

DRAFT

CITY OF SHORELINE

SHORELINE CITY COUNCIL SUMMARY MINUTES OF REGULAR MEETING

Monday, April 28, 2003
7:30 p.m.

Shoreline Conference Center
Mt. Rainier Room

PRESENT: Mayor Jepsen, Deputy Mayor Grossman, Councilmembers Chang, Gustafson, Hansen, Montgomery, and Ransom

ABSENT: none

1. CALL TO ORDER

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

2. FLAG SALUTE/ROLL CALL

Mayor Jepsen led the flag salute. Upon roll call by the City Clerk, all Councilmembers were present.

(a) Proclamation of "Volunteer Week"

Mayor Jepsen presented the proclamation of Volunteer Week to several of the Police Department Explorers, who donated more than 4,000 volunteer hours in 2002.

3. CITY MANAGER'S REPORT

City Manager Steven Burkett reminded Council that the annual volunteer breakfast will be held Friday, May 2. He reported that the City experienced a 47 percent increase in the Spring Basketball Program. He also reported that the Public Works Department has completed landscaping improvements at 165th Street and 5th Avenue NE, and it will continue to identify additional locations that need improvement.

4. REPORTS OF BOARDS AND COMMISSIONS: none

5. PUBLIC COMMENT

(a) Rick Stephens, Shoreline, read portions of Revised Code of Washington (RCW) Chapter 42.30, the Open Public Meetings Act. He spoke in favor of allowing the public adequate time to address action items. He said the law should be liberally construed in order to give the public more time to comment.

(b) Anthony Poland, Shoreline, said the Council is limiting public comment in order to eliminate opposition. He asked about his request that Council ask the cable franchise to provide a Public Access Channel, which it is required to do. He said all the City has to do is request it. He noted that existing channels could carry public access broadcasts as well.

(c) Pat Crawford, Shoreline, asked why the City removed language from the City Owner's Manual relating to permits. She also asked why the City's organizational chart had been removed. She described the organization of Shoreline's government, noting that Shoreline citizens lead the organization and are on top of the chart. She said people need to know how democracy works, and that public input is being squelched.

(d) Janet Way, Shoreline, expressed alarm that the Council intends to limit public comment, explaining that it is the foundation of our country. She said Council is making a big mistake if it intends to retract the citizen's right to comment. She quoted Thomas Jefferson and said that resistance to government is sometimes a good thing.

Mayor Jepsen explained that Council meetings have always included public comment at the beginning and that will not change. The public can comment on action items at that time. He was not aware of the specific change to the Owner's Manual, but knew that the City budget document still retains the organizational chart.

Regarding public access television, Councilmember Ransom commented that the City of Seattle has a PEG channel that shows on cable in Shoreline and would be open for Shoreline residents to use. He said training is provided at the station for people who want to learn to use it. He asked the City Attorney to comment regarding RCW 42.30, the Open Public Meetings Act.

City Attorney Ian Sievers commented that all City Council meetings are open to the public as required by the Open Public Meetings Act.

6. APPROVAL OF THE AGENDA

Councilmember Ransom moved approval of the agenda, removing Item 7(f) Resolution No. 205, from the Consent Calendar and making it an Action Item and placing Action Items 9(a) and 9(b) on the Consent Calendar. Councilmember Montgomery seconded the motion, which carried unanimously and the amended agenda was approved.

7. CONSENT CALENDAR

Councilmember Ransom moved approval of the consent calendar. Councilmember Hansen seconded the motion, which carried 7-0, and the following items were approved:

Minutes of Dinner Meeting of April 14, 2003

April 28, 2003

Minutes of Regular Meeting of April 14, 2003

**Approval of expenses and payroll as of April 18, 2003
in the amount of \$927,677.40**

Ordinance No. 325 renaming the Parks, Recreation and Cultural Services Committee as the Parks, Recreation and Cultural Services Board; and amending Chapter 2.55 of the Shoreline Municipal Code

Motion to authorize the City Manager to execute the Ninth Addendum to the Highland Plaza Lease, providing an 18-month extension, 2.5% base rent increase and concurrent extensions for all leased space

Motion to authorize the City Manager to execute Local Agency Agreements and Project Prospectus with various grant agencies to obligate grant funds totaling \$2,540,435 for the Interurban Trail Project

Resolution No. 204 revising Financial Policies regarding the investment of public funds

Motion to authorize a professional services contract for Phase 1 of the Richmond Beach Bridge Replacement Project in an amount not to exceed \$225,000

8. ACTION ITEMS: PUBLIC HEARING

- (a) *Public Hearing Cancelled: A notice for a public hearing regarding an Open Space Tax Assessment under the King County Public Benefit Rating System was published on April 16, 2003. The application has since been withdrawn.*

9. ACTION ITEMS: OTHER ORDINANCES, RESOLUTIONS AND MOTIONS

- (a) Resolution No. 205 amending the City Council Rules of Procedure regarding Public Testimony, Confidentiality of Executive Session, and Council Representation

Mayor Jepsen explained that this item was discussed two weeks ago, and is now returning as an amendment to the Council Rules of Procedure. He also noted receipt of several e-mails on this topic.

Mayor Jepsen called for public comment.

DRAFT

(a) Elaine Phelps, Shoreline, expressed opposition to the proposed changes to the Rules of Procedure, noting that Councilmembers' right to speak in public as a Councilmember will be denied when they do not advocate the official City position. She said the changes would prohibit free communication between Councilmembers and constituents. She discouraged Council from eliminating the public comment period during action items.

(b) Rick Stephens, Shoreline, expressed opposition to the changes, explaining that action and action items are the same thing according to RCW 42.30. He said governing bodies are required by state law to take public testimony on action items. He asked how Council could make informed decisions if it cuts citizens out of process, adding that there is no liberty or justice in this proposal.

(c) Anthony Poland, Shoreline, expressed grave concerns about the proposed changes and asserted that Council is attempting to control the media. He expressed opposition to the changes relating to Executive Sessions, and said that citizens should not have to deal solely with City staff.

(d) Pat Crawford, Shoreline, emphasized the fact that the public will not be aware of the City's organizational chart if it is removed from the Owner's Manual, noting that very few citizens see the budget document. She said Council wants to eliminate public disagreement by changing the rules and removing public comment on action items. She said public comment is one of the few ways to get redress for grievances. She expressed concern that the public is prevented from participating in Executive Sessions.

(e) Tim Crawford, Shoreline, expressed opposition to the proposed changes. He said the Council must be reminded that it should not make, nor be required to follow, unlawful orders. He asserted that threats have been made against individual City Councilmembers about confidentiality agreements. He emphasized the fact that Shoreline residents are at the top of the City's organizational chart.

(f) Clark Elster, Shoreline, questioned the justification for changing the rules, noting the reason is not to limit uncivil behavior. He said if people are really concerned about how business is conducted at Council meetings, they could attend them and voice their opinions. He said opinions should be made public so people can see what is actually influencing Council decisions. Noting the comparison to other cities, he asked if other comparable cities fund and permit their Councilmembers to take trips to Washington .D.C.

(g) Janet Way, Shoreline, concurred with the previous speakers, noting that the proposed changes amount to censorship. She said letters to the editor should not require Council approval, noting that even Councilmembers have a right to petition their government for redress of grievances. She urged Councilmembers not to limit their ability to speak freely.

DRAFT

(h) Walt Hagen, Shoreline, said if the Council is serious about limiting public input, it should stop trying to manipulate the law. He said people don't want the changes to the Development Code and its ordinances, and that Council is not making the City a better place. He urged the Council to reconsider the issue, noting that the first sign of oppression is voter apathy.

Councilmember Montgomery moved to adopt Resolution No. 205. Councilmember Hansen seconded the motion.

Councilmember Ransom explained that he previously proposed an amendment that would allow public comment during action items, but it failed by a 3-4 vote. He said he expressed concern during the Council Retreat regarding the proposed new sections to the Rules of Procedure.

Councilmember Ransom proposed to amend Resolution No. 205 to add a new section 6.10 to require publication in the minutes of a list of the names and positions taken of those submitting letters and e-mails in response to action items.

Mayor Jepsen pointed out that the current proposal does not eliminate televised public comment, noting that some people may have been confused by a suggestion from the last discussion.

Councilmember Ransom said people understand that public comment will be televised. He said his amendment will help the public know what kind of views are influencing Council deliberations.

Mr. Burkett clarified that all correspondence that Council receives is a public record that is available by request. He said it would be cumbersome to list the large volume of correspondence the Council receives.

Councilmember Ransom said the purpose of listing correspondence is because the public is not aware it exists. He said people's names and comments should be listed in the minutes in the same way as those who speak at Council meetings.

Councilmember Gustafson felt the logistics of such a system would be cumbersome to manage. He reiterated that people can already access comments because they are public records.

Councilmember Hansen also questioned the workability of such a system.

Councilmember Ransom clarified that written public comments could be listed in the minutes and include the author's name and position on a given issue. He said they could be presented to Council in advance of the meeting if possible. He suggested that people do not request the public record, but they do read the minutes.

DRAFT

Councilmember Hansen felt that this would be recitation of a record that is already available to the public.

City Clerk Sharon Mattioli noted that the motion requires a second in order for debate to continue.

At the prompting of Council, **Councilmember Ransom restated his motion, that letters and e-mails regarding action items be listed with the names and positions taken and be made available to Council and included in the minutes. Councilmember Hansen seconded the motion.**

Councilmember Hansen asked how staff will decide which comments to include in the action item and which ones to omit. He said determining whether comments address action items will require increased clerical work and judgement calls by staff. He doubted that relevant comments could be included in the packet in a timely manner. He said some people may not want their names and comments advertised in the Council packet, even though it is a public record. He said it might actually discourage public input if people know their comments will be published.

Councilmember Chang said it might work if all responses could be compiled prior to Council meetings, but he felt that most people do not understand the issues in time to submit comments by the deadline.

Councilmember Ransom did not feel it would be a cumbersome because only comments on action items would be submitted before Council takes a vote.

Councilmember Hansen asked if people would have to submit comments between Workshop Meetings and the vote at Regular Meetings. Councilmember Ransom replied in the affirmative. Councilmember Hansen noted that his decisions are influenced by a longer time span.

Mr. Burkett said the issue is how to publicize the correspondence that Council receives before its meetings. He noted that e-mails and letters are accumulated and given to Councilmembers every Monday. He explained that all correspondence is part of the public record and available through the City Clerk's Office.

Councilmember Gustafson felt it is not practical to publish correspondence in the Council packet. Councilmember Chang concurred.

A vote was taken on the amendment, which failed 1-6, with Councilmember Ransom voting in the affirmative.

Councilmember Chang asked the City Attorney if the amendments in Section 9 are an attempt to enforce morality.

DRAFT

Mr. Sievers said the intent of Section 9 is to reaffirm that when Councilmembers represent the Council in an official capacity, they are to represent the Council's official position and not mislead other groups or agencies with their own views. He added that Councilmembers can exercise their personal freedom of speech whenever they are not representing the Council.

Mr. Burkett noted that there are no penalties for violating these Council procedures other than those covered by state law.

Councilmember Chang asked what other alternatives could be proposed to enhance public input if the Council votes to remove public comment from action items. He noted that other cities employ a committee system that provides additional venues for public input.

Responding to Mayor Jepsen's question about what kind of committee he had in mind, Councilmember Chang suggested that a transportation committee could be formed to address issues such as the Aurora Corridor Project. He said people have expressed concern that the public has not been included in transportation discussions.

Councilmember Hansen said although the City does not employ committees as it did in the days after incorporation, it does appoint a number of ad-hoc committees that frequently take public comment. He noted that the Parks, Recreation & Cultural Services Board and the Planning Commission hold public hearings and make recommendations regularly. He felt the City already has the necessary instruments to obtain good public information. He said the proposal does not limit public comment because comment periods are available at the beginning of meetings.

Regarding Executive Sessions, Councilmember Hansen commented that only legal, personnel, and real estate issues can be discussed, and that Council and staff monitor that requirement very carefully. Concerning Council representation, he clarified that he can voice his own personal opinion at any time, but not in his official capacity as a Councilmember.

Councilmember Montgomery was glad this item was removed from the Consent Calendar, noting the importance of clarifying the issue for the public. Regarding Council representation, she said that no one has ever tried to prevent her from expressing an opinion. She said the intention is that once Council has concluded a democratic process, it would be inappropriate for a Councilmember to deliberately undo the decision that elected representatives made. She explained that Section 9.5 is not an attempt to control the media or censor people, but a matter of courtesy. She said Council would simply like to be made aware if a Councilmember chooses to go to the media with a critical issue. Finally, she said the proposal does not limit public comment, but simply restructures it in order to facilitate discussion during workshop and action items.

Councilmember Gustafson expressed support for Section 9, noting that Council discussed those items at its Retreat and came to a consensus. However, he was not in favor of

restricting public comment, noting that Council already approved a reduction in public comment last year. He indicated he will vote against the motion.

Councilmember Ransom said he will also vote against it for similar reasons.

Councilmember Gustafson said he had been contacted by LaNita Wacker and asked to convey her thought to Council that it "had power to make this [change], but not the right."

Mayor Jepsen recalled that all Councilmembers agreed to the points listed in Section 9 at the retreat. The rules simply describe the conditions under which Councilmembers can express dissenting opinions. He emphasized the importance of putting dissenting opinion into perspective when comparing individual opinion to the overall City opinion. He noted that Section 9.5 is not in response to what someone has done, but in response to suggestions from the retreat facilitator. Responding to Councilmember Chang's comments, he felt the City has a sufficient committee system that encourages additional opportunities for public input.

Councilmember Chang stated that he will also vote against the motion, since a democratic system is of, by, and for the people. He said the current proposal limits public input rather than creating the kind of open atmosphere Council should provide.

Deputy Mayor Grossman expressed concern about the tone of the conversation, emphasizing that Council not only needs to hear opposing opinions, but it also needs balance and efficiency. He felt that public comments during action and workshop items present a challenge to the continuity of the meetings, especially when comments are similar to what has already been expressed. He said he receives far more feedback in e-mails, phone calls, and casual conversations than from those who speak at Council meetings, illustrating there are many venues for public input. He cautioned against assuming that people who speak at Council meetings represent more than themselves, noting that everyone's individual opinion is of equal value. He expressed support for the resolution, which allows comment periods at the beginning and end of workshops. He observed that most people who attend Council meetings are well-prepared, informed, and good at articulating their positions. He said the proposal allows individuals to speak for three minutes instead of two. He emphasized that there is a tremendous amount of public input in the process.

A vote was taken on the motion, and Resolution No. 205 was adopted by a vote of 4-3, with Councilmembers Chang, Gustafson, and Ransom dissenting.

10. CONTINUED PUBLIC COMMENT

(a) Walt Hagen, Shoreline, expressed disappointment with the vote, which he reiterated limits public input opportunities.

DRAFT

(b) Elaine Phelps, Shoreline, thanked Councilmembers Chang, Gustafson, and Ransom for "trying to preserve democracy in Shoreline." She expressed disappointment that Council would embrace limitations on public comment. She also questioned why Council would adopt rules that have no enforcement measures. She said people come to Council meetings because they are passionate about the issues, not because they want to be on television. She hoped someone on the prevailing side will make a motion to reconsider this motion.

(c) Rick Stephens, Shoreline, said the Council has voted against the Bill of Rights and against RCW 42.30, the Open Public Meeting Act, by removing freedom of speech. He clarified there are thirteen items, not three, that can be discussed in Executive Session. He said action items are required to include public testimony and be part of the public record. He warned Shoreline citizens that the City is removing its rights to representative government.

(d) Clark Elster, Shoreline, asked Councilmembers if they already voted on this issue at the Council Retreat, and if so, why they are conducting this exercise tonight. He asked how many retreats the Council holds, and whether they are open to the public. He suggested that more opposing views were expressed tonight than what the Council received in e-mail, so if Councilmembers were influenced by a minority opinion, they are being disingenuous.

(e) Janet Way, Shoreline, expressed appreciation for the minority vote on the motion. She said speaking at Council meetings constitutes public comment in the public arena, which is not the same as Councilmembers talking to people on the street. She said the Council's decision will influence her vote in the next election.

(f) Patricia Peckol, Shoreline, expressed opposition to the residential dwelling being built in her neighborhood. She asserted that the developer is not complying with all permit requirements, citing the large amount of dust produced by the equipment. She also asserted that the elevation has been increased four feet over the existing grade. She said the only way to make Shoreline better is if the Council has the wisdom to make not just legal decisions but ethical ones as well.

Mayor Jepsen said Councilmember Gustafson mentioned this issue to Council earlier. He suggested that staff find out if the elevation was raised at the site.

Councilmember Gustafson added there are three additional issues involved: trees; a sloping driveway; and street access. He said the builder removed most of the trees, but he understood that two trees would be planted for every tree taken down. He said he will report back to Council after further investigation.

It was noted that the site is located at approximately 8th Ave NE and NW 192nd Street.

Mr. Burkett said City staff will investigate the site to ensure it complies with all City codes.

DRAFT

Regarding public comment, Mayor Jepsen emphasized that there are many opportunities to provide input, and Council will continue to invite as much public comment on action items as possible. He noted that of the seven e-mails received on the topic, five opposed Resolution No. 205, and two supported it. Referring to a comparison made between Shoreline and state/federal government, he observed that there are very few opportunities to provide oral public comment to Congress and the Legislature. He said Shoreline's current forum allows far more interaction with elected officials.

Councilmember Hansen said tonight's meeting illustrates that public comment has not been cut off. He reiterated that under the new rules, the public will continue to have opportunities for comment at all Council meetings. He said the 4-3 vote is proof that the democratic process works.

11. ADJOURNMENT

At 9:18 p.m., Mayor Jepsen declared the meeting adjourned.

Sharon Mattioli
City Clerk