CITY OF SHELTON - CITY COMMISSION
September 8, 2014
EXECUTIVE SESSION – 5:30 p.m.
Executive Conference Room

An Executive Session was held to discuss potential litigation for 25 minutes with possible action under New Business at the City Commission Business Meeting. The Commission, Dave O'Leary, City Attorney Kathleen Haggard, Attorney Andrea Bradford and Vicki Look were in attendance. The Commission adjourned the Executive session at 5:55 p.m.

CITY OF SHELTON, WASHINGTON - CITY COMMISSION
Business Meeting Minutes – September 8, 2014
Shelton Civic Center - 6:00 p.m.

Presiding: Mayor Cronce, Commissioner Olsen and Commissioner Moore
Staff Present: Dave O’Leary, Kathleen Haggard, Andrea Bradford, Vicki Look, Steve Goins, Tracy Wilson, Chuck Griffin and Leslieann Kangas

Mayor Cronce called the meeting to order at 6:00 p.m.

Commission Reports
• Squaxin Island Grant Application – Letter of Support – Community and Economic Development Director Goins introduced Mr. Scott Steltzner, Fisheries Biologist with Squaxin Island Tribe, who briefed on a multi-partner project within West Oakland Bay. This is a multi-phase project that includes the planning and design process for restoration and conservation within Shelton Harbor that includes the following:
  1. Goldsborough Creek mouth construction
  2. Shelton Harbor construction
  3. Port Shoreline final design
  4. Eagle Point conservation.

Mr. Steltzner requested the Commission sign a letter for a grant application in support of this project.

The Commission fully supports this project and concurs to sign the support letter.

One or more Commissioners will attend the following activities this week:
• Community Services Group Meeting
• Housing Coalition Meeting
• Peninsula Regional Transportation Planning Organization (PRTPO) Meeting
• Shelton Rotary Event
• Mason Transit Authority Board Meeting
• Economic Development Council Meeting
• Economic Development Council Luncheon

Commissioner Olsen congratulated Director of Financial Services Cathy Beierle and her staff for another year of a clean audit.

Public Comment
Mayor Cronce recognized Mr. Jay Hupp of the Economic Development Council who said he encourages the Commission to adopt the proposed zoning changes. He said these changes will make it easier for business development and expansion in the community.

Consent Agenda
1. Ordinance No. 1859-0914 – Second Reading – An Ordinance of the City of Shelton, Washington, Amending Shelton Municipal Code Chapter 20.06 Specifically Relating to Table 20.06.030B, Permitted and Conditional Land Uses
2. Basin 3 – Department of Ecology Design Funding Contract #L1200003 – Extending design completion date to September 30, 2014, Authorize the Mayor to sign and City Administrator to make necessary budget modifications.
3. SR3 Enhancements – Supplemental Agreement #1 to Agreement #LA-04790 - KPFF and City of Shelton budget increase amount of $25,289 - Authorize the Mayor to sign and City Administrator to make all necessary budget modifications

*Commissioner Olsen moved to approve the consent agenda; Commissioner Moore seconded the motion. A vote was taken and the motion passed.*

**Old Business** - None

**New Business**

1. **Initiatives - Proposition 1 - Collective Bargaining Transparency Act and Proposition 2 Collective Bargaining Protection Act** – City Administrator (CA) O’Leary introduced City Attorney (CA) Kathleen Haggard who presented the legal information on the initiatives. The Initiatives - Proposition 1 - Collective Bargaining Transparency Act and Proposition 2 Collective Bargaining Protection Act were submitted in early August and the Mason County Auditor determined that there were sufficient signatures at the end August. CA Haggard said that according to the Revised Code of Washington (RCW), once the Auditor determines sufficient signatures, the City Commission has two options and case law gives a third. The options are as follows:

   1) pass the initiatives as ordinances without alteration
   2) submit the initiatives to ballot along with ballot title for a general or special election
   3) make a finding the initiatives are legally invalid and for that reason decline either to place them on the ballot or enact them as ordinances.

The Transparency initiative would require the City provide advance notice to employees of the bargaining units and the public prior to meetings between City staff and the unions, and to conduct collective bargaining meetings in public. The Protections initiative would prohibit union security clauses in collectively bargained agreements, the “gifting of public funds” to support union operations, and public work stoppages (i.e., strikes). Staff said the concern is the ability to meet the requirements with the initiatives without violating state labor laws. If an election is to take place the City would be responsible for all the cost. CA Haggard presented the legal validity of the petitions as follows:

   1. **The process of collective bargaining is not a permissible subject of initiative power** because it has been specifically delegated to the City Commission as a legislative entity, and because it involves the exercise of administrative powers. *See RCW 35A.11.020 (“The legislative body of each code city shall have all powers possible for a city or town to have . . . in regard to all aspects of collective bargaining as provided for and subject to the provisions of chapter 41.56 RCW . . .”); e.g., City of Port Angeles v. Our Water-Our Choice!, 170 Wn.2d 1 (2010)* (Council vote to start fluoridating water supply was administrative in nature because Council had already voted years earlier to adopt a fluoridation plan, and because water fluoridation is heavily regulated by state law).

   2. **Collective bargaining rights and obligations are set out in state statute,** which preempts inconsistent local ordinances. RCW 41.56.905 (“[I]f any provision of this chapter conflicts with any other statute, ordinance, rule or regulation of any public employer, the provisions of this chapter shall control.”); RCW 35A.11.090 (ordinances providing for or approving collective bargaining are not required to have a 30 day effective date, because they are not subject to referendum).

   3. **The initiatives are contrary to state law.** The initiatives conflict with state laws concerning collective bargaining in many respects—for example, by prohibiting union security clauses when state law allows them, and by suggesting that the deduction and transfer of union dues might be a “gift of public funds” when the statute expressly allows that. RCW 41.56.122.

   4. **In purporting to charge city staff members with misdemeanors for carrying out their collective bargaining duties, the initiatives would unlawfully create a new crime.** *See RCW 49.36.030 (“No person shall be indicted, prosecuted, or tried in any court of this state for entering into or carrying on any lawful arrangement, agreement, or combination between themselves made with a view of lessening the number of hours or increasing wages or bettering the conditions of working men and women, or for any lawful act done in pursuance thereof.”)*

CA O’Leary and CA Haggard jointly recommended that the City Commission declare both initiatives legally invalid and further recommend that the City Commission make a finding that both initiatives are legally invalid.

**Public Comment**
Mayor Cronce recognized the following who spoke in favor of Prop-1, Collective Bargaining Transparency Act and Prop-2, Collective Bargaining Protections Act: Mr. Pat Tarzwell, Ms. Sandy Tarzwell, Ms. Lorilyn Rogers, Mr. Max Nelson and Mr. Travis Couture.

Mayor Cronce recognized the following who spoke in opposition of Prop-1, Collective Bargaining Transparency Act and Prop-2, Collective Bargaining Protections Act: Mr. Steve Bostrom, Ms. Charmaine Short, Ms. Debbie Lippincott, Mr. Tom Davis, Mr. John Ozga, Mr. Ken Dickinson, Mr. Luke Manning, Mr. Eric Smith and Mr. Todd Rhodes.

City Attorney Haggard stated that the City of Shelton is both a Commission Form of Government and a Code City.

Commissioner Moore thanked all for their interest and wanting to be involved but said this is a no win situation for the City of Shelton, as all of the options comes with costs. She said she has to take the legal advice of our City Attorney and the opinion of the City Administrator that is to take no action other than to allow the courts determine the validity of the initiatives. She said the best decision is to stand with the state government requirements.

Commissioner Olsen said that this will cost the city residents. He said he researched the Freedom Foundation and the money being put into these efforts is not coming from the people of Shelton but from large corporations and should be taken to the state level.

Mayor Cronce said he wants to hear both sides of the issue because all have a right to their opinion. He said this is a tough decision but his priority is to the City of Shelton and it residents so he has to go with the City Attorney and City Administrator’s recommendation in following state law.

Commissioner Olsen moved to find the petitions are legally invalid and decline either to enact them as ordinances or submit them for a vote at a special election; Commissioner Moore seconded the motion. A vote was taken and the motion passed unanimously.

**Administration Reports**

City Administrator O'Leary reported that the Turner Street Project would begin on Wednesday. He said costs are higher for this project so staff will be bringing the financial scope to the Commission in the future.

City Administrator O'Leary said he would be at Skookum Rotary Wednesday morning presenting his annual presentation focusing on the future at the City.

**General Public Comment**

Mayor Cronce recognized Mr. Bob Rogers who said when he comes to a Commission meeting he would like to not be insulted.

**Administrative Final Touches** - None

**Announcement of Next Meeting**

Mayor Cronce announced the next regular meeting of September 15, 2014, at 6:00 p.m.

**Adjournment**

Mayor Cronce adjourned the meeting to at 7:28 p.m.

Mayor Cronce

City Clerk Look