

CITY OF SHORELINE
SHORELINE CITY COUNCIL
SUMMARY MINUTES OF SPECIAL MEETING

Tuesday, September 4, 2007 - 7:30 p.m.
Shoreline Conference Center
Mt. Rainier Room

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

ABSENT: None.

1. CALL TO ORDER

At 7:30 p.m., the meeting was called to order 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 AND FUTURE AGENDAS

Bob Olander, City Manager, reported on various events, to include past and future meetings. He announced that there will be another Ridgecrest Visioning Workshop meeting on September 10th and Richmond Beach Salt Water Park will be closed to the public on September 15th for a multi-agency response exercise all morning long. The next regular Planning Commission meeting is on September 6th at 7:00 p.m. in the Mt. Rainier Room. Finally, he said there will be a Child Seat Safety Fair at 2:00 p.m. on September 15th in the Fred Meyer parking lot.

4. COUNCIL REPORTS

Deputy Mayor Fimia wanted to add discussion item C, Puget Sound Regional Council Draft Vision 2040 and discuss questions she wants to forward with the Council. She said she will be submitting them and it is not for Council action.

Councilmember Hansen believed that this is not a proper discussion item and shouldn't be added to the agenda.

Councilmember Ryu stated that there may be more than three Councilmembers who may want to join Deputy Mayor Fimia in this and it is the appropriate forum.

Deputy Mayor Fimia moved to add a new item, 6(c) Puget Sound Regional Council (PRSC) Draft Vision 2040 to the agenda. Councilmember Ryu seconded the motion which carried 4-3, with Councilmembers Gustafson, Hansen, and McGlashan dissenting.

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

5. GENERAL PUBLIC COMMENT

(a) Bronston Kenney, Shoreline, discussed the Council lawsuit and said the people who brought the suit are complaining about the costs to the City. He added that the plaintiffs have nothing to gain, and the point of it is who will control the City -- its residents or the developers. He claimed that Pro Shoreline receives its funding from developers. People don't spend hundreds of thousands of dollars on a whim, he added. He felt that this is an assault against the City and it is politically motivated. He asked who was financing the Pro Shoreline campaign. He said dropping defense is a serious mistake, and the best course of action is a vigorous defense. He asked Pro Shoreline to urge the plaintiffs to drop the lawsuit. He noted the personal courage of Chris Eggen and Terry Scott for running for a Council seat.

(b) Dennis Heller, Shoreline, asked the Council to stop digging the City funds into a hole. This will cost another \$170,000. He wondered why they announced that they had fired Steve Burkett on December 12th. He said through a series of e-mails and secret meetings it was done when they could have done it out in the open and legally. He said it seemed to be an ego-driven "power play" that they were in control. He felt it was wrong and it was never in keeping with the intent of the Open Public Meetings Act. He added that over 600 residents attended the January 3rd meeting in protest and the four members made a mistake and the City is still footing the bill. He urged the Council to stop digging the hole.

(c) Dennis Lee, Shoreline, discussed land use process and said there are more rezones coming through in Briarcrest which will cause more fervor. These rezones, he said, will cause the residents in that area to either turn out or become apathetic and not care. The lack of turnout doesn't mean everything's fine, he said. He said it's the Council's job to change policy so there are large turnouts and the stakeholders are encouraged to join. He said there needs to be political solutions that are "outside the box."

(d) Nancy Morris, Shoreline, said that the legal defense costs aren't a waste of taxpayer money. She felt this funding takes care of situations that affect the City. She highlighted that current Councilmembers and those in the future will be at risk of future frivolous litigation if they are not represented. This can create a "chilling effect" on democracy as a whole, she said. The plaintiffs are in a position to drop the lawsuit for the

best of everyone. She noted that some of the comments she has heard already assume the Councilmembers are guilty, but that is wrong.

(e) LaNita Wacker, Shoreline, noted that at the last meeting she discussed the term "conspiracy." She defined "conspire" as "to plot or plan secretly" and commented that there was a secret plan on December 12, 2005. She said Councilmember Ryu commented that she had to get legal counsel and Councilmember McGlashan didn't because he wasn't a part of the secret plan. She added that a Mr. Will spoke from the podium and said matters are not settled at the trial court level. Furthermore, she said she has no opinion as to what a judge would rule is this lawsuit. She added that Mr. Will also said that the loser will appeal and take this all the way to appeals court. She also wanted to clarify what she said last week because she felt Councilmember Ryu twisted her words. She stated that she is not a party to the suit and doesn't know how the judge will rule.

(f) Wendy DiPeso, Shoreline, commented that the City has a repeating pattern of litigation on several topics such as cutting trees for views, cutting out stakeholders in Aurora Phase 1, and promoting cottage housing. When the citizens elected a new City Council, the pattern of intimidation didn't stop. Quoting a letter to the editor from the Enterprise, she said Hollinrake, Rasch, King, and Grossman have filed litigation over several of the issues. She added that Mr. Hollinrake has sued neighbors because of views. Mr. Rasch has also sued Innis Arden neighbors because of views so he could obtain the rights to cut trees. She said Kevin Grossman lost his Council seat to Deputy Mayor Fimia. She noted that she doesn't know what Connie King stands to gain. She urged the intimidation to stop. She sympathized with Councilmember Hansen, Councilmember Gustafson and Councilmember McGlashan and said a vote against representation would set a precedent for government by intimidation.

(g) Patricia Sumption, Seattle, wished the Council and the City of Shoreline could work things out in a better way. She said she doesn't know all of the facts in the case or the public disclosure act. She added that things that people think are facts may or may not be true. She urged the plaintiffs and the defendants to do some mediation rather than continue fighting. The fighting, she said, adds up into something huge and grows out of control. The citizens of Shoreline don't want the environment degraded and the digging in from both sides, she said. She commented that she is a defense attorney and a supporter of the Constitution, which states that people are innocent until proven guilty. She said the defendants have a right to prove their case.

(h) Rick Stephens, unincorporated Snohomish County and Shoreline property owner, agreed with the staff recommendation concerning the legal services contract. He felt it is the best option for the City and urged the Council to support the funding.

Mr. Olander suggested that the Council suspend Council rules and take comment on the legal defense item out of sequence.

Deputy Mayor Fimia moved to suspend Council rules and allow speakers on item 8(a). Councilmember Ryu seconded the motion, which carried 7-0.

(a) Dennis Lee, Shoreline, urged the Council to pass the motion.

(b) LaNita Wacker, Shoreline, urged the Council not to pass the motion and not to spend "one more cent." She added that the City didn't have funding in the Human Services budget for mental health and this is not a wise expenditure of tax dollars. She believed the actions that took place were outside the duties of the Councilmembers. She said the \$170,000 that has been spent exceeds the \$120,000 limit that was already set by the Council.

(c) Elaine Phelps, Shoreline, said Ms. Wacker believed certain things to be true and ran a campaign against one of the defendants in the primary. She added that Councilmember McGlashan allowed people to speak about Mr. Chang and has a conflict of interest that is clear. She said this isn't acceptable position for him to vote on whether or not Mr. Chang will be represented. Furthermore, she commented that Mr. Heller and his wife have been "digging a hole" in the community for years and this is the same pattern of accusations. She said that "not to exceed" meant not that the City will not exceed -- it means the attorneys are not to exceed that sum. She said there has been a total misreading of actions taken. She also added that there is no difference between conspiracy and conspire. She stated that there are repressive plaintiffs who have personal, political, and environmental reasons for attacking. She concluded that things will be dealt with in the elections. She urged people to stop using this forum to accuse people.

(d) Mary Jo Heller, Shoreline, said the recall did not fail; it was dropped partly for financial reasons. She added that Pro Shoreline has no monetary interest in this lawsuit. She commented that when citizens feel they have no recourse than to sue, expensive lawsuits are normally the result. However, that's the problem when citizens get involved, she added, they don't have the monetary resources that the Council has.

(e) Judy Allen, Shoreline, commented that Mr. Olander added an extra \$50,000 in March 2007 to the legal defense fund, and no one found out about it until July 2007. Now, the total amount is \$170,000 and she still doesn't know why this was done in secret. She wanted to know if this allocation gets approved to make the total amount \$341,700, and if Mr. Olander has approval authority for an additional \$50,000. This, would make the total for representation close to \$400,000, she pointed out. She said taxpayers are "writing the checks," and she estimated that this is going to cost the City \$750,000 before it's over. She commented that the 650 people who came to the January meeting knew the spirit of the law was broken and the Council should "clean up its act."

Mr. Olander said the City Manager has contingency authority for any contract of up to \$50,000, unless otherwise specified, which he exercises on a regular basis if within overall budget authority. He added that he doesn't always inform Councilmembers about that. He objected to Ms. Allen's allegation that he approved additional funding in secret. He added that this is a difficult issue, but one must look at this as a public policy issue. If

this was a lawsuit against any other Councilmember, City Manager, or a staff member, the City would recommend approval. The City staff can't presume guilt or innocence and can only recommended approval as a general matter.

Mayor Ransom asked City Attorney Ian Sievers to comment on a possible mediation. Mr. Olander suggested that the topic be discussed at the executive session.

Councilmember Gustafson commented that Ms. DiPeso said recall failed and he said it was withdrawn and can be brought back at any time. He assured those in attendance that Pro Shoreline does not have a stake in the lawsuit.

Deputy Mayor Fimia added that mediation was attempted and the plaintiffs walked away from the discussions. She added that the summary judgment request was denied due to a dispute of the facts, which are not clear-cut. She stated that the first act of the defendants was to consult with legal counsel.

Mayor Ransom added that the January 3rd meeting did have over 600 people in attendance, but the sentiment was pretty evenly divided. He said there were 75 speakers that were evenly divided. Councilmember Gustafson disagreed with this description of the event.

Councilmember Hansen said he didn't know who's financing the lawsuit, and he is not a member of Pro Shoreline.

6. STUDY ITEMS

(a) City Hall/Civic Center Guiding Principles and Site Configuration

Mr. Olander gave an update on the Civic Center/City Hall project. He introduced Jesus Sanchez, Public Works Operations Manager, who is also the City's overall project manager for the project. Also in attendance were P.J. Santos of OPUS Northwest, and Walt Nehoff from LMN Architects.

Mr. Santos stated that his firm is excited to be selected for this project. He discussed the history of the project, the guiding principles, site placement, and architecture. He explained the public outreach effort and noted that people were interested in the public places outside the building and having gathering spots. He said the public expressed a preference for a building that has civic quality and sense, and the building needs to be useable to the residents at night. Residents are also interested in sustainability and ensuring the building has a long life-cycle. These principles led to the West "L" concept and the building having a connection to a heritage park. This configuration allows for a strong civic statement, he said, and it also has an open space area on the north side. Regarding parking options, he said the public consensus was that single-level parking was not ideal and that there should be a two-level parking structure.

Mr. Olander added that surface parking would take up the whole site and moving the parking structure onto the Kimm property would create more green space for a plaza and any future growth. He said there was a strong sense in the public meetings that structured parking was preferred, and the Council gave direction to the City staff to explore it.

Mr. Santos said there is an opportunity for a campus feel and a "living room" center as things develop over the next ten to fifteen years.

Mr. Sanchez added that it provides opportunities for polishing water and the green space can be used to treat water before it enters streams.

Mr. Olander commented that the City is considering a four-story building with a height limit of 65 feet with approximately 66,000 square feet and some growth space with a two-story parking structure. This provides more flexibility and sets an example for future development along Midvale Avenue N. He commented that the City staff is asking the Council if the general design direction and schematics meet their approval.

Mr. Sanchez added that the staff is seeking Council direction and believe Concept #3, the West "L", is optimal because it is fully accepted by the community and embraces the corner. He believed that the structured parking is a sound direction to follow. The guiding principles are the driver for where the City is headed, he said. Finally, he stated that the cost options for growth space assumptions consist of a modest addition of 10,000 square feet of space. He said this addition would be prudent and will be built into the project with Council approval.

Mayor Ransom called for public comment. There was no one wishing to provide comment on this item.

Councilmember Way urged the staff to get the public involved. She hoped the staff could put the graphics in a mailer and get the guiding principles out to the public. Maybe, she added, the information could be put into the Enterprise; however, the circulation is not very good.

Mr. Olander pointed out that it was too late to get this information into the September issue of the *Currents*, but it could be put into the next one. He added that this information gets put on the City web site. It will be good for people to react to schematics and the City staff will continue to involve the public, he said.

Mr. Sanchez announced that there is a public meeting at Meridian Elementary School on October 2 concerning the schematics of the project.

Councilmember Way asked the public to please come out and comment on design and costs. She said she would support structured parking if that's what the residents want.

Councilmember Hansen expressed support for the guiding principles, adding that his immediate reaction to the proposal and structured parking is positive.

Councilmember Ryu appreciated the staff work and supported Option 3. She said the two-story structured parking gives the City more options in the next phase. She is amazed at what the City staff and consultants came up with. She said the October 2 meeting is important and asked the public to attend and speak at the meeting.

Councilmember Gustafson agreed with the previous Council comments. He suggested putting four or five of the main principles at the top of the list, noting that some principles are listed over and over. If the main principles are put at the top, then the others become more concise and easier to read. He agreed with the "West L" concept and structured parking. He also added that Deputy Mayor Fimia's idea of a walkway canopy is a good one.

Councilmember McGlashan supported the "West L" concept and the structured parking plan. He asked whether the Annex would be demolished.

Mr. Sanchez stated that the Annex building will remain during construction. He described the three stages of construction and its phasing.

Mr. Olander explained that the City would demolish the Kimm property and use it as construction staging.

Deputy Mayor Fimia supported the "West L" configuration and the structured parking. She appreciated the public that came and gave direction.

Mayor Ransom agreed with the "West L" concept and stated surface parking is cheaper, but the best option is the structured parking because he would rather the City build 200 parking stalls than have to build more in ten or twenty years. He stated that the City staff has consensus for the two-story parking structure from the Council.

Mr. Olander thanked the City Council and stated the City staff has clear direction.

(b) Metro Transit Subarea Allocation

Mark Relph, Public Works Director, discussed King County Councilmember Bob Ferguson's proposal to the City Council to shift Shoreline to the King County Metro Planning Area's East Subarea. Mr. Relph said Councilmember Ferguson thought there would be more opportunity for Shoreline to pursue funding in East Subarea, however, the City staff recommends the City of Shoreline stay with the City of Seattle, in the West Subarea. He commented that there are 16 routes that go directly into Seattle from Shoreline. He highlighted that although there is more opportunity for transit hours in the East Subarea, there are also more cities competing for those new transit hours and that would not be to our advantage.

Mr. Olander expressed thanks to Councilmember Ferguson for bringing this to the City's attention.

Mr. Relph pointed out that the City of Lake Forest Park decided that they would like to pursue moving to the east side, and apparently the Regional Transportation Committee will take up their proposal at their next meeting.

Mayor Ransom called for public comment. There was no one wishing to comment on this item.

Councilmember Hansen moved to adopt the staff recommendation and remain in the West Subarea of the King County Metro Planning Area. Deputy Mayor Fimia seconded the motion.

Councilmember Gustafson supported the motion and confirmed that there are 16 bus transit routes that move from Shoreline into Seattle.

Councilmember McGlashan supported the motion and felt the City of Shoreline and the City of Seattle have more in common.

Councilmember Ryu said this is an equity question and the City needs to confirm that it gets it equitable share of service hours from Seattle. She hoped Councilmember Ferguson continues to serve the City. She agreed with the motion to stay in the West Subarea. She appreciated Councilmember Ferguson giving the City the opportunity to discuss this item and make a decision.

Councilmember Way appreciated Councilmember Ferguson's attempt and has heard from residents concerning inadequate bus service. She wished this was the solution to get more bus service for the City of Shoreline. She said it is frustrating to get stranded and supported the motion. She concluded that she would like Councilmember Ferguson to continue looking for solutions.

Mayor Ransom commented that he served on Seashore over 4 years and Councilmember Ferguson felt the City of Shoreline could theoretically get 4% of the total service hours on the East Subarea, however there is more competition. There are seventeen cities in the East Subarea, and Shoreline would make it eighteen. The East Subarea routes are all in the east, and there is little sensitivity to our needs here. He agreed that the City of Shoreline should stay in the West Subarea because the City shares 16 of 18 routes with the City of Seattle. He added that the City needs to work for more efficient and better bus service.

Deputy Mayor Fimia commented that the City needs to figure out how to get a bigger "piece of the pie."

A vote was taken on motion to adopt the staff recommendation and remain in the West Subarea of the King County Metro Planning Area, which carried 7-0.

6(c) New Agenda Item: Puget Sound Regional Council (PRSC) Draft Vision 2040

Deputy Mayor Fimia said the Puget Sound Regional Council (PSRC) briefed the Council on Draft Vision 2040. The document is being distributed to the residents in the four counties for public comment. She stated she wanted to share this item with the full Council and will submit Council concerns electronically. She said she has been tracking transportation in this region for 12 years and is concerned with the outcomes in the document. She questioned what the cities are getting for their investment. She said there is one summary document that reports there will be hours of delays on freeways and arterials and that will have major implications on the City's ability to manage growth. Even with \$140 billion being expended on 125 miles of light rail as in the preferred growth alternative, vehicle miles traveled increase and the hours of delay increase by 195%. She didn't think that is sustainable in our region and she said most of her questions relate to this issue. She felt the font size on the document was too small for the public to read and suggested PRSC have the document reprinted. She questioned what the new assumptions for cost are now that the new total is \$140 billion. Additionally, she questioned what projects created the \$35 million increase over the past assumptions. She wanted the regional outcomes confirmed and the cost per trip broken down for each mode (light rail, commuter rail, car, and bus). She also wanted the number of lane miles of light rail determined. She said people don't want more cars or parking in neighborhoods. She concluded that there are a total of nine questions she has for PRSC and she welcomes any suggestions from any Council member. She said she is sending her questions in by September 7.

Mayor Ransom felt that the vision is overly detailed and isn't sure there are answers for the questions. He said, however, that he is interested in getting a response to Deputy Mayor Fimia's first question, items A, B, and C.

MEETING EXTENSION

At 9:26 p.m., Councilmember Hansen moved to extend the meeting until 10:30 p.m. Councilmember Gustafson seconded the motion, which carried 7-0.

7. EXECUTIVE SESSION

(a) Potential Litigation and Litigation - RCW 42.30.110(1)(i)

Ian Sievers, City Attorney, suggested announcing a shorter time period for the executive session and extending it if necessary.

Mayor Ransom specified that only four councilmembers would be in the executive session and the public should anticipate possible action after the executive session. It was noted that the executive session is being held to consider litigation concerning the King v. Fimia lawsuit.

At 9:30 p.m., Mayor Ransom announced that the Council would recess into an Executive Session for 30 minutes to discuss litigation. At 10:00 p.m., Mayor

Ransom announced that the Executive Session would be extended until 10:30 p.m. At 10:30 p.m., Mayor Ransom announced that the Executive Session would be extended until 10:45 p.m.

At 10:44 p.m., the Executive Session concluded and the special meeting reconvened.

MEETING EXTENSION

At 10:45 p.m., Councilmember Hansen moved to extend the meeting until 11:10 p.m. Councilmember Ryu seconded the motion, which carried 7-0.

Councilmember Ryu moved to approve an amendment to the 2006-2007 contract with Foster Pepper PLLC for general litigation in the amount of \$171,700, increasing the new not-to-exceed amount to \$341,700. Councilmember McGlashan seconded the motion.

Councilmember McGlashan moved to exclude the City Manager contingency authority for this amendment. Councilmember Hansen seconded the motion. There was consensus to accept this as a friendly amendment to the motion.

Councilmember Gustafson said he was never notified until the night of the meeting when City Manager Burkett resigned. He read a statement which said he was appalled at the suggestion that the taxpayers pay for the legal defense of the four Councilmembers in question. In his opinion, the four Councilmembers acted on their own and weren't in a Council meeting or an executive session when decisions were made. He believed that they acted unethically and technically, knowingly, and willingly violated the law. He felt that they didn't do what was in the best interest of the citizens of Shoreline. He said it was a "power play" and they acted on a personal vendetta against Mr. Burkett. He said on December 5, 2005 the defendants had the four votes and could have dismissed him at any time in a public and legal manner. He said these four Councilmembers profess to be advocates of an open, public, transparent City Council that processes every item, yet when it came to their own personal issues the rules and process didn't matter. He said that he and hundreds of other citizens are still appalled at their actions, and he can't support the taxpayers of the City supplying any additional funds to their legal defense.

Councilmember Ryu read from the material provided by the City staff. She said the plaintiff's summary judgment was denied and the defendants cannot speak for themselves. The plaintiff's motion to allow more discovery was granted, she stated. She added that motions are continuing even though there are only 10 days before start of trial. She commented that mediation was unsuccessful because the plaintiffs "walked away." She believed that since the City has been brought in as a defendant, there is no choice but to provide legal counsel and proceed to trial. In February 2006, the City accepted legal defense, now the remaining Council is obligated to defend the City. He hoped the Council approved this motion. She said she didn't want to breach her duties as a Councilmember to the defendants and the City as a whole.

A vote was taken on the motion to approve an amendment to the 2006-2007 contract with Foster Pepper PLLC for general litigation in the amount of \$171,700, increasing the new not-to-exceed amount to \$341,700, excluding City Manager contingency authority, which carried 3-1, with Councilmember Gustafson dissenting.

9. ADJOURNMENT

At 10:54 p.m., Mayor Ransom declared the meeting adjourned.

Scott Passey, City Clerk

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