CITY OF SHELTON, WASHINGTON - CITY COMMISSION
Business Meeting Minutes – March 18, 2013
Shelton Civic Center - 6:00 p.m.

Presiding: Mayor Cronce, Commissioner Olsen and Commissioner Pannell
Staff Present: Dave O’Leary, Kathleen Haggard, Vicki Look, Steve Goins, Cathy Beierle, Greg Clark, Mark Ziegler, Mike Michael, Jason Dose and Lesleann Kangas

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

Mayor Cronce announced a change to the agenda, Item #3, Cingular Wireless Settlement Agreement, will move to Item #1 under New Business.

Commission Reports

One or more Commissioners will attend the following activities this week:
- Mason Transit Authority Board Meeting
- State of the Community
- Criminal Justice Team Meeting

Public Comment
Mayor Cronce recognized Ms. Debra Soper who spoke in response to the proposal to add acreage on Highway 102 between the Washington State Patrol and Washington Correction Center to Shelton’s Urban Growth Area. Her concern is the area considered is a critical aquifer recharge area. She said that the area being considered to be added to the Urban Growth Area for industry is an environmentally sensitive area that will require special attention if you intend to protect the drinking water of the City of Shelton and surrounding area.

Mayor Cronce recessed the regular meeting and opened the Public Hearing at 6:05 p.m.

Public Hearing – Ordinance No. 1822-0213 – An Ordinance of the City of Shelton, Washington, Enacting a Temporary Moratorium on the Establishment of New Adult-Oriented Businesses, Including Espresso Stands Commonly Referred to As “Bikini Baristas.” – Community and Economic Development Director Goins stated that the statute requires that within 60 days of passing of a moratorium a public hearing must be held. He stated the main thing to consider is the community’s opinions on how we should move forward. The question is how to regulate. Do you regulate the business or the activity? Staff has put together three alternatives from different jurisdictions for consideration that refers to public nudity, limited apparel businesses and adult businesses and employees, that is similar to what we have now.

Commissioner Olsen asked staff to explain how this moratorium came about. City Administrator O’Leary said the Mayor had spoken to him about a business that was going to open whose intention was to establish a place where nudity or partial nudity would be worn. The moratorium was created very quickly. He said there were inquiries but no formal applications were received.

Mayor Cronce said that he and the City Administrator had spoken six months ago to update the current ordinance that had not been updated since 2005.

City Attorney Haggard said that she researched the three example ordinances that DH Goins presented today. Two are different in that the baristas will be wearing less than a bathing suit and will be regulated as adult businesses. The other approach prevents anyone who is outside private clubs from wearing less that a bathing suit.
Public Testimony
Mayor Cronce recognized the following who spoke in opposition of “Bikini Baristas” in the City of Shelton:
Mr. Tom Davis, Ms. Marie LaRock, Mr. Forrest Cooper, Ms. Jeanne Chapman, Ms. Kathy Dorcy, Ms. Bonnie Aldridge and Mr. Ralph Aldridge.

Commissioner Pannell said that the ordinance needs to be revisited without establishing a moratorium.

Attorney Haggard said if a business comes in and locates without regulations in place you could have a non-conforming use.

Commissioner Pannell suggested not continuing the moratorium and continuing to look at the ordinance and establishing rules that would govern any business that would come in; and not targeting one we have heard rumors about. She said the best way to regulate those types of businesses is to not patronize them. She said she would like to see language change in the already existing ordinance that regulates business rather than continuing with a moratorium that did not have the best legs under it to begin with.

Commissioner Olsen said he agreed with Commissioner Pannell especially about the moratorium. He said he wished we had a better mechanism for stopping business for a little bit of study time; especially one we have not addressed in the past. He said he hesitates being a moral cop and perhaps this could be taken care of in conditional use language.

Mayor Cronce said we did what needed to be done because there was no mechanize to stop a business from going in like this. He said he represents the citizens and they have spoken and it should be written in the ordinance what represents the wishes of this community.

Mayor Cronce closed the Public Hearing at 6:35 p.m.

Mayor Cronce opened the Public Hearing at 6:36 p.m. for Resolution #1046-0313

Public Hearing – Resolution #1046-0313 – A Resolution of the City of Shelton, Washington Amending the Comprehensive Six (6) Year Transportation Improvement Program for the City of Shelton for the Years 2012-2018 – City Engineer Michael handed out a recently updated project list. In August 2012, the City adopted its annual update to its six year Transportation Improvement Program (TIP). CE Mike Michael reported that the TIP is for local agencies to prioritize their transportation projects anticipated to be done during the next six years; for the Washington State Department of Transportation (WSDOT) to know what projects are anticipated; to list those projects that have federal and/or state funding secured; and to identify those projects that are anticipating state or federal funding that is not yet secured; and to allow WSDOT to create a list of projects for the Statewide Transportation Improvement Program (STIP). In the 2012 list, there were several projects nearing completion or in the position to be completed so they would not need to be carried over to the current TIP. Due to contract issues, three of the projects did not get to the point needed, so they will need to be added back in to the TIP. In addition, there was a late breaking project that will need to be expedited to be included in our TIP and the State TIP to get funding. This list of projects is the City’s way of tracking the TIP projects that need to be done and what we have funding for and inclusion in State plans. CE Michael requested the Commission place Resolution #1046-0313 on the consent agenda for March 25, 2013.

Public Testimony
Mayor Cronce recognized Mr. Tom Davis who asked what status “P” is. CE Michael said it is a proposed project. Mr. Davis asked if the list is listed in priority. CE Michael said somewhat but available funding sources changes rankings. Mr. Davis said #21 on the list should be higher priority because bicycle and pedestrian paths are quality of life issues and are easily obtainable.

Mayor Cronce closed the Public Hearing at 6:45 p.m.

The Commission concurred to place Resolution #1046-0313 on the consent agenda for March 25, 2013.
Consent Agenda
1. Vouchers numbered 80531 through 80632 in the amount of $920,508.76
2. Payroll Warrants numbered 68783 through 68972 in the amount of $591,146.60
3. Commission Meeting Minutes from:
   • Business Meeting of March 4, 2013

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

Old Business - None

New Business
1. Civic Center Rotating Art Recommendations – Parks and Recreation Director Ziegler reported that the Shelton Arts Commission is recommending the following artists and work for the next Civic Center Rotating Art Exhibit: Clint Ferrara – Photography, Kathy Ross – Tin, Stephanie Hansen – Acrylic, Peter Candelin – Oil & Acrylic, Christine Armond – Glicée and Dixie Highby – Oil. DH Ziegler requested the Shelton Arts Commission recommendations be placed on the consent agenda for March 25, 2013.

The Commission concurred to place the Shelton Arts Commission recommendations on the consent agenda for March 25, 2013.

2. Department of Ecology Coordinated Prevention Grant (CPG) Application – Senior Planner/Recycling Coordinator Dose reported that the City has successfully secured funding through this program since the curbside recycling program was implemented. This funding helps cover a variety of tasks including a portion of the recycling coordinators wages, printing costs for curbside brochures, pickup calendars, and waste reduction, as well as, reuse promotion and education materials. The funding also covers recycling purchases such as recycling bins, compost bins and educational displays. The Recycling Coordinator provides technical assistance to utility customers, acts as point of contact for appropriate disposal of items not accepted through the City’s program. Coordinator Dose reported that this is a 24-month grant cycle with a 25 percent match from the City. He requested the Commission approve to submit a Coordinated Prevention Grant application authorizing the Mayor to sign.

The Commission concurred to place the Department of Ecology Coordinated Prevention Grant (CPG) Application on the consent agenda for March 25, 2013, authorizing the Mayor to sign.

3. Cingular Wireless Settlement Agreement – City Attorney Haggard reported that in 2010, Cingular Wireless (formerly AT&T) submitted a claim to the City of Shelton seeking a refund of $7,863 in taxes Cingular had paid to the City. Cingular alleged it paid this money to the city in error over a period of five years from 2005 to 2010. While Cingular conceded it owed local taxes on telephone services, under the Federal Internet Tax Freedom Act, local taxes cannot be charged on internet service, including data service provided through mobile phones. Cingular mistakenly collected local taxes on internet and remitted those taxes to the City, through no fault of the City. After a class action lawsuit was filed against Cingular, they simultaneously requested refunds from almost every municipality in all 50 states. The City of Shelton, initially denied the refund request to see if larger cities, with more resources to devote to the tax dispute, would have success defeating Cingular’s claim. In April 2012, Cingular sued all cities in the State who had not settled. Shelton was not initially a defendant, but was added when Cingular amended the complaint a few months after filing. In December 2012, a collective of cities moved to dismiss the lawsuit. They argued that they could not pursue refunds because they had voluntarily paid the money. The judge ruled in favor of Cingular on this signifying that a refund claim was of merit. Cingular has offered to settle its claim against the City at a reduced rate of $5,289.69. Cingular will allow the City to choose to refund the money in a lump sum or credit amount toward telephone tax due next year. The Finance Department has indicated a refund would be easier to administer and less impact practically and financially. Staff requested the Commission approve the
Cingular Wireless Settlement Agreement by placing on the consent agenda for March 25, 2013, authorizing the Mayor to sign.

The Commission concurred to place the Cingular Wireless Settlement Agreement on the consent agenda for March 25, 2013, authorizing the Mayor to sign.

4. Sewer Comprehensive Plan/Rate Analysis – DH Goins presented a power point presentation representing the history of improvements made to the City of Shelton’s infrastructure and the cost associated with these huge projects. He presented draft Ordinance No. 1824-0313 that would increase the sewer rate 20 percent, to be effective for eight months in 2013, which would equal an increase of roughly $13.22 per month to the average family residence. The increase will help to support ongoing operation and maintenance, debts, and a fund balance to support future payments. DH Goins said to accomplish this, Commission would need to hold a first reading tonight and a second reading as part of the Public Hearing next week and advertise in the local paper before the end of the month to increase the rates for the eight months in 2013.

City Administrator O’Leary said this entire presentation is being recorded and can be viewed on the City of Shelton website.

The Commission all stated that raising rates is hard but the improvements need to be paid for and staff will continue to look for funding. They also said that this is building for future generations.

Mayor Cronce requested a First Reading of Ordinance No. 1824-0313 as follows: An Ordinance of the City of Shelton, Washington, Relating to Sewer Service; Amending Shelton Municipal Code Sections 14.28.020 Through 14.28.060.

The Commission concurred to place Ordinance No. 1824-0313 on the consent agenda for March 25, 2013 for a Second Reading and adoption.

Administration Reports
City Administrator O’Leary reported he would be out of the office the rest of the week attending the Northwest Regional Management Meeting.

Public Comment - None

Administrative Final Touches
- DH Clark – Dump Truck purchase
- CE Michael – “K” Street final acceptance
- DH Goins – Shoreline Master Plan update

Announcement of Next Meeting
Mayor Cronce announced the Shelton Metropolitan Park District Meeting of March 25, 2013 at 1:45 p.m. and the next regular Commission meeting of Monday, March 25, 2013, at 2:00 p.m.

Adjournment
As there was no further business the Commission business meeting was adjourned at 7:44 p.m.

Mayor Cronce

City Clerk Look