DRAFT

CITY OF SHORELINE

SHORELINE CITY COUNCIL
SUMMARY MINUTES OF SPECIAL MEETING

Monday, February 6, 2006 Shoreline Conference Center
6:30 p.m. Mt. Rainier Room

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

ABSENT: None

1. CALL TO ORDER

The meeting was called to order at 6:37 p.m. by Mayor Ransom, who presided.

2. FLAG SALUTE/ROLL CALL

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

3. CITY MANAGER'S REPORT

Bob Olander, Interim City Manager, noted that the long range agenda planner is now published on the City's website. He responded to an inquiry from the previous Council meeting from Mr. Mascott and stated the Shoreline Museum has been maintaining and publishing oral histories from Shoreline residents since 2001. He stated there is a new North City business directory, and 18,000 copies have been distributed and are available at City Hall and other locations throughout the City. He noted that 30 calls were made to CRT last week regarding wind storm damage, but no serious damage was reported. Additionally, at the January 24th meeting a resident noted the unsafe conditions on Midvale Avenue. Since that meeting, he said, there has been signage posted to clarify pedestrian access, including putting two radar trailers on the street to remind motorists of the speed limit. He said he discussed with Mr. Lee his concerns regarding South Woods and cleared up the tire issue with Mr. Behrens, as Merlino Construction has paid him his claim. He requested that Agenda Item 8(a) be moved to 6(a) due to timing issues. He said it might be advisable for Council to hold extra meetings in order to catch up on some issues.

4. COUNCIL REPORTS

Deputy Mayor Fimia thanked staff for the tour of the Aurora Project given by staff. She also commented on the presentation at the King County Town Hall Meeting on

Emergency Preparedness. She emphasized the need for regional coordination and ensuring families meet 72-hour preparedness guidelines.

Councilmember Gustafson added that the Council of Neighborhoods has had several meetings with the Emergency Management Preparedness Team concerning Shoreline's preparedness.

Councilmember McGlashan commented on the AWC Conference in Olympia and the dinner with Shoreline's legislators.

Mayor Ransom announced the National League of Cities appointments. He said Councilmember McGlashan is on the Community and Economic Development Committee and Steering Committee. He also announced that Councilmember Gustafson was selected for the First Tiers Suburbs Council Steering Committee. He also stated he was selected for the First Tiers Suburban Cities Planning Committee and the Human Development Planning and Steering Committees. He then read the guidelines for the public comment period.

5. PUBLIC COMMENT

(a) Bob Barta, Shoreline, commented that at the Vision Shoreline meetings there was discussion about making Shoreline a "people-friendly place." He advocated for more opportunities for public visioning, noting that the City charrettes seemed "set" or "final" rather than being more flexible. He said there are three "villages" of Aurora: 1) the southern part which could be the City's international village; 2) the area from N. 170th to N. 185th which would be the central village; and 3) the northern village from 200th Street to 205th Street. He said the City should concentrate on sidewalks between these "mini-villages" and utilize the "popsicle analogy" to place the sidewalks.

(b) Ken Cottingham, Shoreline, thanked Mr. Olander for writing him a letter outlining the Aurora Corridor Project. He said the infighting on the Council needs to stop. The Council needs to work out their problems and not waste time during Council meetings. He thanked Mr. Olander for responding to his inquires.

(c) Dom Amor, Shoreline, spoke on behalf of Citizens for Shoreline Schools and encouraged everyone to vote on the bond and levy issue. He thanked the community organizations that have supported the bond and levy. He said he likes to see positivity in the City, noting that the schools have united people. He thanked the 32nd District Democrats, the 32nd District Republicans, and all the Rotary organizations and volunteers for their work and support. He regretted that the City Council was not able to formally endorse it.

(d) Dot Brenchley, Shoreline, said her son resides at Fircrest and she is a member of Friends of Fircrest, which has a long history of working in the best interest of the community. She said former Councilmember Chang had dreams for Fircrest, and there will be a time for public input once the plan for the Fircrest Foundation is drafted.

(e) Jerome Burns, Shoreline, commented that an article from the New York Times, titled "The Next Retirement Time Bomb" stated that Governmental Standards Board Ruling #45 requires governments and school boards with health and benefit obligations to retirees to report overall benefit costs in 2007. He expressed the opinion that cities are under-budgeting future pension plans.

(f) Les Nelson, Shoreline, commented on the improvement in driving conditions on Aurora and asked why it took so long to "smooth the road out." He said the contractor should fix the road so vehicles can drive through the area without blowing tires and bending rims. He commented that the restricted pedestrian access signs between Aurora Avenue and Central Market do not clearly direct pedestrians. He said he went to the construction office of Harris and Associates, the construction management firm, and they could not provide him with a pedestrian access plan.

Mr. Olander responded to public comments, noting that the City Attorney sent a legal opinion regarding the levy endorsement. He said if the Council were to endorse the bond they would have needed a public hearing prior to their endorsement. Knowing this, he said, there was not enough time to advertise the meeting according to public notice requirements. Responding to comments on pensions and health care costs, he said the City doesn't provide retiree health benefits. A much larger issue, he said, is that the State has been under-funding their portion of the employee pension systems. As far as pothole issues on Aurora, he said the City will get better at repairing them and he will personally look into the issue.

Mayor Ransom added that there are only eleven states that have pre-funded retiree health benefits.

Deputy Mayor Fimia moved to revise the agenda and move item 8(a) to 6(a). Councilmember Ryu seconded the motion, which carried 7-0.

Councilmember Hansen moved to approve the revised agenda. Councilmember Gustafson seconded the motion, which carried 7-0.

6. ACTION ITEM

(a) North Central Interurban Trail – Additive Elements

Dave Buchan, Capital Projects Manager, said the responses to the Council inquiries are included in the staff report. He noted that this revised additive elements plan is roughly $250,000 less than the original plan.

Councilmember Gustafson inquired what the recommendation was from the Parks, Recreation and Cultural Services Committee.

Mr. Buchan noted that the Committee unanimously recommended this modified package.

Mr. Olander pointed out that this reduces the number of pedestrian lights, however, the infrastructure would still be in tact and more lights could be added at a later date.

Councilmember Gustafson asked to see a diagram of the pole lights to get a better idea what they would look like.

Mr. Buchan said the intent is to install the standard Seattle City Light (SCL) fixture which removes glare for homeowners residing along the trail, yet provides an element of safety along the corridor. Mr. Olander added that this will occur in the area north of 185th on Midvale behind the nursery.

Councilmember Gustafson said he supported the package, but said it should be done right the first time. He suggested that the Midvale lighting be retained as an extra bid item. He reiterated that he would like to see individual bids for the tivoli lighting and Midvale pedestrian lighting when it goes out for bid.

Councilmember Way asked if LED lights were considered as opposed to tivoli lighting.

Mr. Buchan responded that they were, but they do not provide enough illumination to light the general area. Tivoli lights provide ambiance and are quality lights.

Councilmember Gustafson moved to approve the North Central Interurban Trail – Additive Elements package as presented with additional bid solicitations for tivoli lighting and the Midvale Avenue pedestrian lighting. Councilmember Fimia seconded the motion.

Deputy Mayor Fimia thanked City staff for revising the package, noting it would possibly reduce the cost.

Councilmember Ryu appreciated the City staff saving $240,000 because the City will be facing higher costs on the Aurora Corridor Project and future projects.

Councilmember Gustafson withdrew the original motion and then moved to approve the North Central Interurban Trail – Additive Elements package as presented with additional bid solicitations for Tivoli lighting and the Midvale Avenue pedestrian lighting with the exception of trail safety and user enhancements. Councilmember Hansen seconded the motion.

Councilmember McGlashan asked if the electrical infrastructure being placed along the entire length of the trail included higher voltage lampposts. He also asked whether the $31,000 for sidewalks at N. 185th & Midvale is sufficient.

Mr. Buchan responded that the higher voltage lampposts are not a part of the package, however, if Council wishes to pursue the Heritage Plaza plan, which would include the higher voltage pedestrian lighting, then staff would at that time recommend separate

electrical connections. He noted that $31,000 is enough for the 200 feet of planned sidewalks.

A vote was taken on the motion, which carried 7-0.

Councilmember Fimia moved to allocate $200,000 for trail safety and user enhancements. Councilmember Hansen seconded the motion, which carried 6-0, with Councilmember Ryu abstaining.

(b) Motion Authorizing Legal Defense of King et al. v. Fimia et al.

Mr. Olander stated this item was postponed from the January 24, 2006 Council meeting.

Scott Passey, City Clerk, pointed out there is a motion on the table to approve this item.

Ian Sievers, City Attorney, commented that all officials of the City are entitled to a determination of legal defense when sued or a claim is brought against them. The ordinance also covers indemnity and coverage for the defense of the claim. The decision of the Council is to determine if a claim or suit against the official or employee meets the criteria of the chapter. The Council can allow defense coverage under reservation of rights, which is the Interim City Manager's recommendation because the suit alleges intentional acts were made knowingly in violation of State law. He noted that a draft letter is included in the staff report if Council decides to provide defense under this ordinance. He cautioned the Council not to violate the agreement not to discuss Steve Burkett's performance or anything else leading up to his voluntary resignation.

Mayor Ransom called for public comment.

1) Bob Barta, Shoreline, said the termination of Steve Burkett was not done in malice. He supported the motion to provide legal defense and urged the Council to get on with the task of building and making the City better.

2) Bronston Kenney, Shoreline, commented that the Council's attention is being diverted from City business to a lawsuit. He said the Councilmembers acted appropriately, and he believed Progress Shoreline launched a dirty campaign utilizing the threat of litigation. He said the lawsuit should cease because it embarrasses Shoreline. He supported defending the named Councilmembers because other Councilmembers may need legal defense in the future.

3) Ken Cottingham, Shoreline, noted that the City Attorney said the City will defend those persons. He felt the lawsuit will destroy the City and stop normal business and be a time-consuming interruption. He supported eliminating the time waste, add that residents want progress on the Council.

4) Sherry Marlin, Shoreline, said the Council should act as a group. She pointed out that the City Attorney said there are five criteria for allowing the City

defense of this lawsuit. Two of them, she said, do not fit. She highlighted that #1 does not fit because the full City Council was not involved in this decision. Additionally, she said #5 does not fit because the conduct was dishonest and intentional. Furthermore, she added, to include Ms. Ryu in this process who was not a councilmember at the time was unethical. She concluded that there has been no admonition of wrongdoing so she does not favor providing legal representation for the named Councilmembers.

5) Duane Wald felt the process in removing Mr. Burkett was the problem. He said George Mauer is not qualified to be the City Manager. He thought the process is flawed and it needs to be fixed. He said if it takes a lawsuit, then so be it. He supported the motion to defend the Councilmembers.

6) Vicki Westberg, Shoreline, urged the Council to support the City staff recommendations on this item and in the future.

7) Kevin Grossman, Shoreline, said that providing defense for Councilmembers because of their work is a key role of city government, however, they must be working in good faith and under state law for this to apply. They need to meet all five criteria, he said, to be defended by the City. He felt the Councilmembers were not working on behalf of the City, so their conduct does not meet the criterion for defense. He said the four Councilmembers were in violation of state law and the Open Public Meetings Act. He noted that there are admissions in the Council meetings, publicly-available email, voicemail, and documents that the four were dishonest with the public and other Councilmembers.

At 8:00 p.m., Mayor Ransom postponed the public comment period for this item and opened the pubic hearing for item 7(a).

7. ACTION ITEM: PUBLIC HEARING

(a) Public hearing to receive citizens' comments on Ordinance No. 407, adopting a Moratorium and Interim Controls to Regulate Tree Cutting

Joe Tovar, Planning and Development Services Director, outlined the provisions of Ordinance No. 407, which establish a moratorium and rules for dealing with the exemption on the cutting of hazardous trees. Council options are to; 1) take no action, 2) repeal Ordinance No. 407, or 3) amend the interim controls. He said the scope of the public hearing is the moratorium and the interim regulations. He said City staff is in the process of deriving permanent regulations dealing with the cutting of trees and provisions for hazardous trees and potentially other tree cutting provisions under our Code. These, he added, will be brought to the Planning Commission in late March. He urged the public to submit any comments or suggestions on the permanent regulations to him or Matt Torpey in the Planning Department.

Mayor Ransom read a statement on Ordinance No. 407 outlining the scope of the hearing, adding that the moratorium expires on April 3, 2006. he then opened the public hearing.

1) Wendy DiPeso, Shoreline, supported the temporary moratorium. She said the trees are deeply rooted and provide stability to embankments. Tree-cutters, she added, undermine the viability and stability of their own properties by cutting trees. If residents are allowed to cut the trees, then they will sue the City for damage to their properties even though they caused the damage themselves. She thanked the Council for giving the staff time to research the issue.

2) Peter Henry, Shoreline, concurred with the previous speaker's comments, noting that tree-cutting had reached emergency levels. Now, he said, the City can come up with modifications to the existing Code without any cutting continuing.

3) Dennis Lee, Shoreline, supported the moratorium and urged the Council to keep it in place to allow enough time to revise the code and deal with this issue in a proper manner.

4) Gene Maddox, Shoreline, thanked the Council for the moratorium. He felt the Reserves have been destroyed by the Innis Arden Club (IAC) Board of Directors for the purpose of creating views to enhance property values. The IAC has lied to the City, he said, claiming trees are old, diseased, and/or hazardous. This tree cutting is causing erosion, land slides, and threatening the stability of homes. The goal of the IAC is to level a mile of trees from Ridgefield Road to the Puget Sound, he said. It will take another 50 years to restore the reserves to their natural state. He urged the Council to enact tough laws. He said the Council should also ensure inspections occur before and after any cutting permits are issued.

5) Elaine Phelps, Shoreline, stated that Ordinance No. 407 serves the community by giving the City staff a chance to look at the consequences of current code. The Code needs to be revised severely to allow the City to enforce cutting regulations. She said the IAC Board refuses to allow City employees access to the properties to view the cutting and how they are executing their permits. She said should be independent City staff that can judge the affect the tree-cutting is having. This moratorium, she concluded, is exactly what the City needs to allow reasonable, careful consideration of the code.

6) Mike Jacobs, Shoreline, president of the Innis Arden Club, said the IAC does not restrict City personnel on its property. The IAC Board is elected to manage the fifty-two acres of reserve tracts which are private, park-like areas with miles of recreational trails that are used by residents. The IAC has spent thousands of dollars to manage the trees in the tracts for safety. He felt Ordinance No. 407 prevented the IAC from removing known hazardous trees and the IAC's ability to manage the Reserves. He said there are five trees that have fallen in the Eagle Reserve, so it has been closed. It is critical, he said, that the IAC takes necessary steps to protect its residents. He urged the

Council to repeal the ordinance because it will endanger the public. He said the least the City could do is add the language "recreational trails" under Section 3.

7) Tom Avril, Shoreline, said he has been residing in Innis Arden for at least thirty-two years and the IAC doesn't speak through one voice or through the IAC president. He pointed out that the term "hazardous tree" according to the IAC also refers to view-obstructing trees. He said Innis Arden has done the City a disservice by not enacting a reserves management plan. He asked the Council to leave the moratorium in place and take time doing research and taking input to craft new language. He urged the Council not to take counsel from Innis Arden residents but to utilize and formulate their own conclusions on what to do about the issue.

8) Nancy Rust, Shoreline, disagreed with Mr. Jacobs' statements and said the IAC are not stewards of the land. She said the management plan for the reserves entails cutting trees for private views for the increase of property values. She said she was one of the original sponsors of the Growth Management Act and all cities were required to identify their critical areas and adopt plans to protect them. She felt Shoreline has failed to protect its critical areas by turning the other way while trees have been cut. She said you don't need to drive into Innis Arden to view the damage to the trees; you can look uphill on Springdale Court to see the damage there. She asked that the moratorium be kept until an ordinance can be adopted to prevent the present loophole that allows the cutting of trees that are not an immediate danger. She urged the Council to pass an ordinance that prevents the abusing of the 25% rule that has tight enforcement provisions with stiff penalties for the offenders.

9) Richard Rust, Shoreline, said he resides in Innis Arden and felt Shoreline has a plan already. He added that the failure to be good stewards has resulted in the destruction of the natural environment, as viewed by the instability of steep slopes in this area. He urged the Council to enhance and strengthen the Critical Areas Ordinance and continue the moratorium until the revision process is completed.

10) Erik Paulsen, Shoreline, thanked Shoreline for placing the school bonds on the ballot. Families in Shoreline make decisions about tree cutting in the City.

11) Gery Nunilee, Shoreline, stated he is a twenty-one year resident of Innis Arden. He stated he has tried to keep the height of his trees no higher than his rooftop. He said that unfortunately the desire of some residents to obtain a view of the water or to recover a lost view has caused some serious problems in the community with no easy solution in sight. He said Blue Heron was a beautiful reserve, but now many trees have been cut. He is dismayed by the means used to gain permission to cut trees on steep slopes with streams nearby. In his opinion the system is flawed and the term "hazardous trees" has been greatly exaggerated by members of the IAC Board and by the professional arborist hired to provide the desired analysis. He pointed out that there are several trees in the Blue Heron reserve that have been "topped" or "hacked." He said the people who did the cutting live on top of the hill far away from the reserves and are not

affected by the change in noise level and loss of privacy caused by the cutting. He invited the Councilmembers to his home to view the condition of Blue Heron reserve.

12) John Hushagen, Shoreline, said he also resides in Innis Arden and is an arborist by occupation. He asserted that Blue Heron reserve is a mess. He said the moratorium needs to be amended. As a certified arborist it is his opinion that not all hazardous tree evaluations are done the same, neither are the opinions of the arborists who conduct the evaluations. He said Shoreline needs to follow tighter, industry-recognized standards for hazard tree evaluations. Unfortunately, he said he has colleagues in his industry who will determine trees to be hazardous if the paying clients agenda says to do so. He said this is unethical and he wishes there is something he could do about it because soon the term hazardous tree will lose its meaning.

13) Fran Lilliness, Shoreline, said Innis Arden is a private community. She said the trees were originally logged when Innis Arden was platted and the founder of Innis Arden, Bill Boeing, dedicated the reserves for parks, bridle trails, playgrounds and other community purposes. She said only the people in Innis Arden have the right to make those determinations on what the land should be used for. She said there have been no slides or washouts in the Reserves from 8th Avenue NW to Blue Heron since the property was first platted by Bill Boeing. She added that big trees do not absorb water during the winter. She said it is fine for neighbors to have a view, but they should share it with their neighbors.

14) Eva Sledziewski, Shoreline, said there is a misconception that all trees have deep roots. Alders, she added, have shallow roots. There have been strong winds lately, she said, and several trees have been knocked down. The moratorium bothered her because Councilmember Way didn't have any facts to declare there was illegal tree cutting in Innis Arden. She said she is unhappy with the way the Council works.

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

Councilmember Way inquired if the Council needed to keep the public hearing open.

Mr. Olander explained that this public hearing is required for the moratorium only and if it is closed and no action is taken the moratorium continues until April 3, 2006. Any further public hearings would be intended towards the permanent regulations.

A vote was taken on the motion, which carried 7-0.

Mr. Tovar responded to Deputy Mayor Fimia stating the moratorium prevents the removal of hazardous trees. He said staff would concur with adding "recreational trails" to the list of exemptions. However, there is a provision in which a resident could contact the City's 24-hour Customer Response Team (CRT), which could inspect and give immediate authorization to cut the hazardous tree.

Mr. Olander read from Section 3, noting that authorization to cut hazardous vegetation is only given if the City concludes the existing condition constitutes an actual and immediate threat to life or property in homes, private yards, buildings, public and private streets, driveways, improved utility corridors, or access for emergency vehicles.

Councilmember Hansen asked why a resident should notify the City if the tree presents an immediate threat. He asked who would be liable if the City didn't give authorization and someone was injured.

Mr. Olander replied that if the City does allow cutting without prior authorization the City would be in the same situation prior to the moratorium.

Councilmember Way inquired if someone could call 911 for an immediate emergency. Additionally she asked what would prevent someone from abusing this provision and cutting along the trail anyway.

Mr. Tovar responded that the opportunity for abuse is lessened through this moratorium. It simply affords the City the chance to look at the locations and approved permits over the past five or six months to see what has been done.

Councilmember Ryu felt the process of determining who would pay for the tree cutting would take longer. She agreed with City staff on adding the recreational trail exemption. She supported the moratorium as revised.

Councilmember McGlashan asked why a City arborist isn't determining whether or not a particular tree is hazardous. Also, he asked who responds to a tree cutting call.

Mr. Tovar stated that the City does not have an arborist on staff. CRT responds and is available 24 hours a day. CRT gives the City better response times and makes the City responsible for the actions taken. He said it's better for CRT to act instead of calling in an arborist to inspect.

Councilmember McGlashan inquired whether or not the IAC bylaws state that they must maintain the reserves. He added that there was no reasoning given as to why Association for Responsible Management (ARM) of Innis Arden withdrew from the mediation with the IAC Board.

Mr. Tovar responded that a representative from ARM spoke to the Council and said that ARM withdrew.

Councilmember Gustafson supported the moratorium, but is concerned with the lawsuits that have occurred over the years. He inquired how the City deals with the IAC covenants. The covenants, he said, allow them to have views and to mediate disputes to ensure these issues remain as Innis Arden business. He said he will be seeking legal advice from the City Attorney. He wanted language in the moratorium to stipulate recreational trails and identify hazardous trees.

Deputy Mayor Fimia pointed out that the moratorium and the critical areas ordinance cover the City of Shoreline, not just Innis Arden. She said it is false to speak in terms of Innis Arden not belonging to the City. Critical areas are a responsibility of the City to protect by state law. The City is enforcing state law, she said.

Mr. Tovar concurred that state law directs the City to protect critical areas, but cutting trees in private areas needs to be addressed also. These are some rights that the City ought to respect, but the City still has to protect the environmental resources of Shoreline.

Deputy Mayor Fimia supported Ordinance No. 407 with the proposed revision.

Mayor Ransom inquired about the certification standards for an arborist. He asserted that this is pertinent to the discussion. He added that he would like everyone to come to an agreement on this because it has been going on for some time. He agreed to continue the moratorium so staff can finish the research and bring forth a proposal in the future.

Councilmember Hansen complimented Mr. Olander for calling him and for the City's state of readiness last Saturday. He commended CRT for a superior job. In general, he said when a tree is partially down it shouldn't be included in the ordinance or subject to a moratorium.

Mr. Olander agreed, but stated that once a tree is cut down it is hard to tell if it was hazardous or not. He said there have been instances when healthy trees were cut and the offender claimed the tree was hazardous.

Councilmember Way said there was a settlement between the IAC Board and ARM in the 1980's and asked that someone investigate this for the next meeting. She also recommended that the Council read Mr. Blauert's submission on aspects of the Innis Arden watersheds.

Responding to Councilmember Gustafson, Mr. Tovar said a "special master" was a retired judge, legal scholar, or an attorney who can look at the facts as directed by the court to assist parties in coming to a solution to the issue. He said there have been arguments about the special master and the conclusions of that person. This is another issue the City needs to research and address in the regulations.

Councilmember Gustafson added that the courts have refused to appoint special masters after 1992. He felt the City needs to adopt the moratorium, and deal with the historical perspective and the covenants so the City understands them.

Deputy Mayor Fimia moved to amend Section 3 of Ordinance No. 407 to add the provision for recreational trails. Councilmember Ryu seconded the motion, which carried 7-0.

RECESS

At 9:25 p.m. there was Council consensus and takes a recess. The meeting reconvened at 9:36 p.m.

Mayor Ransom called for public comment on Item 6(b), motion authorizing legal defense of King et al. v. Fimia et al.

(8) Wendy DiPeso, Shoreline, said that if the Council decides not to provide counsel for those in the lawsuit, then each named member may decide to sue the City for lack of coverage. Residents who have previously been ignored by the City are now being answered. She added that the street light issue has been taken care of and residents no longer have to pay for them on public streets. She said trust between the residents and the City Council is being rebuilt in Shoreline and the Council needs to be more supportive of one another. She urged the Council to vote to provide counsel.

(9) Fran Lilliness, Shoreline, outlined the awards, accomplishments, and accolades that former City Manager Steve Burkett received in his tenure at Shoreline. She added that Mr. Burkett was instrumental in retaining good employees and keeping staff morale at a high level. She stated he also increased tax revenues and provided the best answer to the GMA housing density issue. Furthermore, she said, "Seattle Magazine" named the City of Shoreline "Best Place to Live" and the City has no general obligation debt. She felt four Councilmembers chose to destroy progress and that they knowingly violated the law. She urged that voting Councilmembers oppose providing legal counsel at City expense.

(10) Stan Terry, Shoreline, on behalf of Progress Shoreline, said the organization is not a party to the lawsuit. He said he does not support the motion to defend the named Councilmembers. The City has a responsibility to defend them, but in this instance they are being sued for violating the law and acting outside of Council guidelines; thus, the taxpayers should not pay for their defense. He felt if they are found innocent of violating the public meetings law then the Council should revisit paying for their legal fees.

(11) Peter Henry, Shoreline, thanked Mr. Olander for the new spirit of openness and website enhancements. He felt there is a faction of Councilmembers that want to deny the payment of legal fees. If the voting Council denies them legal fees, the members named in the suit will sue. He said the lawsuit has not been decided yet, so it is wrong for an ex-Councilmember to testify there was something illegal occurring. He said the suit was brought because of who the meeting attendees were, not their number.

(12) Dennis Lee, Shoreline, opposed the motion because it is politically motivated. He felt the issue should be decided in the court system.

(13) Gene Maddox, Shoreline, said the IAC utilizes fear, intimidation, and lawsuits to gain influential control. He felt John Hollinrake and Michael Rasch have

filed lawsuits against select Councilmembers to regain control of decisions by City leaders. He urged the voting Council to support their colleagues and vote in favor of the motion for defense.

(14) Elaine Phelps, Shoreline, said providing legal defense for the Councilmembers would benefit all of Shoreline. She reminded everyone that a lawsuit can be brought by anyone at anytime against anyone. She claimed that Ms. King and Mr. Grossman engaged in secret meetings while on the Council. She said normal legislative behavior occurs when ideas are passed around. Mr. Hollinrake, she said, is the most litigious resident in Innis Arden. He and Michael Rasch oppose certain Councilmembers because they wish to see as many trees cut as possible to raise property values in Innis Arden.

(15) Chris Eggen, Shoreline, felt there was no evidence in the lawsuit and said the people who filed it are against environmental regulation in the City. He felt it was a Strategic Lawsuit Against Public Participation (SLAPP) to intimidate the Council.

(16) Eva Sledziewski, Shoreline, said she is not in favor of paying for legal defense. However, she felt that if the named Councilmembers were found innocent of the charges then the taxpayers would pay the bill. She said if found guilty then they would have to pay for their own legal defense.

(17) Raymond Collins, Shoreline, said it is dangerous not to defend the Councilmembers because it will affect those who wish to serve in the future. He felt Aegis was illegal. He said this is following the Carver Policy Management Model where "the tail wags the dog." He urged the voting Council to defend the Councilmembers.

MEETING EXTENSION

Councilmember Hansen moved to extend the meeting until 10:30 p.m. Councilmember Ryu seconded the motion, which carried 7-0.

City Clerk Scott Passey read the motion on the table to authorize legal defense of King et al. v. Fimia et al.

Councilmember Gustafson said he agonized over this issue and consulted with other councilmembers in other cities for guidance on the issue. He said he would vote for legal defense of the four Councilmembers if the following amendment was introduced.

Councilmember Gustafson moved to amend the motion to read that if the defendants accept the defense provided by the City of Shoreline and if the judgment of the court determines that the defendants are liable for knowingly, willfully, or intentionally violating the open public meetings act as indicated by Shoreline Management Code 2.40.030(a)(1) then the defendants will be responsible for reimbursing the City for any court legal costs that have been incurred from this

date forward by the City of Shoreline in the defense and resolution of this case. Councilmember Hansen seconded the motion.

Councilmember Gustafson explained that he would vote for legal defense, but if the court finds them liable they should reimburse the taxpayers for their defense.

Mr. Sievers thought that the amendment would be favorable to the defendants and didn't feel it will hinder the advancement of funds for legal defense.

Councilmember Ryu asked Mr. Sievers if he felt the amendment would hold up in court if the defendants challenge the amendment.

Mr. Sievers commented that since Council has the authority to either approve or deny legal defense, it also has the authority to impose conditions.

Councilmember Gustafson said that if he was found guilty of willfully or intentionally acting against the rules of the City, he would expect to reimburse the City of funds utilized to defend him. The amendment, he said, is consistent with Shoreline Municipal Code 2.40.030 and he would like to see it added to the draft provided by Mr. Sievers.

Councilmember Ryu announced that she became involved in the lawsuit on Friday when she received a subpoena from Michael Rasch. She said she met with Michael Jacobs, President of Innis Arden Club and David Fosmire, Vice President, at their request. Unfortunately, she said, she was served within 24 hours of that meeting. She said despite this, she is still focused on representing the residents of Shoreline. However, she is disappointed with what has happened.

Councilmember Ryu suggested making a motion to change the term "defense" to "representation" in the amended motion. She agreed with providing representation to the defendants and expressed the need to excuse herself from voting.

Councilmember Way addressed the parties who began the lawsuit that she will not "bow down to intimidation" and is not afraid.

Councilmember Gustafson pointed out that Councilmember Ryu is not involved in the lawsuit, but she was aware of executive session information from December 5 to December 27.

Councilmember Ryu responded that she is involved and affected and cannot vote on the motion on the table.

Mr. Sievers said the City code authorizing legal defense does address the issue of affected members not being able to vote on the question of defense. However, he said affected members would have to be named as a party in the claim or lawsuit, but Councilmember Ryu is not named in the suit. However, the City Attorney's office does provide legal representation to councilmembers-elect because staff provides

councilmember-elects with a number of resources, orientations, and council information prior to taking office.

Councilmember Ryu appreciated the explanation, but said she would like the Council to decide whether she is defended or not. She recused herself from the vote.

Mayor Ransom questioned the purpose of the amendment since the reservation of rights stipulates that if the defendants are found guilty, they are to reimburse the City for legal expenditures.

Mr. Sievers responded that the point of the amendment is to reimburse the City for attorney and court fees and the reservation of rights are applied to any monetary judgments that may be awarded.

Mr. McGlashan pointed out that this lawsuit is not based on the firing of Steve Burkett. He noted that he requested the two week time period to research and think about this item. He announced he did not like being threatened with lawsuits.

Councilmember Ryu asked if there was a quorum to vote on the amendment if she did not vote. Councilmember Ryu stated she wanted to be recused from the vote and not abstain.

Mr. Sievers said there is not a quorum, but if Councilmember Ryu abstained the quorum is not defeated and a majority vote would be needed to adopt the motion.

Councilmember Fimia said the actions of the four Councilmembers were done in good faith with legal counsel provided by the Washington Cities Insurance Authority (WCIA). She pointed out that showing support for an action is not taking legislative action.

MEETING EXTENSION

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

Councilmember Fimia read a Seattle PI article pertaining to this issue. She reiterated that the four Councilmembers never met together and believed the lawsuit is politically motivated. She read a letter to the editor. She commented that Councilmember Gustafson's amendment sounds reasonable, but the statements made in the lawsuit are not truthful. Based on this, she felt the four Councilmembers are entitled to legal defense. If legal defense is not appointed, the number of people who run for office in the future will decrease.

Councilmember Ransom said he approached the legal authority (WCIA) for advice and did what legal counsel told them to do. With that, he felt that they followed the law. A City of Tacoma case, he cited, said that if a person honestly believes that what they were doing is legally correct, then no negative finding can be placed on them. He stated that the WCIA is telling the four Councilmembers not to say anything about the issue.

Everyone is writing negative things about them in the press and they can't defend themselves.

Councilmember Gustafson stated he is voting for legal defense. If the defendants are found innocent then legal fees will be paid. However, if there is a finding against them and a penalty accessed, then the four Councilmembers will have to reimburse the City.

At 10:45 p.m. Councilmember Ryu left the meeting.

Mr. Sievers pointed out that in Councilmember Ryu's absence, all Councilmembers can vote on this issue. Councilmember Hansen said that in the likelihood of a 3-3 vote, defense will not be authorized. Mayor Ransom said he wanted to discuss this with his legal counsel before deciding what to do. Deputy Mayor Fimia inquired if the four defendants would have to sue the City to be represented thief the motion fails.

Mr. Sievers responded that they could sue the Council's decision, claiming that defendants were entitled to coverage of the defense costs. This would essentially be stating that the Council was incorrect in denying that coverage.

Deputy Mayor Fimia moved to postpone action on this item until the February 13, 2006 City Council Meeting. Councilmember Hansen seconded the motion.

Councilmember Gustafson inquired about a document indicating that Mr. DiJulio was hired for legal defense. Mr. Sievers said legal work is being provided until the Council takes formal action.

Deputy Mayor Fimia said she didn't know why Councilmembers would want to put the City in harm's way by imposing conditions until a determination is made that the defendants need to be covered.

Mr. Olander said the staff recommendation is fairly narrow. Based on his opinion and the City Attorney's opinion, there is a basis for coverage, so it should be provided. He said the question of guilt or innocence is irrelevant until the case is decided.

A vote was taken on the motion to postpone action until the February 13, 2006 City Council Meeting, which carried 6-0.

10. ADJOURNMENT

At 10:55 p.m., Mayor Ransom declared the meeting adjourned.

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Scott Passey
City Clerk