already made a decision on the City Hall site. He said if the Council approves the method before it buys the property, it appears there is a linkage between the design discussions and the purchase. He said there is no "firewall" between the decision on the contract rezone and the site purchase as City staff has claimed. He suggested that the Council separate the rezone decision from the purchase because there is linkage between the contract rezone discussions, the purchase decision, and the Design/Build discussion.

MEETING EXTENSION

At 10:30 Deputy Mayor Jepsen moved to extend the meeting until 10:45 p.m. Councilmember Ransom seconded the motion, which carried unanimously.

(c) Janet Way, Shoreline, agreed that the City has a conflict of interest in this matter. She said the Planning Director claims there is a "firewall" at the same time he gives a detailed presentation to the Planning Commission about the Echo Lake site. However, citizens are not allowed to discuss it because it is considered a quasi-judicial matter. She urged the Council to be very careful and not to "rush" to a decision tonight.

Mr. Burkett and Jesus Sanchez, Public Works Operations Manager and City Hall Project Manager, responded to Council questions and public comments. Mr. Burkett reiterated the advantages to this delivery method and the fact that City Hall has been on the Council's list of goals for many years.

Mr. Sanchez emphasized the dual/independent nature of the purchase process and the delivery method. Regarding the concern about "rushing" the process, he pointed out that the City has just signed an agreement on the two existing buildings it currently leases, and has added into its one-year lease 18-month options to extend. He explained his

responsibility to evaluate the feasibility of the project, noting that he is willing to recommend that the City look elsewhere if he deems the Echo Lake site is not financially feasible. However, the Design/Build method is independent of the cost feasibility analysis for the Echo Lake site. He described his experience on past projects that utilized a Design/Build method, including Harborview and the Shoreline District Courthouse. He said although these projects had challenges in terms of cost overruns and litigation, the Design/Build method guaranteed to a greater extent a fixed price and "locking your risk liability early on in the process." He provided national statistics on Design/Build projects and concluded that the Design/Build method averages at 6.1% net cost savings over the traditional method. In project delivery scope the method achieves a 33% faster delivery rate, with a 12% faster delivery rate on total construction phase.

Robert Olander, Deputy City Manager, pointed out that Council direction on the delivery method would put the City ahead in the overall process, regardless of which site is selected.

Councilmember Grace felt that selecting the delivery method now would be a prudent project management decision. He expressed support for the Design/Build method and did not feel it was linked to any other decision with the project. He felt this could allow the project to move forward, regardless of site.

Councilmember Ransom questioned whether the Design/Built method would actually be more cost effective than the traditional method. He noted that the City would only be getting a small percentage of its monthly payments applied toward the purchase price in a lease-to-own agreement. He wondered why a developer would choose a Design/Build/Lease-to-Own option if profitability is questionable.

Mr. Burkett said it is healthy and expected that a developer make a profit on a City project, as opposed to the alternative of potential litigation and change orders under the low bid process. He said he would like to avoid having to call in the contractor's performance bond and have somebody else finish the project. He said the key of the architect/developer team is the ability to work together to solve problems and meet the City's objectives in terms of quality and performance. He felt the cost savings could be achieved under the Design/Build method because it allows the architect/contractor team more creativity in developing a proposal the can either accept or reject.

Mr. Olander explained that the traditional method requires very specific plans and specifications for "everything down to the last nail." On the other hand, the Design/Build method allows the architect/contractor team to use its creativity and experience to find alternative methods of construction that stay within the quality and performance specifications. He noted that the potential for cost containment and quality is higher in the Design/Build method because developers usually work with higher-quality subcontractors they know and trust. He said although he was initially a skeptic of the Design/Build method, he is now an advocate based on the experience of other jurisdictions.

METTING EXTENSION

At 10:45 p.m. Councilmember Ransom moved to extend the meeting until 11:00 p.m. Councilmember Gustafson seconded the motion, which carried unanimously.

Councilmember Ransom noted that the owner has a lower level of control in determining the design features in the Design/Build method. He wondered if the method would allow the City the ability to specify environmentally friendly features such as solar power.

Mr. Burkett said the City has the flexibility to specify any features it wants, but if it does it after the bid is awarded, the costs are likely to be higher. He clarified that changes are limited after an agreement is reached.

Mr. Sanchez clarified that the design phase would specify performance measures such as LED silver certification, water pressure, etc., as opposed to specifying detailed material criteria such as the size/type of pipe. Mr. Olander said the City could specify the level of quality for carpeting, roof, or HVAC output, but it is not specifying how it is to be built.

Councilmember Ransom raised a third concern about the potential appearance of fairness in making this decision before the decision to purchase.

Mayor Hansen and Councilmember Gustafson felt this decision was not tied to the purchase decision.

Responding to Councilmember Fimia, Mr. Burkett clarified that the Design/Build would be a lease-to-own arrangement with an option to purchase at any time. He said the intent is to purchase the building shortly after it is completed.

Mr. Sanchez noted that the City could guarantee fixed lease payments by specifying the maximum per-square-footage costs early on in the process. He said these could mirror the City's current lease payments.

Councilmember Fimia recommended that the Council not make this decision tonight, noting that part of the argument to build a City Hall was to avoid leasing office space. She was uncomfortable that the City would have less control over the design under the Design/Build method. She said the City doesn't really know what the building will look like until it knows more about the site. She was not comfortable approving the delivery method when the City is currently in the due diligence period for the Echo Lake site.

Councilmember Ransom was concerned that the City would not own the land or building under the Design/Build method. He said part of the rationale for buying the property was to preserve the area to be designated as a City park.

Mr. Burkett said under this method the City cannot legally own the property until it exercises its option to purchase it.

Reading from the staff report, Councilmember Grace noted that the intent is to “exercise the option to purchase relatively soon after project completion in order to take advantage of the savings provided by municipal bonds. Some entities delay the purchase to assure adequate time to evaluate the successful operation of the main building systems, such as HVAC, electrical, etc.” He understood that the purchase could happen relatively soon once the City ensures there are no problems and the building is operational.

Deputy Mayor Jepsen supported the Design/Build method, noting that it will take time to prepare a Request for Proposal (RFP), as well as other business issues that will require resolution prior to an RFP. He stressed the importance of drafting the document regardless of which site is chosen. He said the Council has not yet discussed the parameters of the project, so a guaranteed price cannot be known until firm information is provided. He said Council must give clear direction up front “because this process is only as good as the information you provide up front.”

Responding to Councilmember Fimia, Mr. Burkett expressed his view that a Design/Build option without a lease agreement would not be legal under state law.

Mr. Sanchez noted that RCW 35.42 provides specific requirements relating to the Design/Build process. Without clear direction about the delivery method, companies looking for a Design/Build system will be unsure about how to prepare its qualifications.

A vote was taken on the motion, which carried 5 – 1, with Councilmember Fimia dissenting.

Responding to public comments regarding the City’s process for hiring an economic development program manager, Mr. Burkett announced that a new Economic Development Manager has been hired and will start March 1, 2005.

10. ADJOURNMENT

At 11:00 p.m., Mayor Hansen declared the meeting adjourned.

Sharon Mattioli, City Clerk