

CITY OF SHELTON, WASHINGTON - CITY COMMISSION
Business Meeting Minutes - April 18, 2011
Shelton Civic Center - 6:00 p.m.

Presiding: Mayor Pro Tem Byrne, Commissioner Pannell, Mayor Tarrant excused
Staff Present: Dave O'Leary, Kathleen Haggard, Vicki Look, Steve Goins, Jason Dose, Mark Ziegler, Les Watson and Lesleann Kangas

Mayor Pro Tem Byrne called the meeting to order at 6:00 p.m.

Commission Reports

- Shelton Mason County Historical Society 1st Quarter Report -- Ms. Billie Howard, Executive Director, presented the First Quarter Report in accordance with their Tourism Grant Contract for 2011. Ms. Howard reported there were 981 visitors who came to the museum in the First Quarter, 2011. She also reported on previous and upcoming events that will happen in 2011. Ms. Howard thanked the City for the lodging tax funds and is appreciative of the continued support of their organization.

Acting Police Lieutenant Watson introduced Reserve Officer Eved Owen and Police Officer Robert Auderer. Officer Owen previously served as a reserve and a provisional officer for 90 days with full police officer responsibilities. Mr. Owen left after four years of service to work as a Federal Police Officer and has rejoined our reserve program. Officer Auderer has been a Reserve Officer for the last two years. Mr. Auderer is currently occupying a provisional officer position that is a six-month appointment at which point he will be out on patrol.

- Oath of Office -- Reserve Police Officer -- Eved Owen - Mayor Pro Tem Byrne administered the Oath of Office to Reserve Police Officer Eved Owen.
- Oath of Office -- Police Officer - Robert Auderer - Mayor Pro Tem Byrne administered the Oath of Office to Police Officer Robert Auderer.

Public Comment

Mayor Pro Tem Byrne recognized Mr. Lou Cofoni who stated he previously lived in Fairfield California. In a nearby city, a developer wanted to build next to farmland and cattle ranching. The developer told people to start an association and then hire an attorney to close the ranch. Mr. Cofoni wondered if this could happen at Sanderson Field. An individual approached Mr. Cofoni who asked, "whose side are you on" he answered he is on the side of the citizens of Mason County.

Mayor Pro Tem Byrne recognized Ms. Christine Armond who said she stands with many citizens in Shelton in support of the City Commission remaining firm on the rezone of the Hall Equities Property. Ms. Armond respectively requested the Commission declare a moratorium on new pollution sources until relevant data from the new air monitor station can be evaluated for at least one year.

Mayor Pro Tem Byrne recognized Mr. Conley Watson who is in favor of the Shelton Hills development, which would bring jobs, jobs, jobs to our community.

Mayor Pro Tem Byrne recognized Ms. Patricia Vandehey who declined to speak but added a "me too" to the other speakers comments.

Mayor Pro Tem Byrne recognized Mr. Erik Soper who asked why we are having problems getting this development to our area. Most people do not want to shut down the airport they are just in favor of growth. Mr. Soper said the Port of Shelton is blocking the project. He stated the port should not be the enemy but should be standing with the community to support the rezone to bring needed growth.

Mayor Pro Tem Byrne recognized Ms. Terri Thompson who spoke in favor of the rezone. Ms Thompson said land stewardship is how we take care of the land for the people, plants, animals and the beauty of the area. Goose Lake clean up has been on a list for a long time and the Shelton Hills project will bring clean up to Goose Lake

Mayor Pro Tem Byrne recognized Mr. Mark Thompson who declined to speak but added a "me too" to the other speakers comments.

Mayor Pro Tem Byrne recognized Mr. Bob Herr who stated he is in opposition of the Shelton Hills rezone. He feels in the long term, residential growth is a financial loser for government entities. The jobs created with residential development will only be temporary. The key to a sound local economy and quality of life is a well thought out mix of low impact commercial and tasteful residential development. The City is not presently in a financial position to assume the large long-term liability of a residential development of this size. This rezone will not lead to the repair of the financial potholes in the budget of the City of Shelton.

Consent Agenda

1. Vouchers numbered 75112 through 75219 in the amount of \$344,378.63
2. Manual Warrants numbered:
 - 74850 in the amount of \$2,889.38 to Key Bank
 - 75109 in the amount of \$4,274.51 to Key Bank
 - 75110 in the amount of \$379.52 to Wal Mart
3. Payroll Warrants numbered 64146 through 64206, 64209 through 64213, 64215 through 64329, 64332 through 64355 and 64357 through 64360 in the amount of \$697,064.41.

Commissioner Pannell moved to approve the consent agenda as read; Mayor Pro Tem Byrne seconded the motion. A vote was taken and the motion passed.

Old Business

1. Hall Equities Rezone (2009 Comp Plan Amendment)

Ordinance No. 1784-0411 – First Reading – An Ordinance of the City of Shelton, Washington Amending the City's Comprehensive Plan to Change the Land Use Designation of 160 Acres of Real Property from Neighborhood Residential to Commercial Industrial

Ordinance No. 1784-0411 – First Reading - An Ordinance of the City of Shelton, Washington, Amending the City's Zoning Map to Rezone 160 acres of Real Property from Commercial Industrial to Neighborhood Residential

City Attorney Haggard responded to a letter that the Commission received from the Port of Shelton's attorney. The letter encourages the City Commission to join with the Port in requesting that the Growth Management Hearings Board (GB) extend the April 25, 2011, deadline for compliance with its order from last October. There are two reasons for this according to the attorney's letter. The first reason is that the Commission cannot proceed with a rezone of the Hall property until the Comprehensive Plan Designation is found to be compliant by the GB. The second reason that is given, in the letter, is that the City is required to engage in consultation with the Port and Washington State Department of Transportation (WSDOT) Aviation over this rezone, allegedly the City has failed to do this. Attorney Haggard recommended that the Commission reject the request by the Port's Attorney and proceed as planned with the ordinance. The reasons are as follows: with regard to the rezone, the City has been preceding to this point on the fact the effect of the GB decision last October was not to eliminate the Commission's decision last April to change the Comprehensive Plan Designation. It found non-compliance with the Growth Management Act and it remanded to the City for compliance with a six-month deadline. The City's working assumption has been that the Comprehensive Plan, during the 6 months, has remained designated Neighborhood Residential (NR). However, even assuming as the Port alleges there is an easy fix, recommending, to settle this debate, that the Commission motion to change the effective date from five days to immediately upon the either a decision by the GB finding compliance or a decision by the Thurston County Superior Court overturning the GB decision whichever is first. Later on in the agenda, when considering the rezone ordinance, would be an appropriate time for such a motion. The Port's second suggestion is the City must engage in

consultation with aviation interests, as you are aware, throughout 2009 and 2010 City Staff engaged in extensive consultation with the Port about this land use decision, which is what should be the Comprehensive Plan Designation and zoning of this property. Before the GB, the Port argued that the City's consultation was not meaningful; the GB rejected that argument and upheld the City's consultation efforts. Two things that have changed since then, there is a new noise study which was presented two weeks ago and there is new guidance from WSDOT Aviation on how to conduct consultation. Nowhere in the WSDOT guidance does it require the City to redo consultation in a case like this. When there has already been extensive consultation on the exact decision that is before the Commission there is no specific requirement that there be consultation when there is a new study as opposed to a new decision. In addition, assuming a new round of consultation was required; the City has exceeded the requirement. We have circulated a new noise study, provided a public presentation of the study findings with the hired consultant, held a public hearing to solicit comments and tonight the consultants are here to respond to the comments received. This is not a decision that is being made behind closed doors and without involving aviation interests. WSDOT clearly says the consultation must fit the circumstance. Attorney Haggard recommends that the City's consultation does fit the circumstances. Another issue is whether this rezone would be considered quasi-judicial or legislative. This is a legislative rezone. The reasons are that on March 28, 2011, there was a motion by the Commission to consider a rezone in conjunction with the decision on the Comprehensive Plan. The Shelton Municipal Code Chapter 20.52 allows the Commission to initiate a rezone by motion and is purely a legislative act. It is not being done in conjunction with the Comprehensive Plan Amendment that happened last year; the decision on the rezone is in conjunction with the decision on the competitor ordinance, which is to change the comp plan designation. This is firmly a legislative decision. Attorney Haggard recommends proceeding according to her recommendations.

Senior Planner Dose said that City Attorney Haggard summed up the procedural requirements and legal aspects. SP Dose reported that the City is trying to achieve compliance with the order from the GB regarding the 2009 Comprehensive Plan Amendment, which changed the land use designation of 160 acres of property that is a small piece of the larger holdings held by the applicant south of the airport. The action the Commission took in April was remanded back to the City for compliance based on what they perceived as insufficient evidence in the record on compatibility as it relates to noise from airport operations. Tonight staff will respond to comments received at the public hearing held April 11, 2011. Some comments referenced compatibility is larger than just noise. The City addressed compatibility through our existing compatibility airport overlay zones and sanctioned additional studies. The GB recommended that the City look at noise. A very detailed study was presented by BRC at the April 4, 2011 meeting and a public hearing was held April 11, 2011 where input was received primarily from aviation interests. SP Dose addressed and presented letters from RTI Forensics, Port of Shelton's SEPA Determination for Sanderson Field Master Plan Update 2008, additional information that relates to some sound/noise relating to Paine Field. Comments received suggest that Sanderson Field would see take offs and landings from 737's and large jet aircrafts. The letter from RTI notes that the operational weight limit for dual landing gear is limited to 72,000 lbs. Only seven percent of 737s produced by Boeing have operational empty weight of less than 72,000 lbs. At best, any regular commercial aircraft use would not be practical based on capacity of the field itself. The only possibility would be planes landing to be dismantled. The Paine Field report summarized noise-monitoring data collected in 2010. SP Dose pointed out that the report details that Paine Field sees much higher numbers of operations than Sanderson Field. The complaints received were largely from three individuals and the vast majority of complaints were related to large jets that could not use Sanderson Field.

BRC provided a document in response to specific comments on the previously presented Noise Study. The comments included DNL being the right metric, are the 65 DNL the right standard and are the contours accurate? The report concludes that, even under the improbable works case scenario for 2027, most of the property lies outside the 55 DNL contour and all of the property is outside the 60 DNL contour. This is the same level of noise measured in an existing residential neighborhood distant from the airport. Therefore, noise levels on the Shelton Hills property are compatible with residential development. Upon review of all comments received, BRC said there is no basis to modify the conclusions of the study.

Mayor Pro Tem Byrne moved to hold a First Reading of Ordinance No. 1784-0411 An Ordinance of the City of Shelton, Washington Amending the City's Comprehensive Plan to Change the Land Use Designation of 160 Acres of Real Property from Neighborhood Residential to Commercial Industrial; Commission Pannell seconded the motion. Mayor Pro Tem Byrne asked if there was any discussion on this motion, Commissioner Pannell said yes.

Commissioner Pannell said she has listened to all sides on this matter. In this case, there are at least six points of view to consider. The Port and the pilots want to protect the airport, Hall Equities wants to build a project, the City wants jobs and needs to expand its tax base, and environmentalists want to protect wetlands, steep slopes, and have safety concerns, WSDOT Aviation wants more consultations and GB wants better studies. The last two items have been addressed completely and Commissioner Pannell believes that BRC has given the City a definitive study on the noise issue. The environmental concerns have not been given the weight that they deserve. The entire northern half of the property is covered in wetlands and the clearing of the property needed for Commercial and Industrial development would severely impact that wetland and critical areas. Residential development has much less impact on those areas. Because of the topography, access to the property is limited to the south and southeast through areas already zoned residential. The safety concerns of heavy trucks driving through neighborhoods have been a greater concern than airplanes flying overhead. That residential portion is only a small portion of the entire project. There will be several acres of commercial and industrial land also developed by the Hall Equities Project. The City does indeed want jobs and an expanded tax base. Hall Equities has what even the Port describes as a wonderful project except for these 160 acres. These 160 acres is part of the whole project and should be treated as such. Again, because of the environmental and safety concerns zoning the property Commercial Industrial would render it almost useless. The Port and pilots want to protect Sanderson Field, which is a very valuable asset and should be protected. In conclusion, the City has protected the airport by adopting an overlay, all of the developable property in question lies in zone 6, residential development is allowed in zone 6, and therefore residential development is allowed on this property. Hall Equities has a project that the City needs, the airport could greatly benefit from the increased prosperity. The City also benefits. For environmental and safety reasons residential zoning is the only zoning that makes sense. Finally, BRC has more than adequately addressed the noise concerns that have been expressed. Commissioner Pannell said she grew up around airports and loves the sound of planes flying overhead.

Commissioner Pannell voted no on this motion, Mayor Pro Tem Byrne voted no on this motion. A vote was taken and the motion failed.

By voting no, the Commission has not changed the designation of the 160 acres from Neighborhood Residential to Commercial Industrial.

Commissioner Pannell moved to hold a First Reading of Ordinance No. 1784-0411 An Ordinance of the City of Shelton, Washington, Amending the City's Zoning Map to Rezone 160 acres of Real Property from Commercial Industrial to Neighborhood Residential and change the effective date to be consistent with the Attorneys recommendation, Mayor Pro Tem seconded the motion.

**Mayor Pro Tem Byrne requested a First Reading of Ordinance No. 1784-0411 as follows:
An Ordinance of the City of Shelton, Washington, Amending the City's Zoning Map to rezone 160 acres of Real Property from Commercial Industrial to Neighborhood Residential and to change the effective date per the City Attorneys recommendation.**

The Commission concurred to place the Second Reading of Ordinance No. 1784-0411 under Old Business for the week of April 25, 2011.

New Business

- 1. Shelton Civic Center Rotating Artist Recommendations – David McCrae, Photography – Deb Hart, Photography, mixed media – Parks and Recreation Director Ziegler presented the Shelton Arts Commission**

recommendations for the Civic Center Rotating Art. David McCrae submitted five photography items and Deb Hart submitted photography and mixed media. Upon approval, the art will be installed May 2, 2011, and be in place through July 29, 2011. An artist reception is scheduled for May 5, 2011, at 5:00 p.m. in the Shelton Civic Center for the public to meet the artists and discuss their work. DH Ziegler requested the Shelton Arts Commission recommendations be placed on the consent agenda for April 25, 2011.

The Commission concurred to place the Shelton Arts Commission recommendations on the consent agenda for April 25, 2011.

2. D550 Super Paver Purchase – Vendor Award Form – Public Works and Community and Economic Development Director Goins said the City approved a 2011 budget line item within the EM&R Fund for a new paver. This purchase was expected to exceed \$15,000, and therefore, fell within the guidelines for a formal, sealed bid process. Newspaper ads and a notice on the City’s webpage advertised the bidding opportunity from March 17 through April 7, 2011. Bids opened at noon on April 7, and only one bidder responded. The bidder is the only territorial dealership for Layton products in Washington State. The purchase was approved in the 2011 budget, in the amount of \$60,000. Staff has indicated that the base equipment price, plus option#1 will meet the needs of the City. The total price, with tax, is \$54,368.02, which leaves adequate funds for licensing and any other incidental items relating to the purchase. Delivery is quoted as 60 days, which would indicate the city would take possession of the paver during the last week of June. DH Goins requested the Commission approve the Vendor Award Form for Clyde West for the Layton D550 Super Paver, and authorize the Mayor to sign the Quotation/Acceptance Form. DH Goins asked this to be place on the consent agenda for April 25, 2011.

The Commission concurred to place the Vendor Award Form for Clyde West for the Layton D550 Super Paver and authorize the Mayor to sign the Quotation/Acceptance Form and place on the consent agenda for April 25, 2011.

Administration Reports - None

Public Comment -None

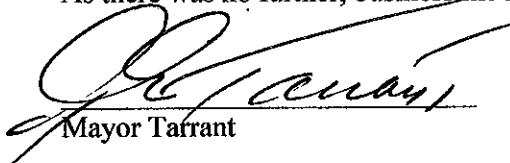
Administrative Final Touches - None

Announcement of Next Meeting

Mayor Pro Tem Byrne announced the next Commission meeting of Monday, April 25, 2011, 6:00 p.m.

Adjournment

As there was no further, business the meeting was adjourned at 7:18 p.m.


Mayor Tarrant


City Clerk Look