



City of Olympia

City Hall
601 4th Avenue E
Olympia, WA 98501

Meeting Minutes - Draft City Council

Information: 360-753-8447

Tuesday, May 28, 2013

7:00 PM

Council Chambers

1. ROLL CALL

Mayor Buxbaum noted Councilmember Rogers asked to be excused for a family emergency this evening.

Present: 6 - Mayor Stephen H. Buxbaum, Mayor Pro Tem Nathaniel Jones, Councilmember Jim Cooper, Councilmember Julie Hankins, Councilmember Steve Langer and Councilmember Jeannine Roe

Excused: 1 - Councilmember Karen Rogers

1.A ANNOUNCEMENTS

Mayor Buxbaum announced the General Government Committee met earlier in the evening.

1.B APPROVAL OF AGENDA

Mayor Buxbaum suggested switching the order of Other Business items 6A and 6B so that people here for the approval of the neighborhood pathways projects won't have to wait until after the Shoreline Master Program (SMP) discussion. The Council agreed to the change.

Councilmember Langer moved, seconded by Councilmember Hankins, to approve the agenda as amended. The motion carried by the following vote:

Aye: 6 - Mayor Buxbaum, Mayor Pro Tem Jones, Councilmember Cooper, Councilmember Hankins, Councilmember Langer and Councilmember Roe

Excused: 1 - Councilmember Rogers

2. SPECIAL RECOGNITION - None

3. PUBLIC COMMUNICATION

Mr. Walt Jorgensen, 823 North St SE, asked the Council to improve the readability of City documents and said it is difficult to comment on a document that is hard to understand.

Ms. Sherri Goulet, Olympia resident, spoke in support of local government providing public access to the waterfront and discussed her role as a citizen activist.

Mr. Jeff Jaksich, 812 San Francisco Ave SE, spoke in support of involving citizens more in processes such as the budget and Comprehensive Plan. He asked the Council to ensure staff follows its direction regarding the SMP.

Mr. Darryl Bullington, 610 Milroy S, spoke of his recent experience participating in City processes.

COUNCIL RESPONSE TO PUBLIC COMMUNICATION (Optional)

Mayor Buxbaum thanked those who spoke during Public Communication.

4. CONSENT CALENDAR

4.A 13-0436 Approval of May 21, 2013 City Council Meeting Minutes

The minutes were adopted.

4.B 13-0437 Approval of Bills and Payroll Certification

The report was adopted.

4.C 13-0383 Approval of Right-of-Way Dedication Deed and Public Utility Easement to the City of Lacey

The decision was adopted.

Approval of the Consent Agenda

Councilmember Langer moved, seconded by Councilmember Roe, to adopt the Consent Calendar. The motion carried by the following vote:

Aye: 6 - Mayor Buxbaum, Mayor Pro Tem Jones, Councilmember Cooper, Councilmember Hankins, Councilmember Langer and Councilmember Roe

Excused: 1 - Councilmember Rogers

SECOND READINGS - None

FIRST READINGS - None

5. PUBLIC HEARING - None

6. OTHER BUSINESS

6.B 13-0426 Approval of Neighborhood Pathways Recommended Projects

Senior Planner Sophie Stimson provided background on Council direction to the Bicycle and Pedestrian Advisory Committee regarding neighborhood pathways recommended projects. She discussed the funding source for this program, outlined the application process, and indicated six full proposals were received. She highlighted the location and reviewed details for three of the projects and noted follow-up is needed for the other three projects, which won't likely be ready for this year.

Ms. Stimson discussed funding for the three projects recommended this year and noted next steps.

Council Discussion:

- Thanks for the work and evolving this program in a positive way.
- Like the model for the neighborhoods having a process to submit and participate in improvements and efficiencies in their neighborhood.
- Projects submitted are quality projects, so the time to create the program was well spent.

Councilmember Hankins moved, seconded by Councilmember Langer, to approve the Neighborhood Pathways Program projects recommended by the Bicycle and Pedestrian Advisory Committee and the expenditure of approximately \$149,000 in program funds. The motion carried by the following vote:

Aye: 6 - Mayor Buxbaum, Mayor Pro Tem Jones, Councilmember Cooper, Councilmember Hankins, Councilmember Langer and Councilmember Roe

Excused: 1 - Councilmember Rogers

6.A 13-0430 Consideration of May 28, 2013 Draft of the Shoreline Master Program

Community Planning & Development Director Keith Stahley reviewed substantive changes made to the May 28 Shoreline Master Program (SMP) document.

Substantive changes in the May 28 draft include:

- Revisions to Sections 3.41 18.34.620 - Use and Development Standards Tables, paragraph D (page 48).
- Adding a definition for a primary structure (page 25).
- Cleaning up Table 6.1 (page 51) to include a marine recreation designation and certain uses associated with that designation.
- Adding reach designations and revisions to the non-conforming sections (pages 81-84).
- Changes to Table 6.3 - Setbacks and Incentives (pages 54-56) as it relates to the marine recreation designation.

Mr. Stahley noted he received correspondence from Department of Ecology (DOE) Planner Chrissy Bailey earlier today with a request that he clarify comments made in her February 5, 2013 letter to Todd Stamm. The key clarification was that her comment related to the commercial uses within the shoreline jurisdiction as a whole, was not intended to speak to

setbacks, but rather as a potential way to show preference. She indicated many communities use setbacks as a way to give preference but the City can also use different permitting methods, whether it's a conditional use or not.

Mr. Stahley showed examples of setbacks in other communities and along our own shoreline. He noted setbacks in shoreline regulations are different from setbacks in other regulation in that normal zoning. Setbacks in normal zoning are taken from the property line, while setbacks in shoreline regulations are taken from the ordinary high water mark.

Mayor Buxbaum asked for Council consensus on the staff May 28 draft of the SMP and whether to move it forward to a public hearing or continue refining it.

Council Discussion:

- The May 28 draft has improved and has better clarifying language. There will be opportunity after the public hearing to refine further; ready to hear from the public at this point.
- Council should provide the best draft possible for public comment; staff has brought forward potential deviation from Council direction and is asking for input and further direction about it.
- Concern about changes to water dependent uses and 0' setbacks.
- The February 5 letter from DOE says, "a 0' setback for non-water dependent development (possibly with an exception for water related development) is not acceptable to Ecology" [comment 16 re 3.41 Table 6.2]. We are considering putting forth a draft for public comment that we know is unacceptable to DOE.
- The May 14 staff report outlined a range of conservation and setback incentive options for Council consideration. Because Council had extensive deliberation without reaching consensus, staff put forth more options for Council consideration.
- Don't see this document as deviating from prior conversations when brought forward a bucket list of incentive options to get up to a 0' setback.
- Recall from prior direction we ended up with a minimum setback on every reach with an exception for water dependent uses. Final direction did not include a bucket list that would get to a 0' setback.
- In order to get to a 0' setback for a water oriented use, an applicant would go through the mitigation sequence of required criteria in order to reduce the setback and get approval on the project. [Section 3.41 18.34.620 - Use and Development Standards Tables, (E)(8) (page 50)]
- If the use is not water oriented, how do mitigations apply? Table 6.3 (pages 54-56) shows setbacks that can be achieved. In order to get to a 0' setback, the use has to be water oriented and an applicant would have to go through the mitigation sequence as noted under 3.41 18.34.620 (E)(8) (page 50).
- Interested in a document that has an end result with the W concept where we get a trail and public access along the trail, with the exception of Reach 5B.

Councilmember Langer moved, seconded by Councilmember Cooper, to close the discussion and move the SMP document to a public hearing as scheduled.

City Attorney Tom Morrill clarified that a motion to end a discussion requires a super majority vote in order to pass, which is five votes, even in Councilmember Rogers' absence.

Mayor Pro Tem Jones spoke against the motion and said the language in Section 8 having to do with water related uses seems to be substantially different from his new understanding of what it says. He indicated his new interpretation of this section is that it would allow up to a 0' setback with a 2 for 1 mitigation and other mitigation requirements are not required. He also said there are a handful of other areas that need clarification before asking for public comment.

The motion failed by the following vote:

Aye: 4 - Mayor Buxbaum, Councilmember Cooper, Councilmember Hankins and Councilmember Langer

Nay: 2 - Mayor Pro Tem Jones and Councilmember Roe

Excused: 1 - Councilmember Rogers

Mr. Morrill clarified once more regarding a motion to limit or extend debate. According to Robert's Rules, he said the vote requires a two-thirds majority vote. With Councilmember Rogers' absence, a two-thirds vote would be 4, which means the motion actually carried. Mayor Buxbaum asked, and the Council agreed, to follow through with the discussion at this point. The motion remained as a "failed" vote.

Continued Council Discussion:

- There seem to be two primary issues for discussion; reaching a more precise agreement and definition of what water oriented and water dependent are in Table 6.3, and in what situations and in what reaches there is an allowable 0' setback.
- General consensus for a 0' setback where there is a high level of mitigation and certainty of public access even for water oriented uses.
- A 0' setback can only be achieved if all mitigation efforts are met, including placement in either 4A or 5A of public access in the form of a trail or public walkway.

Mr. Stahley explained that to get from a 50' to 30' setback, an applicant would have to provide mitigation items in 1-7 [3.41 16.34.620 (E) page 49]. To get from a 30' to 0' setback, an applicant would also have to do what's listed in (E)(8) [page 50]. He acknowledged this isn't clear and suggested adding clarifying language to the beginning of paragraph 8 that states, In addition to items 1-7 above,...

Table 6.3 - Setbacks and Incentives [pages 54-56]

- Direction to staff for waterfront recreation -Reach Budd 3B (West Bay Park) was 150' setback, but the May 28 draft contains a 0' setback for park amenities [page 55]. Don't believe this is consistent with Council direction and should be rejected.
- List of uses for the West Bay Park area may be acceptable within the 150' setback but it isn't phrased clearly. Remove the reference to a 0' setback. The intent is that within the 150' setback, the listed uses should be allowed.
- Discussion of incentives prioritization in Table 6.3, recommendation to more precisely include concepts from the list adopted by Council [(1)full sized urban pathway upland of the ordinary high water mark with 24-hour public access and full connectivity, (2) water related recreation, active playground, significant art installations, performance space or

interpretive features (3) physical access to the shoreline for the public]. Mayor Pro Tem Jones will provide the list to staff to better reflect in the table.

Section 3.41 18.34.620 (D) [page 48]

- Wording is unclear; it appears that if a minimum 30' VCA is met, a height bonus is provided from 45' to 60'.
- Any use within 200' of the shoreline goes through a substantial development review process.
- Discussion of allowable heights in Urban Intensity zoning (42'-65').
- Staff will review wording of this paragraph and provide more clarity.

Mr. Morrill confirmed staff will make the changes, release the document, and hold the public hearing as scheduled June 18 without coming back to the Council with another version in the meantime.

Mayor Buxbaum noted the public hearing is scheduled for June 18. The Council agreed to hold the written record open for public comment from now until June 25 at 5:00 p.m.

6.C 13-0429 Update on Isthmus Parcels Acquisition

Assistant City Manager Jay Burney gave an update on progress toward purchasing the isthmus parcels at 505 and 529 4th Avenue West. He discussed the May 30 deadline for the second contingency in the agreement and said if the Council decides to move forward without a guarantee of State funding, there will be a \$1 million funding gap. He highlighted several Parks projects the Council could choose to delay in order to meet the funding gap and said staff will meet with the Parks and Recreation Advisory Committee (PRAC) June 6 to work on a funding package for Council approval June 11. He noted that if Council decides to move forward with acquisition tonight, staff will continue trying to get state funding, which will be critical in getting the buildings down and the sites green.

Council discussion:

- If \$386,000 is received from Washington Wildlife and Recreation Program (WWRP), where would it go? Council could choose to put it toward a delayed parks project or leave it in this project for removal of the buildings and getting the sites green.
- Committed to acquiring the site and cleaning it up; it is critical to communicate the importance of this project to the State.
- Discussion of highlighted Parks projects that could be impacted to meet the funding gap.
- Supportive of removing the contingency and interested in what PRAC thinks about it.
- This project is one the silent majority feels strongly about; would be interested in getting bonding to the community to get it done the right way; would like to know all the options for fully funding this park.
- Encourage not putting the Madison Scenic Park on the list of potential funding delays.
- Estimated demolition for both bldgs is \$1million, clean-up estimates unknown.

Councilmember Hankins moved, seconded by Councilmember Langer, to remove the state funding contingency from the purchase and sale agreement with Capital Shores Investments, LLC for purchase of properties at 505 and 529 4th Avenue

West and move forward with acquisition of the properties. The motion carried by the following vote:

Aye: 6 - Mayor Buxbaum, Mayor Pro Tem Jones, Councilmember Cooper, Councilmember Hankins, Councilmember Langer and Councilmember Roe

Excused: 1 - Councilmember Rogers

7. CONTINUED PUBLIC COMMUNICATION

8. REPORTS AND REFERRALS

8.A COUNCIL INTERGOVERNMENTAL/COMMITTEE REPORTS AND REFERRALS

Councilmember Hankins reported highlights from the Visitor and Convention Bureau (VCB) and Bicycle and Pedestrian Advisory Committee (BPAC) meetings she attended.

Mayor Pro Tem Jones reported he also attended the VCB annual meeting and mentioned Tumwater's planned Oktoberfest to promote cultural heritage. He also attended a briefing by Department of Ecology on low impact development regarding stormwater management.

Councilmember Roe reported highlights from the General Government Committee and South Capitol Neighborhood Association meetings she attended.

Councilmember Roe moved, seconded by Councilmember Cooper, to appoint Carole Richmond to fill the Planning Commission vacancy. Motion passed unanimously.

Councilmember Langer reported highlights from the Land Use and Environment Committee he attended.

Councilmember Cooper reported highlights from the Thurston County Veterans Council Memorial Day ceremony at the Rotunda on the Capitol Campus he attended on behalf of Mayor Buxbaum.

Mayor Buxbaum noted upcoming items and announced there will not be a Council meeting next week.

8.B CITY MANAGER'S REPORT AND REFERRALS

Mr. Hall reported on the following items:

- Will move money around in order to be able to close on the isthmus properties June 15.
- Fireworks are banned in Olympia and Lacey this year. The focus will be on education, but violators can be fined.
- The Council mid-year retreat will be Saturday, June 22 from 2:00 to 7:00 p.m.

9. ADJOURNMENT

The meeting adjourned at 10:30 p.m.