

**CITY OF SHELTON, WASHINGTON - CITY COMMISSION**  
Business Meeting Minutes – April 4, 2011 6:00 p.m.  
Shelton Civic Center

Presiding: Mayor Tarrant, Commissioner Byrne and Commissioner Pannell

Staff Present: Dave O'Leary, Vicki Look, Steve Goins, Dave Eklund, Jason Dose and Lesleann Kangas

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

**Commission Reports**

- **April Volunteer Month – Proclamation** – Mayor Tarrant read a proclamation honoring the volunteers in our community.
- **Oath of Office – Interim Police Chief** - Mayor Tarrant administered the Oath of Office to Interim Police Chief David S. Eklund.

One or more Commissioners will attend the following activities this week:

- Port of Shelton Commission Meeting

Mayor Tarrant met earlier today with citizens concerning Simpson Solomon Biomass Cogeneration Plant. The Mayor said he would speak on processes, not substance. At that meeting, a couple questions came out of the meeting about timeline related to process for the Simpson proposal, and the issue with respect to a moratorium.

Mayor Tarrant read and presented a letter concerning the City of Shelton issuance of Mitigated Determination of Non-Significance (MDNS), pursuant to the requirements of the State Environmental Policy Act, for the proposed Simpson Biomass Cogeneration facility. Since the determination was released, the City has received a number of public inquiries regarding the timing and process for filing an appeal, as cited the codes appear to be inconsistent. The MDNS cites the Revised Code of Washington (RCW) 43.21C.080 which under (2) (a) describes a 21-day appeal period, commencing from the date of the last publication of the notice. City Staff will issue a revised MDNS tomorrow that clearly identifies the appropriate appeal mechanism, in this case, in conjunction with any future permit decision compliance with RCW 43.21C.075. Staff has amended mitigation measure number 4 to require a determination to be made on pending air quality permits and approvals from State and Federal air permitting authorities prior to the City initiating and public hearing on local land use permits. This will allow the City to participate in the State and Federal air permit review process, and to know the operating conditions ORCAA may impose before considering any pending local land use permits. Notice of the revision will be published in the Shelton Journal and emailed notice will be provided to call interested parties, along with links to the document on the City of Shelton website, tomorrow.

Public Works and Community and Economic Development Director Goins said that part of what the revised decision will indicate is that the City will not be processing the other applications associated with this as far as the land use permits until the completion of the ORCAA review and a notice of construction permit process ORCAA and Ecology require is completed. The City's process includes at least three permits: Special Use; Shoreline Conditional Use; and a Shoreline Substantial Development requiring public hearings.

City Administrator O'Leary said that there was a question last week regarding a Commissioner's position on the Simpson Biomass project. The City Attorney advised not answering this. Further research proved this is a quasi-judicial matter. The Commission has a role in all three of the hearings, CA O'Leary mentioned, as a matter of law their duty is to act as judges, not as a policy maker. Policies relating to these have all been set, if you want to argue policies or get changes, then that needs to be taken up with the legislature. It is our job, at the local level, to implement the policy and it is the Commissioners' job to act as judges not legislators. That means they should not make decisions until a public hearing occurs. When you have public hearings, you have an actual permit on the table; that is the time, when a decision is made, as it relates to law. The Commission should not discuss the decision they would have, as it relates on this, prior to the hearing. Everyone should know they are unbiased.

The other suggestion was to impose a moratorium stopping the Simpson Solomon process. This would not be possible since the permits have been filed and it is our duty to process them. The moratorium would not stop this; it would only stop someone else from bringing in a permit. In order to facilitate further communications relating to this subject, Jason Dose will be the single point of contact person for further questions in the process of this application.

Mayor Tarrant reminded the audience we are not in a Public Hearing concerning the Simpson Solomon Biomass Cogeneration Plant. The Commission appreciates all comments but asked those who sign up to not to duplicate comments. A "me too" would be appreciated if someone has already presented your comments or concerns.

### **Public Comment**

Mayor Tarrant recognized Mr. Richard Curtis who thanked the Commission for the efforts in completing the ORCA paperwork to enable the installation of an ambient air quality system in downtown Shelton. Mr. Curtis stated he strongly recommends a moratorium to allow time to study scientific data before any decisions are made concerning a biomass facility.

Mayor Tarrant recognized Ms. Christine Armond who read a statement from a local resident who was unable to attend the meeting who is a retired teacher, attorney and logger. On the subject of mitigation as to Simpson Solomon the letter included that the City of Shelton must state factually and clearly what the adverse impacts would be without any mitigation and what actions are to be undertaken to mitigate the impacts. The City of Shelton must reveal the exact percentage of diminishment of adverse impact the City approved, with respect to the Simpson Solomon Incinerator. If the City can not, or refuses to, quantify the degree of diminishment, any claim to mitigation is a hoax and those who perpetrate that hoax should be removed from office or position.

Mayor Tarrant recognized Mr. Conley Watson who stated he requested to wait until other comments were received.

Mayor Tarrant recognized Ms. Debra Soper, who said that in December 2010, the level of dioxins in Oakland Bay was a source of major concern. Ms. Soper asked a supervisor from Department of Ecology (DOE) how they could allow another smokestack on the waterfront when they know smokestacks cause pollution. He said the DOE is only able to do cleanup, not prevention, and the effects of air on the water is not their jurisdiction. Ms. Soper asked the Department of Health (DOH) who would speak on behalf of the people to prevent more pollution in an already unhealthy county. Each agency pointed to ORCA. ORCA's mission is to protect the air quality but how can they be effective when they are working to expedite the permit process. The elected officials are the first line of defense that has the jurisdiction to connect the dots in bad water and air. She encouraged the Commission to slowly and deliberately consider the science and the ramifications of the Simpson Biomass Cogen Plant.

Mayor Tarrant recognized Mr. Bob Herr who said "me too."

Mayor Tarrant recognized Mr. Tom Davis who said "me too" from the last speakers. Mr. Davis said he understood that the NOA was issued illegally or illegitimately. He presented information that the statement from the City Attorney must specify that the 21 day appeals period for the MDNS for the Simpson Solomon can not start until after the first permit was issued. Citizens have stopped their lives to learn what was happening in the community. Mr. Davis said the citizens have elected leaders not followers. Signatures have indicated being against ADAGE and biomass. How can this be ignored? Where the leaders and what are they doing to protect the citizens of this community?

Mayor Tarrant recognized Mr. Will Durham who said the two notices of actions that were issued illegally according to the City Attorney. This leads to the question of transparency. If we do not have transparency among our City leaders, who let the horse out of the barn? Those people should be held accountable. It is time for the citizens of the City of Shelton to demand that they publicly and immediately rescind the two published NOA for the highly pollutant Simpson Solomon Biomass Incinerator.

Mayor Tarrant recognized Mr. Alex Ides who said "me too."

Mayor Tarrant recognized Ms. Katherine Price who presented three letters; one from the Center for Biological Diversity; another from Dr. Christopher Penoyer, containing signatures of doctors of Mason General Hospital; and one from three scientists, who are all very damning in concerning biomass incineration and health problems that they bring to communities. Ms. Price is requesting a year moratorium on the building of a biomass facility.

Mayor Tarrant recognized Ms. Terri Thompson who presented information for the Commission to review with an open mind concerning biomass. After meeting with the Mayor earlier today, Ms. Thompson requested to schedule a public meeting to examine information regarding a moratorium on biomass or cogeneration plants, until a review can be explored. She cited RCW 70.94.011 that declares it is public policy to protect the air quality for future generations. Ms. Thompson requested a moratorium to do proper by the citizens of this county.

Mayor Tarrant recognized Ms. Pat Vandehey who respectively requested that when the new monitoring equipment is installed downtown the information be collected for one year. This will include all the seasons. Dry or wet will produce different results.

Mayor Tarrant recognized Ms. Connie Simpson who as a nurse experienced the effects of airborne pollutants on the body first hand. Citizens do not want another air pollutant in our town.

Mayor Tarrant recognized Mr. Conley Watson who said he approached the State Senate Committee on 5575. They want to permit to burn five different things including yard, animal, human, food waste and black liquor. We should wait until the Environmental Protection Agency, Department of Ecology, Heart and Lung Association, Department of Health runs a test on all these biomass to see what is coming up in the air before making decisions.

Mayor Tarrant thanked everyone for their comments. He did want to comment on the topic of transparency, he would disagree with the comment earlier and said there was an error in terms of interrupting, we listen and try to get it right and will continue to do that.

#### **Consent Agenda**

1. Vouchers numbered 75040 through 75041 & 75043 through 75108 in the amount of \$2,753,010.83
2. Manual Warrants numbered:
  - 75037 in the amount of \$15,168.13 to Department of Revenue
  - 75038 in the amount of \$5,444.00 to Department of Health
3. Commission Meeting Minutes from:
  - Business Meeting of March 21, 2011

*Commissioner Byrne moved to approve the consent agenda as read, Commissioner Pannell seconded the motion. A vote was taken and the motion passed.*

#### **Old Business**

1. **Resolution # 1017-0311 - Reading - A Resolution of the City of Shelton, Washington Adopting the Water System Plan 2010 Update**  
**Ordinance No. 1782-0311 - First Reading - An Ordinance of the City of Shelton, Washington, Amending Chapter 15.28 of the Shelton Municipal Code Relating to Water Rates**  
**Ordinance No. 1783-0311 - First Reading - An Ordinance of the City of Shelton, Washington, Amending Chapter 3.51 of the Shelton Municipal Code Relating to Utility Tax** – Public Works and Community and Economic Development Director Goins reported that in summary, we are considering a resolution that would adopt the proposed water system plan and a first reading of two ordinances that effect our water rates and utility tax. To summarize, items that have been discussed at previous meetings are that we are required to update the water plan every six years. *The Lane v Seattle* court decision ruled that we could no longer provide fire protection services through our water utility. The plan includes removing that cost from the utility and adding a utility tax. Another item is the prospect of needing a wholesale water rate to serve the John's Prairie Industrial Park. The plan itself helps us evaluate a number of issues including the storage capacity, establishing a new pressure zone in upper Mountain View, need for new sources, reestablishing the Shelton

Springs, disinfecting the Shelton Springs source, a future source on the southern end of town and projecting future growth. The rates have been discussed at great length and include reinvestment for our long term health. One last item is the General Facility Charges which will remain unchanged. In the year 2013 this will be revisited. All of this will help ensure that fiscal stability of the water utility is secure and maintained. It accounts for long-term debt service, projected growth, changing service needs, and will keep the utility in step with all know regulatory changes. Staff has made a great deal of effort to get this information to the public and will be meeting with the Chamber in the morning. DH Goins requested adoption of Resolution #1017-0311 and a First Reading of Ordinance No. 1782-0311 and Ordinance No. 1783-0311 and place the Ordinances under Old Business for April 11, 2011.

Mayor Tarrant said a question came up concerning the wholesale water rate for John's Prairie and asked DH Goins to address that. DH Goins said the reason to establish the wholesale rate was to not provide service in the entire Industrial Park. This comes with a reduced need to maintain the utilities and a reduction in the rate.

Commissioner Pannell commented that this has been in the works for over a year. There has been ample time to comment on the plan. It is time to move forward and act on the plan.

***Mayor Tarrant requested a reading of Resolution #1017-0311 as follows:***

***A Resolution of the City of Shelton, Washington Adopting the Water System Plan 2010 Update***

***Commissioner Pannell moved to approve Resolution #1017-0311, Commissioner Byrne seconded the motion. A vote was taken and the motion passed.***

***Mayor Tarrant requested a First Reading of Ordinance No. 1782-0311 as follows:***

***An Ordinance of the City of Shelton, Washington, Amending Chapter 15.28 of the Shelton Municipal Code Relating to Water Rates***

***Mayor Tarrant requested a First Reading of Ordinance No. 1783-0311 as follows:***

***An Ordinance of the City of Shelton, Washington, Amending Chapter 3.51 of the Shelton Municipal Code Relating to Utility Tax***

### **New Business**

1. **Washington Traffic Safety Commission Target Zero Task Force Project 2011-2013** – Chief Eklund and Traffic Safety Coordinator Baumgart reported that the Target Zero is a two year contract. The two year amount is \$85,790. The Traffic Safety Commission is where the City receives funding to purchase police equipment, pay for overtime, seat belts, and car seats. If there is not a coordinator in the City this money will go to other counties. Target Zero is zero fatalities by 2030. Staff requested this be placed on the consent agenda for April 11, 2011 and authorize the Mayor to sign the application.

***The Commission concurred to place the Washington State Traffic Safety Commission Target Zero Task Force Project for 2011-2013 on the consent agenda for April 11, 2011 and authorize the Mayor to sign the application.***

2. **2009 Comp Plan Amendment – Ordinance No. 1784-0411 – Amend the City of Shelton Comprehensive Plan to Change the Future Land Use Map, or Change the City's zoning map to rezone 160 acres from Commercial Industrial to Neighborhood Residential** – Senior Planner Dose reported that this is a follow-up on the 2009 Comprehensive Plan Amendments, that were adopted in April of 2010; that action took a great deal of time. With Comprehensive Plan Amendments in the vicinity of an airport, (Sanderson Field), the City has the legal obligation to consult and consider the input from the local airport authority and Washington Department of Transportation (WDOT). The Port of Shelton, Sanderson Field Pilots and WDOT Aviation expressed concerns over the proposed action of changing the land use designation of 160 acres from Commercial Industrial (CI) to Neighborhood Residential (NR). In moving forward we did a great deal of research on airport compatibility, including noise studies. The applicant did a much-focused noise study and came to the conclusion that this is residential compatible. The Port of Shelton appealed the Comprehensive Plan

Amendment to the Western Washington Growth Management Hearings Board (WWGMH), alleging that the change in designation would create an incompatible land use adjacent to Sanderson Field. The WWGMH invalidated the Comprehensive Plan Amendment based on the conclusion that there was insufficient evidence in the record explaining where airport operations would generate levels of noise that would be considered "incompatible" with residential development of the property. In January 2011, acting on the WWGMH's decision, the Mason County Superior Court ordered that the City's rezone of the property be reversed. In March 2011 BRC Acoustics produced a noise analysis which exceeded the standards and requirements for noise modeling established by the Federal Aviation Administration (FAA) and concluded that noise levels received on the property emanating from airport operations at Sanderson Field, both now and into the planning horizon, fall well below industry standards considered compatible with residential development. City Staff is presenting this to the Commission and is requesting a public hearing for April 11, 2011 to be briefed on the sound analysis and consider the rezone of the property from CI to NR bringing the rezone of the property designation of the parcel into conformance with the land use designation of the parcel in the City of Shelton Comprehensive Plan. Two Ordinances are being presented for consideration. Ordinance No. 1784-0411 would change the zoning of the parcel from CI to NR or change the Comprehensive Plan Land Use Map designation of the parcel from NR to CI. Staff is recommending changing zoning from CI to NR. SP Dose introduced Mr. Daniel Bruck and Ms. Ioana Park of BRC Acoustics who conducted a complete noise analysis. The basic purposes is to quantify sound levels from Sanderson Field operations with respect to existing sound levels, forecast sound levels for the future. A number of conservative assumptions were at the basis of the sound modeling for this analysis. Specifically, it was assumed that over fifty percent of flight operations follow a pattern south of Runway 05-23 (FAA's recommended procedure) and that, of these operations, every single-engine aircraft and every helicopter overflies the Shelton Hills site. The 65-DNL contour lies entirely on Port of Shelton property under all modeling scenarios. This result is generally consistent with the findings of a sound analysis recently prepared by the Port of Shelton (2008 Port Sound Analysis), as well as with the findings of the Port of Shelton 1997 Sanderson Field Master Plan. Under all modeling scenarios, the entire Shelton Hills 160-acre property lies well outside the DNL 60 contour and at least two-thirds of the property lies outside the DNL55. From a noise standpoint the Shelton Hills site conforms to the FAA Part 150 guidelines for compatibility with residential land uses without restrictions. The FAA guidelines using the DNL descriptor are derived from studies of community annoyance caused by transportation noise. Calculated DNL sound levels from airport operations at the Shelton Hills 160-acre property under the worst-case scenario are in the range of sound levels measured in a typical residential urban community remote from the airport. The BRC presentation is available on the City of Shelton website. SP Dose requested a Public Hearing for April 11, 2011, to review the proposed ordinances and gain public input.

***The Commission to hold a Public Hearing on the 2009 Comprehensive - Ordinance No. 1784-0411 – Amend the City of Shelton Comprehensive Plan to Change the Future Land Use Map, or Change the City's zoning map to rezone 160 acres from Commercial Industrial to Neighborhood Residential***

***Mayor Tarrant extended the Commission Meeting for 10 minutes.***

3. Resolution No. 1019-0311 – A Resolution of the City of Shelton, Washington, Authorizing the Signing Authority for Purchasing, Financial Agreements and Contracts as set forth in Exhibit A – City Administrator O'Leary reported that the City enables certain employees to have limited spending authority sufficient for them to efficiently carry out their duties. All expenditures must be facilitated, subject to State law and City rules. Recent reorganizations established two senior level positions: 1) Parks and Recreation Director and 2) Communications Director. Persons in these positions have exercised purchasing authority the same as other department heads. The City policies were not updated to match the new reality. Exhibit A included in the resolution updates the policy to match City needs. CA O'Leary said he would bring this back under Old Business next week with a clean version of Exhibit A.

***The Commission concurred to place Resolution #1019-0311 under Old Business for April 11, 2011.***

**Administration Reports - None**

**Public Comment**

Mayor Tarrant recognized Mr. Nate Johnson who said he was a “me too” in regards to the Simpson Biomass. The comments tonight seem to have been well thought out and have the best interest of the citizens. Mr. Johnson said his concerns are about public health and asked that the Commission use caution and careful when proceeding.

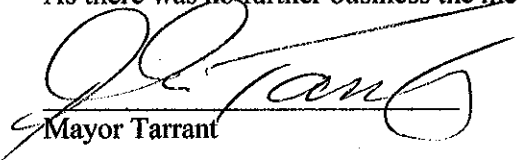
**Administrative Final Touches** – None

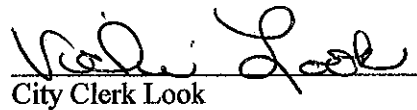
**Announcement of Next Meeting**

Mayor Tarrant announced the next Commission meeting of Monday, April 11, 2011, 6:00 p.m.

**Adjournment**

As there was no further business the meeting was adjourned at 8:02 p.m.

  
Mayor Tarrant

  
City Clerk Look