

**City of Port Orchard
Council Meeting Minutes
Regular Meeting of May 13, 2008**

7:00 P.M. CALL TO ORDER AND ROLL CALL

PRESENT: Lary Coppola, Mayor

Council Members: Mayor Pro-Tem Clauson, Chang, Childs, Colebank, Olin, Powers, and Putaansuu

ALSO PRESENT: City Treasurer Tompkins, Development Director Weaver, Assistant City Engineer Archer, City Clerk Merlino, Deputy Clerk Kirkpatrick, and City Attorney Jacoby.

PLEDGE OF ALLEGIANCE

Larry Curles led the audience and Council in the Pledge of Allegiance.

CITIZEN COMMENTS

John Aflootini read into the record a letter regarding encroachment of noxious weeds, specifically ivy, growing on trees in the downtown area. He urged the Council to begin eradicating ivy from trees in the downtown area to reduce further damage.

Gerry Harmon, 906 Kitsap Street, opposed the proposed water rate increases, noting that the rates do not reward those using the least amount of water.

Diane McConaghy, 924 Sidney Road, voiced appreciation to the Council and Development Director Weaver for responding to her letter, noting the City has some great laws that she had previously been unaware of. She urged the Council to consider during its 2009 budget cycle a waiver of home business permit fees for those wishing to operate on a part-time and/or short-term basis a home business that has no employees, no signs, and is not open to the public, which would help keep costs down.

Mayor Coppola introduced the new Assistant City Engineer Andrea Archer.

APPROVAL OF AGENDA

The following item was removed from the Agenda:

- Request for RV Parking Exemption

The following items were added to Business Items:

- Approval of Mayor to Sign Berger/Abam Supplement No. 5 Relating to Additional Tremont Right-of-Way Support Services
- Discussion: Water Leak Resolution
- Home Business on Flower Street

A ten-minute Executive Session regarding real estate and personnel matters would follow business items.

Council Member Chang moved and Council Member Olin seconded the motion approving the Agenda as amended. *Upon vote, the motion passed unanimously.*

APPROVAL OF CONSENT AGENDA

Council Member Clauson moved and Council Member Putaansuu seconded the motion approving the Consent Agenda. *Upon vote, the motion passed unanimously.*

- A. Approval of Claim Warrants #49690 through 49818 totaling \$634,845.83, Payroll #141418 through 141508 totaling \$403,286.01 & Treasurer's check book in the amount of \$1,456,239.41
- B. Approval of the April 15, 2008, Work Study Session Minutes
- C. Authorization for the Mayor to Sign Professional Service Agreement for Property Manager at 213 & 215 Prospect Street
- D. Approval of 2008 Public Event Application – Festival by the Bay and Fathoms O'Fun Parade

PRESENTATIONS AND PROCLAMATIONS

Commissioner Jerry Lundberg of West Sound Utility District introduced Commissioners Jim Hart and Susan Way and presented the Department of Ecology's 2007 Joint Wastewater Treatment Facility (JWWTF) Outstanding Performance Award to the City Council. Commissioner Lundberg explained that during the 2007 flood the JWWTF treated 12 million gallons and at no time did the water bypass the plant and go into the ocean. In addition, the JWWTF was one of 83 out of 100 plants to meet all of the Department of Ecology's requirements in 2007.

Council Member Clauson thanked the Commissioners for the award, noting that the real credit goes to West Sound and John Poppe for the outstanding work they do at the Facility.

NEW BUSINESS

Approval of the April 22, 2008, City Council Minutes

Council Member Putaansuu moved and Council Member Chang seconded the motion to approve the April 22, 2008, City Council Minutes. *Upon vote, the motion passed with six affirmative votes and one abstention. Council Member Clauson abstained from voting.*

Adopt Ordinance No. 014-08, Amending POMC Title 10, Regarding Commute Trip Reduction and Implementing Measures as Required by RCW 70.94.527

Development Director Weaver presented the staff report, noting that the Commute Trip Reduction program is a cost-effective program that addresses a number of issues in Port Orchard and the program continues to grow and expand as solutions are needed for complex transportation and environmental issues. Further, Ordinance No. 014-08, was prepared in accordance with the CTR Board's revisions to Chapter 70.94 RCW to bring the City into full compliance.

Council Member Chang moved and Council Member Childs seconded the motion to adopt Ordinance No. 014-08, Amending Port Orchard Municipal Code Chapter 10.86 "Commute Trip Reduction" (CTR) pursuant to Chapter 70.94 RCW and the Guidelines established by the CTR Board.

Council Member Clauson removed himself from the discussion and vote due to his employment with Kitsap Transit and his direct involvement with the Commute Trip Reduction Program.

In response to Council Member Chang, Deputy Clerk Kirkpatrick explained that there were several employees who use a commute alternative, especially during the spring and summer; however, none of the employees have actually joined the CTR program.

Upon vote, the motion passed with six affirmative votes and one abstention. Council Member Clauson abstained from voting.

Confirmation of Mayor's Appointment of Mark Dorsey as Public Works Director effective May 28, 2008

Council Member Colebank moved and Council Member Olin seconded the motion to confirm Mayor Coppola's appointment of Mark Dorsey as City Engineer, effective May 28, 2008. *Upon vote, the motion passed unanimously.*

Mark Dorsey looks forward to starting work on May 28th and commended Development Director Weaver and his staff for stepping up and covering for the Public Works Director/City Engineer and it would allow for a smooth transition.

Approval of 2008 Public Event Application – Fathoms O’Fun Carnival

City Clerk Merlino provided the staff report, noting that the Tourism Committee and City staff met with Al Mahaney of Fathoms O’Fun to discuss the amount of waterfront parking lot being requested for use during the Carnival. Two options were presented:

Option A: Fathoms O’Fun would use the parking lot up to and including directly in front of Amy’s on the Bay Restaurant.

Option B: The use of all the parking areas, inclusive of the parking lot in front of Amy’s on the Bay Restaurant and the parking lot area adjacent to the Library building.

The Tourism Committee recommended approval of the application for Public Event with the condition of Option A.

Council Member Colebank moved and Council Member Childs seconded the motion to approve the Fathoms O’Fun Carnival application for public event with the condition of Option A. *Upon vote, the motion passed unanimously.*

Meeting with Initiating Parties Regarding Notice of Intent to Petition for Annexation of the McCormick Woods Properties

Development Director Weaver provided the staff report, noting that the property owners of McCormick Woods and The Ridge, et al submitted a Notice of Intent to Petition for Annexation of approximately 871 parcels totaling approximately 1,297 acres contiguous to City limits. Eighty property owners signed the petition, which constituted over 11% of the combined valuation. RCW 35.13.125 requires the Council to determine whether it will accept, reject, or geographically modify the proposed annexation, whether it will require the simultaneous adoption of a comprehensive plan, and whether it will require the assumption of all or any portion of existing city indebtedness by the area to be annexed. Staff recommended that the Council allow a petition to be circulated for annexation of the property described in the Notice of Intent and to require the simultaneous adoption of comprehensive plan and zoning designations, and the assumption of existing City indebtedness by the area to be annexed.

Council Members briefly discussed the following items:

- Redrawing the annexation boundary to include McCormick West
- Whether or not Kitsap County completed preliminary approval of McCormick West
- Timelines for the petition process

Development Director Weaver explained that the McCormick West developers were not interested in being a part of the preliminary annexation proposal at this time.

City Attorney Jacoby would review the petition process timelines and report back to the Council, and noted that by moving forward with the petition process, the Council was not bound to annex McCormick Woods into the City.

Council Member Powers moved and Council Member Putaansuu seconded the motion to allow the applicant to circulate a petition for annexation of the property described in the Notice of Intent and to require the simultaneous adoption of comprehensive plan and zoning designations, and the assumption of existing City indebtedness by the area to be annexed. *Upon vote, the motion passed unanimously.*

Approval of Official City Newspaper

City Clerk Merlino provided the staff report, noting that bids were received from the Port Orchard Independent and the Kitsap Sun as follows:

Port Orchard Independent:

- \$2.95 per classified column inch on a ten-column format
- Legal notices will appear in the A-section
- Legal notices will be placed on their website free of charge

Kitsap Sun:

- \$3.17 per classified column inch on a ten-column format
- \$7.00 for placement of ad on their website

The bids were reviewed by the Finance Committee on April 29, 2008, with the recommendation of designating the Port Orchard Independent as the official City newspaper.

Council Member Clauson moved and Council Member Childs seconded the motion to confirm Port Orchard Municipal Code Chapter 1.16, designating the Port Orchard Independent as the City's official newspaper. *Upon vote, the motion passed unanimously.*

Approval of the Bay Street Undergrounding Project Relating to Sidney Avenue Intersection

Development Director Weaver provided the staff report, noting that the City has been working to underground the franchise utilities throughout the downtown corridor for the last two years. On April 22, 2008, City Council recommended Caseco Associates move forward with the proposed figures for Frederick Avenue and Orchard Avenue for the downtown utility undergrounding. Additionally, the Council recommended that Caseco proceed with bidding on Sidney Avenue for review and consideration at this meeting. The Utilities Committee met on Thursday, May 8, 2008, and reviewed the proposed costs and contract specifications provided by Caseco Associates for the Sidney Avenue utility undergrounding portion. In addition, Caseco provided the costs to do additional work to cover the traffic signal controller south to the existing power pole as shown on

the West Sound drawing for an additional cost of \$27,800. The total costs for the Sidney Avenue utility undergrounding portion is \$162,800, plus sales tax.

Council Member Putaansuu stated the project is proceeding forward in order to meet the State's overlay deadlines and staff would continue try to find costs savings within the project.

In response to Council Members concerns, City Treasurer Tompkins explained that the funds for the Bay Street Utility Undergrounding Project would come from the 2008 budget in the amount of \$250,000, with the balance to come from Cumulative Reserve for Municipal Facilities Fund. A budget amendment would be brought forward at the next Council meeting addressing the use of this fund to cover the balance of the project.

Council Member Olin moved and Council Member Clauson seconded the motion to award Contract 006-08, for the Sidney portion of the Bay Street Utility Undergrounding project in an amount not to exceed \$180,000, including sales tax. *Upon vote, the motion passed unanimously.*

Approval of the Bethel Avenue Sinkhole Improvements

Development Director Weaver presented the staff report, noting that the staff has prepared the plans for repair of the sinkhole on Bethel Avenue and the replacement of the existing sub-standard storm pipe. City staff has received preliminary FEMA approval for the award of this project, provided that FEMA's conditions would be added to the contract provisions. The low bid received was from Northern Con-Agg, Inc. in an amount of \$296,737. West Sound provided engineering and one change order was absorbed into the existing contract to redesign the storm pipe and move it out along the sinkhole alignment to avoid potential oil contamination and conflict with the property owner's plan to place another building on the site. The project is pending final State and FEMA approval of the change order and project funding. Staff recommends awarding the contract with Con-Agg, Inc. for the bid amount of \$296,737. FEMA's portion of the costs equates to \$259,644.88 or 87.5%, and the City's portion of the costs equates to \$37,092.13 or 12.5%.

Council Member Clauson moved and Council Member Powers seconded the motion to authorize the Mayor to sign the Northern Con-Agg, Inc. agreement to construct the repairs on Bethel Avenue per the engineering plan and specifications, upon receipt of approval from FEMA, and with the understanding that 87.5% of the repair costs will be paid by FEMA and the City will pay 12.5% of the repair costs in an amount not to exceed \$296,737. *Upon vote, the motion passed unanimously.*

Adopt Resolution No. 024-08, Authorizing the Mayor to Sign Contract with Geo Science Management, Inc for Groundwater Sampling

City Attorney Jacoby explained that the City formerly owned the property at 514 Bay Street and used it for its Public Works Shop. Over the years, the soil and groundwater became contaminated by City-owned underground storage tanks and from contamination that migrated from leaking fuel tanks that were located on the adjacent Marina Mart property. When the City sold the property at 514 Bay Street to Vlist Motors in 1999, the City agreed to pay for all cleanup costs associated with the City's underground storage tanks. The City has been working with its consultant, Howard Small, for several years to remediate the contaminated soil and groundwater. In 2004, the Council approved the installation of 7 groundwater monitoring wells and they are sampled twice a year; once by the City and once by the prior owner of the Marina Mart. Resolution No. 024-08, authorizes the Mayor to enter into a professional services contract with Howard Small of Geo Science Management, Inc. for two rounds of groundwater sampling at a cost not to exceed \$11,109.

Council Member Powers moved and Council Member Olin seconded the motion to adopt Resolution No. 024-08, authorizing the Mayor to enter into a professional services contract with Geo Science Management, Inc. for two rounds of groundwater sampling at 514 Bay Street, at a cost not to exceed \$11,109. Upon vote, the motion passed unanimously.

Approval of the Mayor to Sign Berger/Abam Supplemental No. 5, Relating to Additional Tremont Right-of-Way Support Services

Mayor Coppola clarified that in order to keep the Tremont Street Widening Project moving forward, he recommended Council approve the supplemental agreement for additional Tremont right-of-way support services. This would include 55 legal descriptions to be written prior to moving forward with offers along the Tremont Corridor.

Council Member Powers moved and Council Member Clauson seconded the motion to authorize the Mayor to sign Supplemental Agreement No. 5 for additional Tremont right-of-way support services with Berger/Abam Engineers, Inc. for an amount not to exceed \$55,013.

City Attorney Jacoby did not see a conflict at this time; however, Council Member Colebank, who owns property on Tremont Street, excused himself from the discussion and abstained from voting on the motion.

Upon vote, the motion passed with six affirmative votes and one abstention. Council Member Colebank abstained from voting.

Discussion: Water Leak

The Mayor and Council received a letter from a water/sewer customer asking for an additional amount on their water leak credit. Council Member Putaansuu stated the Utilities Committee held a discussion on the water leak resolution currently in place, which allows for a credit up to \$100 to a customer's water bill if a leak occurs. The Committee was concerned as to whether or not the current credit was sufficient.

After a brief discussion, the Council directed the matter to the Utility Committee to review the resolution and make a recommendation on whether or not to revise the water leak credit amount.

Discussion: Home Business on Flower Street

Council Member Chang voiced concern that Ms. Cronin did not have any confidence in City staff to ensure the Hearing Examiner's conditions would be enforced.

Development Director Weaver explained that all of the conditions set forth in the Hearing Examiner's Decision have been and will continue to be enforced. Further, staff has documented all the steps and responses to ensure the business owner is in compliance.

REPORTS OF COUNCIL COMMITTEES

Council Members commended Development Director Weaver for:

- Securing \$267,000 for the Tremont Corridor project from the Transportation Committee
- Assistance with the Bay Street Utility Undergrounding project

Council Member Childs stated the Friends of McCormick Woods committee met with Dick Davis and moving forward with annexation, noting many ideas were discussed on how to get information out to the McCormick Woods residents.

Council Member Childs announced the Tourism Committee would be meeting on Wednesday, May 14th at 2:00 p.m. and the next Festival of Chimes and Lights would be meeting on Monday, June 2nd at 6:00 p.m. at City Hall.

Council Member Clauson reported that he and Mayor Coppola had met with State Transportation representatives regarding funding of the Bay Street sidewalk and staff has come up with a nice plan and solution that will be relatively quick to install and cost effective. Development Director Weaver commended his staff for all their assistance with getting information and projects out in a timely manner.

REPORT OF MAYOR

Mayor Coppola provided a brief update on:

- 28 bids were received on the Website Redesign Request for Proposal and staff would begin the process of selecting a new web designer.
- Commander Marti posted the language for landlords to insert into their leased and/or contracts regarding drug activity on the City's website.

Mayor Coppola commended the Planning Department staff on a good compromise for a local business at the South Kitsap Mall, which allowed them to stay in business and remain in compliance with City codes.

REPORT OF DEPARTMENT HEADS

Discussion: Conditional Use Permit Fees for Hearing Examiner

Development Director Weaver provided an update on Conditional Use Permit Fees and stated the City had responded to a letter received from Diane McConaghy regarding department fees for processing Home Occupation Conditional Use Permits. The City fees for a Home Occupation Conditional Use Permit (CUP) are \$600 and \$700 for the Hearings Examiner. These fees and this land use process were set by Ordinance No. 026-07 and 046-07, and Resolution No. 019-08. Development Director Weaver further explained that the time to provide the review of plans and code, provide public notice, respond to public comments, and write staff reports associated with the CUP process far exceeds the fees collected to process the permits. In the past all the costs associated with CUP fees had not been tracked and staff is now able to clearly identify all of the costs for inclusion in the 2009 budget discussions.

City Treasurer Tompkins advised the next Utility Committee's meeting had been moved from May 21, 2008, to June 11, 2008, at 8:00 a.m. at Myhre's.

Update on Admission Tax

City Treasurer Tompkins provided a brief update on Admissions Tax, noting that at the December 19, 2007, meeting Council approved an ordinance increasing the admissions tax from one tenth of one percent to five percent and providing a lower one percent admission tax for new businesses during their first year of operation. Further, the Council directed staff to have the revenue go into a "designated unreserved fund balance-recreation enhancement" account. Regional Cinemas is currently paying 5% on a monthly basis and Orchard Cinemas paid 1% after the first quarter; however, they averaged more than \$100 per month and staff has requested they begin paying monthly. It is anticipated the City will collect \$81,780 in total admission tax revenue for 2008. Staff recommended the Council have a discussion on ideas for programs, projects or items they would like to use these funds that have been designated for recreation opportunities.

The Council held a brief discussion on:

- Meeting with the Local MOM's club for their ideas and input
- Determine if matching funds would be needed for the recent parks grant
- Begin thinking about using funds to purchase new equipment or starting a recreation program

EXECUTIVE SESSION

At 9:00 p.m. the Council moved into Executive Session for 10-minutes for the purpose of discussing real estate and personnel matters per RCW 42.30.110(1). The City Attorney was invited to attend the Executive Session and announced that no action would be taken as a result of the Executive Session. At 9:10 p.m. the Mayor extended the Executive Session for additional 20-minutes.

At 9:30 p.m. Mayor Coppola reconvened the regular meeting.

CITIZEN COMMENTS

Gerry Harmon, 906 Kitsap Street, voiced concern that a former employee of the City is now working for a contractor and whether that would take business away from the City. She encouraged the Council to look at instilling a non-compete clause for separating employees in order to eliminate the potential loss of business.

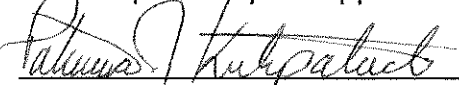
Brian Petro voiced appreciation to the Council for its efforts regarding:

- The South Kitsap Industrial Area (SKIA)
- The foresight to build a sewage treatment plant that would allow for future growth and expansion
- Ivy growth on trees, noting that he should be able to grow anything he wants on his own property
- Home businesses, noting the City should encourage home businesses so long as they are not a nuisance
- Support of Fathoms O'Fun, noting it is a historical event and good for the kids and community
- Annexation, noting that the City should annex everything that comes their way.

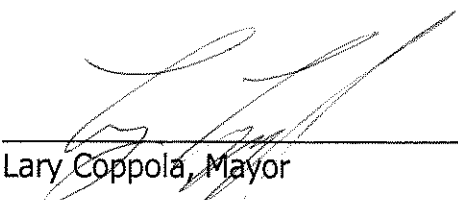
Terry Cousins commended the City on hiring new staff and noted things were running more smoothly.

ADJOURNMENT

At 9:36 p.m. Mayor Coppola adjourned the meeting.



Patricia J. Kirkpatrick, Deputy Clerk



Lary Coppola, Mayor