



City of Olympia

City Hall
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Olympia, WA 98501

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Meeting Minutes - Draft City Council

Tuesday, September 11, 2012

5:15 PM

Room 207

Special Meeting to Hold a Study Session

1. ROLL CALL

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

Absent: 1 - Councilmember Karen Rogers

Staff Present

City Manager Steve Hall, Assistant City Manager Jay Burney, City Attorney Tom Morrill, Community Planning and Development Director Keith Stahley, Public Works Director Rich Hoey, Senior Planner Cari Hornbein, and Program Assistant Gary Cooper

Guests Present

Gordon White, Program Manager, Shorelands and Environmental Assistance (SEA) Program; Paula Ehlers, Southwest Region Manager, SEA Program; Chrissy Bailey, Shoreline Planner

CALL TO ORDER

The September 11, 2012 Study Session was called to order by Mayor Buxbaum at 5:15 p.m.

2. 12-0524 Shoreline Master Program workshop with the Department of Ecology

Community Planning and Development Director Keith Stahley delivered a PowerPoint presentation summarizing shoreline issues and associated regulatory tools. Shoreline issues discussed included setbacks, building heights, view protection, sea level rise, and nonconforming uses. Mr. Stahley added that the City has a number of tools to address shoreline needs beyond the SMP. These include zoning, the critical areas ordinance, etc.

Ms. Chrissy Bailey, Shoreline Planner for the Department of Ecology, delivered a PowerPoint presentation summarizing the overarching goals of the Shoreline Management Act, the Shoreline Master Program (SMP) Guidelines, and recommendations on the June 2012 Draft Shoreline Master Program. Ms. Bailey noted that the SMP Submittal Checklist has been completed and that key areas for consideration include shoreline environment designations, vegetation conservation areas and setbacks, consistency between the SEDS and proposed development standards, consistency between the narrative and development standard tables, and

non-classified uses.

It was noted that the SMA was a compromise among 58 parties to a lawsuit. It was settled by the Act requiring balance of three key goals:

- Giving priority to uses that require a shoreline location*
- Protection of environmental resources*
- Promotion of public access and rights of navigation*

DOE officials pointed that the Shoreline Master Plan is updated every year. The City can add changes over time based on new data or new conditions within the shoreline. Mr. Gordon White from DOE pointed out that the Port of Olympia is an important purveyor of water dependent uses with special status under the Act. He emphasized that the Department of Ecology expects a close working relationship between the Port and the City on the SMP. Mayor Buxbaum supported this concept and indicated that the Port is very important to us and that we have a very special relationship with them.

With regard to what the City must consider in the SMP, DOE officials said the City should consider uses that exist now, and whether they are water dependent. Abrupt changes to existing conditions are generally difficult to approve. However, the City has some flexibility to move from existing uses to what the community eventually wants there to be on the shoreline. In order to this, the City must have a transition plan and a schedule that is consistent with the local Comprehensive Plan about the transformational uses anticipated by the City.

The issue of sea level rise and uses of sea walls or berms was discussed. It was indicated that these are permissible provisions for setbacks to protect shorelines under the Shoreline Act as long as there is data showing the work as to why they are required for the public.

Ecology officials said one of the most important things is that there be clear designations for each of the reaches. The City has some ability to tailor designations within each reach. It was also noted the City has other tools including zoning, critical areas ordinance, and other regulatory tools to deal with impacts within each designation.

A question arose about whether the City could create a mitigation bank within the shoreline area. Ecology officials pointed out this could be done but it is very difficult to administer. There would need to be a long term monitoring plan to evaluate the credits and ensure that the "no net loss" criteria was upheld. As an alternative, Hood Canal has established a fee-in-lieu for mitigation of shoreline areas.

The issue of nonconforming structures was raised. It was noted that DOE has accepted plans that allow structures to be continue to be conforming as constructed now; however, the site itself could be nonconforming. The City could allow a structure to expand within the shoreline area in exchange for shoreline mitigations as one option. DOE officials indicated that the SMP checkline from the Department of Ecology had been filled out based upon the June 12 draft. Ecology officials promised to deliver this to the City. Ms. Bailey noted that there were a few places in the document that are going in the wrong way. For much of the work of the Planning Commission there seemed to be consensus and it appears to conform with the criteria established at the SMA. Ecology officials said they would make final determination after the City submits its plan. In the areas that have some problematic designations, it was pointed out that for example, Grass Lake has been given the same designation as West Bay, Bud 5C, even though these areas are not comparable in terms of their current condition or their suitability for water dependent

uses. There are also similar concerns about the East Bay designations. The concern expressed by Ecology is that these are simply the wrong designations and that they make these areas unsuitable for water dependent uses when, in fact, some exist, and others could be encouraged.

DOE also indicated that it would be good to clarify the Port marine industrial designation which could be used in lieu of urban intensity designation. This designation has limitations on uses and standards but is consistent with the Port Master Plan and with the activities current and future for Port property. Ecology officials also pointed to other parts of the plan that need clarification or detailed added. For example, there are conflicting statements in Chapter 5 regarding lawns; there is a question mark about whether accessory structures are permitted in the setbacks; and the critical area setbacks in some cases do not mesh well with shoreline setbacks and those must be reconciled. In Section 5.9.5 for single family provisions, it should be clarified that if native vegetation is destroyed, vegetation must be required. There is a need to clarify restoration versus mitigation. The no net loss criteria is an essential consideration in this case. While mitigation has to be based upon the no net loss threshold, there are examples of incentives in other cities where property owners have gone above and beyond requirements for mitigation.

Ecology officials also pointed out the "geoduck rule," which suggests that cities give consideration to aquacultural opportunities along the shoreline. It was also pointed out that for unanticipated uses, the City could create a conditional use permit process so that those uses could be considered within the shoreline. In all, Ecology felt that the City had used a good process and the City was now on schedule with an outline to finish up in a reasonable amount of time. It's important in any decision the City makes to clearly show the work and get on the record what led up to the Council decision making. A final criteria that was emphasized is to look at ease of implementation so that the public is not confused about what is and is not allowed.

The work session report was received.

3. ADJOURNMENT

The meeting adjourned at 6:50 p.m.