

**City of Port Orchard  
Council Meeting Minutes  
Regular Meeting of February 26, 2007**

**PRESENT:** Kim E. Abel, Mayor  
Council Members: Mayor Pro-tem Wyatt, Chang, Clauson, DiIenno,  
Geiger, Putaansuu

**ABSENT:** Council Member Powers (excused)

**ALSO PRESENT:** Police Chief Townsend, Public Works Director Abed, Planning Director Long-Woods, City Clerk Merlino, Interim Deputy Clerk Gilreath and Assistant City Attorney Forbes and Assistant City Attorney Jacoby

**7:00 P.M. CALL TO ORDER**

Ron Rider led the audience and Council in the Pledge of Allegiance.

**PRESENTATION**

**Scott Lindquist – Public Health Services in Port Orchard**

Moved to March 12, 2007 Council meeting.

**Dan Larson – Kitsap County Juvenile Department/Kitsap Alternative Transition School**

Ned Delmore and Dan Larson, Administrators for the Kitsap County Juvenile Department, spoke regarding programs the Juvenile Department has instituted allowing youths to effectively serve their time in a community setting without compromising public safety. The Juvenile Department would like the Council to be aware of the fact that approximately 2,000 juveniles are assigned to their Department every year. They have developed an assortment of "alternative" programs that enable the offenders to give back to the community and gain an understanding of why their offense hurts their community as well as well as themselves. Programs include Work Crew, Home Detention Monitoring and the Kitsap Alternative Transition School. If anyone would like a tour of the facility or have any questions, they can be reached at 360-337-5510.

## **PUBLIC HEARING**

### **Downtown Overlay District Regulations**

Assistant City Attorney Jacoby stated that there had been extensive discussion and changes to the document since the public hearing last fall. The Growth Management Act provides that when changes are made to an amendment of the development regulations, and potentially there may be changes to the zoning ordinance, it is appropriate to have another public hearing to receive additional public comments. When public comment is concluded, the Council can commence final deliberations and give direction to staff. Council will then approve an ordinance adopting the Downtown Overlay District Regulations.

Planning Director Long-Woods explained how the individual notice of the hearing was distributed to property owners within the study area and all property owners within 300 feet of that area. Because some property owners did not receive personal notice by mail, the period for public comment will be extended before the public hearing process is closed.

At 7:18 p.m. Mayor Abel opened the Public Hearing.

John Hokanson, 915 Kitsap Street, expressed the following concerns:

- Section 18.96.040 (1) Permitted Use indicates restaurants, taverns and lounges have been removed from the Permitted Use list. Mr. Hokanson recommends that they be returned to the use list.
- Section 18.96.050 (1) (a) Conditional Use previously required a Conditional Use Permit for any retail store or complex of stores exceeding 40,000 sq. ft. Mr. Hokanson commented the new language is confusing and recommends the previous wording be used.
- Section 18.96.100 (1) Maximum Structural Height on north side (water side) of Bay Street may go to 55' with amenities. Mr. Hokanson doesn't believe citizens of Port Orchard are in favor of the 55' on the south side of Bay Street, let alone the water side. This section represents the following problems: 1) Lack of parking, as parking lots are not allowed to front on Bay St. per Section .130 (3). 2) Steep bank requiring more elaborate foundation and/or critical area ordinance requirements, and 3) None of the units on the south side would have a view over the buildings on the north side.
- Section 18.96.100 (2)(c) states that building heights are 55'. This could be construed to mean anywhere in the overlay district. Sections (1) and (2)(a) infer the height is from Bay Street level. Mr. Hokanson recommends allowing the 55'

height on the north side be removed and Subsection (2)(c) be rewritten to specify the height is from the Bay Street level.

Gerry Harmon, 906 Kitsap Street, is opposed to the 55' maximum structure height, which would destroy the view from existing property. Ms. Harmon recommends a maximum building height of less than 40 feet.

Fred Karakas, 744 Bay Street, wants to see the unique character and historic nature of downtown Port Orchard maintained. Mr. Karakas is opposed to the maximum structure height of 55' as it will create a tunnel effect such as Washington St. in Bremerton. The 2004 Economic Development Plan, in the beginning, was to allow condominiums to be developed on either end of town not create a tunnel. Mr. Karakas also expressed a concern about parking within the core area.

Richard Swartz, 834 Bay Street, Amajin Architecture, Inc. is concerned about the elevator overrun which has to be included in the 55' structure limit. This would cause the builder to lose an entire floor because of the 13' required on the top floor for the elevator overrun. Section 18.96.130 (1) indicates 1.5 spaces for each dwelling unit, and Section(7), in lieu of furnishing parking, the requirements may be satisfied by paying the City a sum of money to build a parking structure. It isn't clear if the developer would then be able to sell or lease those spaces. Mr. Swartz commented 1.5 parking stalls per dwelling unit requires a great deal of space. Mr. Swartz recommends the Council lower the requirement to one parking stall per dwelling unit.

Gerald Childs, 623 Kitsap Street, would like to see Port Orchard developed as a vibrant downtown like Anacortes, Gig Harbor and Port Townsend with a combination of historic homes and buildings with character that enhances the waterfront and downtown businesses. Mr. Childs advised the residents are forming a Downtown Neighborhood Association to ensure that the Council is responsive to the citizens requests.

Randall Brand, 2727 Hollycroft, Gig Harbor, Rush Development, expressed a concern that the Shoreline Master Program supercedes any of the issues in the Downtown Overlay District. Mr. Brand recommended the Council amend the Shoreline Master Program and include the Downtown Overlay District requirements. Mr. Brand asked when the Council will address the wing areas which are outside the current downtown overlay district.

Mary Johnson, 820 Kitsap Street, thanked Planning Director Long-Woods for clarifying the misunderstanding regarding the Public Notices that were mailed. Ms. Johnson is concerned about the amenities that are allowed on the roof of a structure, such as the height of the trees and width of the shrubs. Other cities such as Gig Harbor and Poulsbo do not have tall buildings and these cities are thriving. Ms. Johnson is also

concerned about who will pay for the extra services required by these larger buildings and will bonds be required? Ms. Johnson also expressed a concern with the boundaries of the overlay district.

Ron Johnson, 926 Kitsap, stated that the canyon affect caused by the tall buildings would be out of scale in this town. Mr. Johnson suggested that the 39' maximum building height be maintained. A variance could be allowed for specific buildings that do not interrupt the view and maintain the character of the City. Mr. Johnson agrees that Gig Harbor, Poulsbo and Edmonds maintained a pleasant look with three story buildings.

Dana Harmon, 824 Kitsap Street, said she sent letter October 9, 2006 and is pleased to see that some of their recommendations were incorporated in the Downtown Overlay District plan. However, by allowing the 55' building height, the Council is not listening to their constituents. Ms. Harmon is vehemently opposed to the 55' maximum structure height and supports Mr. Hokanson's recommendations.

Kathy Michael, 228 Seattle Avenue, stated that buildings of 55' in height will negatively affect the value of existing property. Ms. Michael produced pictures which were presented at prior discussions and noted that none of the buildings were taller than three stories. Ms. Michael is also very concerned about parking and amenities. Ms. Michael respectfully asked Council Member Geiger to step down in making decisions regarding this issue because of his ownership of a building in the downtown core.

Tim Tweten, 429 Bay Street, business owner in downtown Port Orchard commented the Downtown Overlay District encourages more people and businesses to Port Orchard and he is in favor of the 55' maximum structure height.

Gil Michael, 228 Seattle Avenue, concurs with many of the audience comments especially Mr. Hokanson. Mr. Michael would like to strike Section 18.96.110 (11) and (12). He would like to see restaurants put back under Permitted Uses. Mr. Michael expressed a concern with three blocks of 55' buildings which could provide a tunnel effect like Washington St. in Bremerton. Mr. Michael advised that the City of Edmonds has 55' buildings but they are not located in the core of their downtown. Mr. Michael believes this ordinance could drastically change the character of this city. Mr. Michael asked for clarification regarding the term "water view" as defined under the amenities section.

Cindy Lucarelli, 926 Kitsap Street, agrees with her neighbors and supports a 39' maximum structure height. Ms. Lucarelli commented that once the character of a town is lost; there is no way to get it back.

Lorraine Olsen, 724 Kitsap Street, would like to see growth and mixed use in the downtown area. Ms. Olsen suggested that under Section 18.96.130 "Parking Requirements" Section (7) rather than letting developers pay for a parking structure to be built by the City, the City could charge developers on a yearly basis rather than one time. In Section 18.96.110 "Amenities" Section(11) "... nothing shall prohibit two or more property owners from combining..." This language should be stricken as there may be unforeseen issues that would prohibit two property owners from combining their amenity requirements. Ms. Olsen commented 55' buildings should not be allowed within the downtown core area. Ms. Olsen is also concerned about the current business owners as major construction would negatively impact their ability to retain customers. Ms. Olsen suggested forming a Citizens Advisory Committee that could research grants and other ways to help them fund the redevelopment process.

Gary Johnson, 820 Kitsap Street, is concerned about who is going to pay for the work necessary to increase the sewer capacity for new construction and will the cost for additional parking be paid for through bonds or taxes? Mr. Johnson agrees with his neighbors that the maximum structure height in the downtown core should be three or perhaps four stories.

Paulie Williams, 840 Prospect Alley, advised she has had a 180 degree view for over 18 years and if a 55' building is constructed in front of her property, the value of her property will be reduced by at least \$100,000.

John Hokanson, 915 Kitsap, commented on the following sections:

- Section 18.96.110 "Amenities for Maximum Structure Height" deleted the paragraph referring to "the view ordinance remains in effect".
- Section (6) and (6)(a) as written exempts a guard rail from the building height restriction but Paragraph (4)(c) and (d) of Section 18.96.100 requires everything to be lower than the maximum building height. Mr. Hokanson recommends the language in this section reflect the proper requirement.
- Section 18.96.110 (11) & (12), allows two or more property owners to combine amenities and obligations at a reduced fee and place the amenity on property other than their own, which could become a loophole in the developers obligation to provide amenities.

Mr. Karakas, 744 Bay Street, commented he is considering constructing two additional floors on his Bay Street property. However, according to the parking regulations, his plans would require 50 parking spaces, which would require an additional 4<sup>th</sup> floor. Mr. Karakas expressed a concern with the parking requirements.

There were no further public comments. Mayor Abel stated that there would be further opportunity to speak at the next continued public hearing.

**Council Member Clauson moved and Council Member Wyatt seconded the motion to continue this Public Hearing to the March 12, 2007 Council meeting with deliberation on the final draft by the Council at the March 26, 2007 Council meeting. *Upon vote, motion passed unanimously.***

At 8:20 p.m. Mayor Abel called for a five minute break with the meeting reconvening at 8:25 p.m.

**CUP 021-06/SDP 69-06/V1176 – Verizon Cell Tower (To Be Continued)**

Planning Director Long-Woods stated that the Planning Department recently received additional information, which has caused a delay in moving this proposal forward.

**Council Member Clauson moved and Council Member Putaansuu seconded the motion to continue this Public Hearing on the proposed application for a Conditional Use Permit (CUP 021-06), Shoreline Substantial Development Permit (SDP 69-06), and Height Variance (V-1176), to the April 9, 2007 Council meeting. *Upon vote, motion passed unanimously.***

**APPROVAL OF AGENDA**

**Council Member Wyatt moved and Council Member Clauson seconded the motion to excuse Council Member Powers from this meeting. *Upon vote, the motion passed unanimously.***

**Council Member Wyatt moved and Council Member Clauson seconded the motion to excuse Council Member DiIenno from the March 12, 2007 Council meeting. *Upon vote, the motion passed unanimously.***

The following Consent Agenda Item was removed from the agenda for further information:

- Authorization for the Mayor to Sign Engineering Software

The following Consent Agenda Item was removed from the agenda and placed into Business:

- Adoption of The New Market Tax Credit
  - (a) Resolution No. 004-07 – Implementing a New Markets Tax Credit Program
  - (b) Resolution No. 005-07 – Interlocal Agreement with KCCHA

The following Business Item was moved from the agenda and placed into the Consent Agenda:

- Additional Liability Insurance

The following item was added to the Business agenda:

- Discussion – NASCAR Racetrack

### **CONSENT AGENDA**

**Council Member DiIenno moved and Council Member Wyatt seconded a motion approving the Consent Agenda as modified. *Upon vote, motion passed unanimously.***

- A.** Approval of Payroll Fund Warrants #140482-140540 in the amount of \$342,885.65
- ~~**B.** Authorization for the Mayor to Sign Engineering Software~~ **Removed from Agenda for Further Information**
- C.** Approval of Public Events Applications
- D.** Additional Liability Insurance
- ~~**E.** Adoption of The New Market Tax Credit~~
  - ~~**a.** Resolution No. 004-07 Implementing a New Markets Tax Credit Program~~
  - ~~**b.** Resolution No. 005-07 Interlocal Agreement with Kitsap County Consolidated Housing Authority~~ **Moved to Business**

### **AUDIENCE COMMENTS**

Gerry Harmon, 906 Kitsap, is very concerned about the air pollution, noise pollution, congestion and traffic the NASCAR racetrack will cause. Ms. Harmon is also concerned about the cost to build this facility. It is her opinion that sports teams should pay for their own venues and that the resultant jobs would be minimum, part-time positions.

### **BUSINESS ITEMS**

#### **Discussion – NASCAR Racetrack**

Council Member Clauson opened discussion on the NASCAR racetrack requesting information about the Mayor's testimony at the State Legislature, since the Council has not taken an official position. Mayor Abel stated she addressed the State Legislature regarding the issue of traffic at two major intersections within the City. Mayor Abel further commented events at the racetrack would have a negative impact on Old Clifton Road and Sedgwick Road because one of the proposed routes to the track is Lake Flora Road.

**Council Member DiIenno moved and Council Member Clauson seconded a motion to have staff identify critical areas of impact and bring those issues forward for Council consideration and determination regarding a public forum discussion. *Upon vote, motion passed unanimously.***

**Minutes of the February 12, 2007 City Council Meeting**

**Council Member Chang moved and Council Member DiIenno seconded the motion to approve the minutes of the February 12, 2007 City Council Meeting. *Upon vote, motioned passed with four affirmative votes and two abstentions. Council Member Clauson and Council Member Wyatt abstained due to nonattendance at the meeting.***

**Adoption of The New Market Tax Credit**

**(a) Resolution No. 004-07 – Implementing a New Markets Tax Credit Program**

**(b) Resolution No. 005-07 – Interlocal Agreement with KCCHA**

Mayor Abel opened the discussion of the New Markets Tax Credit Program and asked for audience comments.

Kathy Michael, 228 Seattle Avenue, asked the Council to adopt the proposed resolutions as ordinances so that a public notice would be required. Ms. Michael commented there are too many questions and the public needs to understand what Kitsap County Consolidated Housing Authority has planned for the affected area, which includes all of the City of Port Orchard.

Gil Michael, 228 Seattle Ave, stated that there was considerable discussion by the public and the Council prior to the adoption of Ordinance 001-07. Mr. Michael also requests that these proposed resolutions be adopted as ordinances so the public can understand the ramifications and implications. Assistant City Attorney Forbes explained the purpose of the program and that all of the City's regulations and ordinances would have to be followed within the redevelopment plans of the KCCHA.

Fred Karakas, 744 Bay Street, stated that according to his latest tax bill, his building on Bay Street was assessed lower than last year. Mr. Karakas asked if this is because he is in a blighted area according to the KCCHA.

Mayor Abel advised this item will be placed on a future agenda for further discussion and adoption.

**Discussion – Signs in Downtown Core**

Council Member Clauson reported on the Public Property Committee's discussion regarding business signs in the downtown core.

**Council Member DiIenno moved and Council Member Chang seconded the motion to adopt the recommendations of the Public Property Committee as follows:**

- a) Signs in the downtown core will no longer be affixed to the marquee.**
- b) Any existing signs may be attached to the buildings in accordance with the existing sign ordinance. No fee will be required for sign relocation permit if the sign had been attached to the marquee. However, a permit will be necessary to ensure that signs are placed safely on the building.**
- c) All sign permits given in the downtown core should have a note regarding the new Downtown Overlay District regulations and design standards and that signage may be required to meet such standards in the future.**

A discussion followed regarding attaching signs to the face and the top of the marquee. The Public Property Committee specifically addressed this issue and recommended that signs should not be affixed to the fascia of the marquee until the final design standards of the marquee have been decided.

It was recommended that the issue regarding signs affixed to the top of the marquee would be deferred to the Public Property Committee.

**Council Member DiIenno amended the motion and Council Member Clauson seconded the amendment to change the language in recommendation a) to read: Signs in the downtown core will no longer be affixed to the face of the marquee and add recommendation d) The issue of signs attached to the top of the marquee will be deferred to the Public Property Committee. *Upon vote, the amended motion passed unanimously.***

Assistant City Attorney Forbes cautioned the Council that an ordinance will have to be adopted if this change is not temporary because the current code allows signs to be affixed to the top of the marquee. It was decided that the intent of the change is temporary to allow the businesses to affix signage until the Downtown Overlay District standards are adopted.

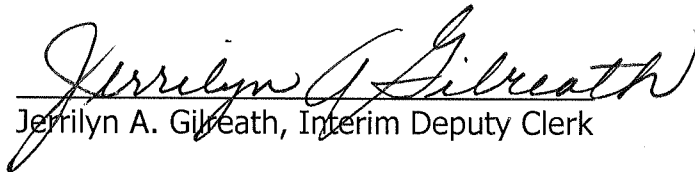
***Upon vote, original motion as amended passed unanimously.***

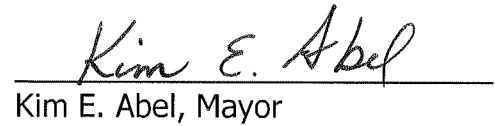
**Discussion – Retreat Date and Topics**

The dates of March 24, 2007 and March 31, 2007 are acceptable to Council. Mayor Abel will check the availability of the meeting room at South Kitsap Fire and Rescue. A start time of 9:30 a.m. was agreed upon.

**ADJOURNMENT**

At 9:58 p.m. Mayor Abel adjourned the meeting.

  
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Jerrilyn A. Gilreath, Interim Deputy Clerk

  
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Kim E. Abel, Mayor