

City of Port Orchard Council Meeting Minutes Regular Meeting of August 12, 2008

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

PRESENT: Lary Coppola, Mayor

Councilmembers: Mayor Pro-Tem Clauson, Chang, Childs, Colebank, Olin, and Putaansuu

ABSENT: Councilmember Powers (excused)

ALSO PRESENT: Police Chief Townsend, Public Works Director Dorsey, Development Director Weaver, City Clerk Kirkpatrick, Deputy Clerk Rinearson, and City Attorney Jacoby.

PLEDGE OF ALLEGIANCE

Coreen Haydock-Johnson led the audience and Council in the Pledge of Allegiance

CITIZEN COMMENT

Rick Bialock, 8060 Tieton Place, Director of Cascade Recovering Center, assured the residents of Anderson Avenue that the Heidi House is a safe and secure environment that holds a high standard of accountability with its residents. The residents are required to be in treatment groups, attend at least 2 AA meetings a week, and submit to random drug testing. He has met with the Fire Department and City Code Enforcement Officer and has met City Zoning Codes.

Miriam Petit and Victoria Vicks, residents of the Heidi House located at 2406 Anderson Avenue, stated the home has provided them with the tools to lead a sober lifestyle and that they were fortunate to be residents in this home.

Cliff and Patty Smith stated they live across the street from the Heidi House and fully support the program, noting the residents are friendly and working to become productive members of society.

Janice Duprey, 1608 Naval Avenue, explained that the Heidi House had been dedicated to her daughter who had drug problems and recently died in an unrelated illness. She urged the community to support the program and others like it, noting the residents attend church and meetings regularly.

Janet Kleck, voiced opposition to the Heidi House, stating that while she supported the program she did not feel this neighborhood was the appropriate place for the home to be located in.

Curt Manti, 2985 Royal Wood Place, voiced appreciation to the response of the Police Chief and Council to the school zone issue at Bethel Lutheran School on Tremont.

Kathy Michael, 228 Seattle Avenue, verified that Business Item 7F would be open for public comments.

APPROVAL OF AGENDA

The following items were added to the August 12, 2008 agenda:

- Discussion: Bed and Breakfast Lodging tax
- Discussion: Port of Bremerton selling of 200' of Marina to the Suquamish Tribe

Councilmember Chang moved and Councilmember Colebank seconded the motion approving the Agenda as amended. *Upon vote, the motion passed unanimously.*

APPROVAL OF CONSENT AGENDA

- A. Approval of Claim Warrants #50180 through #50290 in the amount of \$288,979.55, Payroll #141691 through #141728 in the amount of \$449,890.03, and Treasurer's check book in the amount of \$2,671,382.59
- B. Adoption of Ordinance No. 022-08, Approving the Comprehensive Plan Designation and Annexation for the Cousins2 Property and Forwarding the Zoning Portion for Second Reading and Adoption at the August 26, 2008, Council Meeting
- C. Adoption of Ordinance No. 023-08, Scrivener's Error Regarding Legal Description in Ordinance No. 1603 Vacation of Right-of-Way
- D. Adoption of Resolution No. 035-08, Reclassifying Employee Position to Public Works Office Manager/Permit Coordinator
- E. Approval to Reinstate an Additional 8 Hours per Week for Human Resource Analyst
- F. Confirmation of Mayoral Appointment to the Civil Service Commission

Councilmember Chang moved and Councilmember Putaansuu seconded the motion approving the Consent Agenda. *Upon vote, the motion passed unanimously.*

PRESENTATIONS

Port Orchard Chamber of Commerce Update – Coreen Haydock-Johnson

Director Johnson provided a brief update on what the Port Orchard Chamber of Commerce was working on:

- Increasing community profile and presence
- Networking with members
- Updating website and answering consumer questions
- Shop local campaign

- Researching community grants on ways to differentiate Port Orchard from other communities

PUBLIC HEARINGS

Rezoning of Herstad Property

At 7:28p.m. Mayor Coppola opened the Public Hearing.

City Attorney Jacoby reminded Council that while they normally operate in a legislative capacity, during this Public Hearing the Council is acting as a quasi-judicial body. City Attorney Jacoby asked if any Councilmember had any ex parte communication with anyone regarding this application. There was no response from any Councilmember. City Attorney Jacoby further asked if any Councilmember had any financial interest in this property, with the applicant or representative of the applicant, either directly or indirectly relating to the property involved. There was no response from any Councilmember. City Attorney Jacoby asked if any Councilmember had any reason to believe they would not be able to render a fair and impartial decision based on the information they receive today. There was no response from any Councilmember. City Attorney Jacoby asked if any member of the audience felt any of the Councilmembers should not participate in the hearing. There was no response from any audience member.

Development Director Weaver presented the staff report, noting staff recommended approval of the Herstad Rezone. The requested action will complete the Comprehensive Plan Amendment/Rezone process by designating a zoning designation that matches the recommended zoning that was outlined in the enabling Ordinance No. 020-06, as it was never designated commercial.

City Attorney Jacoby advised that while the Council may not agree with the previous decision, it was still important to ask questions. Additionally, the Ordinance has already been adopted and is compatible with the current comprehensive plan. Current City Code does not provide a procedure that deals with site modifications, which the Council failed to approve previously.

Gil Michael, 228 Seattle Avenue, urged the Council that should they approve Mr. Hersted's Rezone to require the two following conditions:

- that Mr. Herstad agree to wait until the Tremont plan was approved, which should be by the end of the year
- remain as business professional

Further, Mr. Michael urged the Council to reconsider their approval of the Development Regulations.

There being no further testimony, Mayor Coppola closed the Public Hearing at 7:58 p.m.

Designate Comprehensive Plan and Zoning for Annexation for Municipal Purposes

At 8:01 p.m. Mayor Coppola opened the Public Hearing.

City Attorney Jacoby reminded Council that while they normally operate in a legislative capacity, during this Public Hearing the Council is acting as a quasi-judicial body. City Attorney Jacoby asked if any Councilmember had any ex parte communication with anyone regarding this application. There was no response from any Councilmember. City Attorney Jacoby further asked if any Councilmember had any financial interest in this property, with the applicant or representative of the applicant, either directly or indirectly relating to the property involved. There was no response from any Councilmember. City Attorney Jacoby asked if any Councilmember had any reason to believe they would not be able to render a fair and impartial decision based on the information they receive today. There was no response from any Councilmember. City Attorney Jacoby asked if any member of the audience felt any of the Councilmembers should not participate in the hearing. There was no response from any audience member.

Development Director Weaver presented the staff report, noting a Petition to Annexation one parcel totaling approximately 4.35 acres, located on the northwest side of the intersection of SW Old Clifton Road and Fiegley Road SW, in the NW ¼ of the NW ¼ of Section 8, Township 23 North, Range 1 East, W.M., in Kitsap County, Washington. This parcel is in the Kitsap County's McCormick Woods/ULID #6 Urban Growth Area. The parcel has a County Comprehensive Plan designation of *Urban Reserve* and *Urban Cluster Residential/Urban Reserve* zoning. The applicant intends to request a City Comprehensive Plan designation of *Public and Community Spaces and Community Facilities* zoning. He also stated this is the City's water reservoir out at McCormick Woods and staff recommended conducting a public hearing to Designate Parcel No. 082301-2-001-2005 as Public and Community Spaces on the City of Port Orchard Comprehensive Plan map and Community Facilities on the Zoning map, to become effective upon annexation.

There being no further testimony, Mayor Coppola closed the Public Hearing at 8:01p.m.

Site-Specific Rezone Revision for KBSJ Development LLC, (Permit # R-1157 A1)

At 8:01 p.m. Mayor Coppola opened the Public Hearing.

City Attorney Jacoby reminded Council that while they normally operate in a legislative capacity, during this Public Hearing the Council is acting as a quasi-judicial body. City Attorney Jacoby asked if any Councilmember had any ex parte communication with anyone regarding this application. There was no response from any Councilmember. City Attorney Jacoby further asked if any Councilmember had any financial interest in this property, with the applicant or representative of the applicant, either directly or indirectly relating to the property involved. There was no response from any Councilmember. City Attorney Jacoby asked if any Councilmember had any reason to believe they would not be able to render a fair and impartial decision based on the information they receive today. There was no response from any Councilmember. City Attorney Jacoby asked if any member of the audience felt any of the

Councilmembers should not participate in the hearing. There was no response from any audience member.

Development Director Weaver presented the staff report, noting this was a proposed modification to a previously approved site-specific rezone of an approximate 1.41-acre parcel. The City Council previously approved the site-specific rezone request from *Residential 4.5* to *Commercial, Retail and Office* to bring the parcel into compliance with the Comprehensive Plan designation of *Commercial* and to allow an existing mortgage company and proposed barbershop to remain on site. City Council approved the initial rezone application on April 24, 2006 and the applicant has since revised the site plan to develop the property with retail and office uses and remove the existing on-site structures. The project will comply with the Port Orchard Municipal Code and all applicable codes. The applicant proposes access and parking via Bethel Avenue.

There being no further testimony, Mayor Coppola closed the Public Hearing at 8:07 p.m.

NEW BUSINESS

Minutes of the July 15, 2008, Council Work Study Session

Councilmember Putaansuu moved and Councilmember Colebank seconded the motion to approve the July 15, 2008, Council Work Study Session Minutes. *Upon vote, the motion passed unanimously.*

Minutes of the July 22, 2008, City Council Meeting

Councilmember Childs moved and Councilmember Colebank seconded the motion to approve the July 22, 2008, City Council Meeting Minutes. *Upon vote, the motion passed unanimously.*

Councilmember Putaansuu moved and Councilmember Clauson seconded the motion to excuse Councilmember Powers. *Upon vote, the motion passed unanimously.*

Adoption of Ordinance No. 025-08, Approving Site-Specific Rezone Revision for KBSJ Development LLC

Development Director Weaver presented the staff report, noting a Public Hearing was held earlier this evening to hear testimony regarding the site-specific rezone modification to a previously approved site-specific rezone of an approximate 1.41-acre parcel. The City Council approved the initial rezone application on April 24, 2006, which was outlined in the enabling City Council Ordinance No. 011-06. The applicant has since revised the site plan to develop the property with retail and office uses and remove the existing on-site structures. The proposal includes the construction of two single-story buildings and one two-story building. The project will comply with the Port Orchard Municipal Code and all applicable codes. Staff recommends approval of the site-specific rezone revision as outlined in Ordinance No. 025-08, to allow for the development of three retail and office buildings permitted in the Commercial zone for the property located at 2143 and 2153 Bethel Avenue.

Councilmember Chang moved and Councilmember Childs seconded the motion to approve the site-specific rezone revision for KBSJ Development LLC. Upon vote, the motion passed unanimously.

Adoption of Ordinance No. 024-08, Approving the Rezoning of Herstad Property

Development Director Weaver presented the staff report, noting a Public Hearing was held earlier this evening to hear testimony regarding the rezoning of the 0.44 acre Herstad parcel to *Commercial* zoning. The Planning Department, at the request of the applicants, is seeking to allocate a Commercial zoning designation to the Herstad parcel that has previously completed the Comprehensive Plan Amendment. The designation of *Commercial* zoning for the parcel is consistent with the existing Comprehensive Plan designation of *Commercial* and the previous City Council decision that was outlined in the enabling Ordinance No. 020-06.

Councilmember Olin moved and Councilmember Clauson seconded the motion to authorize the adoption of Ordinance No. 024-08, approving the rezoning of the Herstad property. Upon vote, the motion failed with three affirmative votes and three dissenting votes. Councilmembers Chang, Childs, and Colebank cast the three dissenting votes.

Adoption of Ordinance No. 026-08, Amending Port Orchard Municipal Code 5.60 Safe and Sane Fireworks

City Clerk Kirkpatrick presented the staff report, noting Greg Rogers with South Kitsap Fire and Rescue had requested the Safe and Sane Fireworks portion of the Port Orchard Municipal Code be updated to more accurately mirror other cities in Kitsap County as well as the State of Washington. Proposed changes include:

- requiring the same deadlines for permits as the State of Washington
- increasing the license fee to \$100
- increasing the insurance requirements to \$1,000,000
- eliminating the discharge and sale of fireworks on New Year's eve/day

Councilmember Colebank moved and Councilmember Childs seconded the motion to authorize the adoption of Ordinance No. 026-08, amending Port Orchard Municipal Code 5.60 Safe and Sane Fireworks. Upon vote, the motion passed with four affirmative votes and two dissenting votes. Councilmembers Clauson and Olin cast the two dissenting votes.

Adoption of Ordinance No. 027-08, Amendment to Port Orchard Municipal Code 13.04 Creating Bed & Breakfast Sewer Rate Class 20

Public Works Director Dorsey presented the staff report, noting that pursuant to direction given to the staff at the July 9, 2008, Utilities Committee meeting and the subsequent discussions at the July 15, 2008, Work Study Session, the proposed Bed & Breakfast Sanitary Sewer Rate Class is as follows: Bed & Breakfasts are defined in the Land-Use Regulatory Code under Section 16.08.066 POMC as "an owner-occupied dwelling or accessory building within which no more than 7 bedrooms are available for paying guests on a daily basis." Pursuant to Table 6 Section

16.30.080 POMC, B&B's are permitted outright within Mixed-Use Districts and conditionally permitted within all other land use categories.

Kathy Michael, 228 Seattle Avenue, opposed the rate increase and urged the Council to vote no in supportive of small businesses.

Councilmember Putaansuu explained that the Ordinance will actually give a credit to the Bed and Breakfast businesses.

Councilmember Putaansuu moved and Councilmember Clauson seconded the motion to adopt Ordinance No. 027-08, Amending Port Orchard Municipal Code 13.04 and Creating Bed and Breakfast Sewer Rate Class 20. *Upon vote, the motion passed with four affirmative votes and two dissenting votes. Councilmembers Childs and Colebank cast the two dissenting votes.*

Adoption of Resolution No. 036-08, Authorizing the Mayor to Execute a Temporary Access and Use Agreement with Glennys R. Gehring

Public Works Director Dorsey presented the staff report, noting the City requested temporary access over and across Glennys R. Ghering's subject property in order to access the City-owned and maintained storm drainage conveyance system being repaired as part of the Bethel Sinkhole Repair project. Terms and conditions were discussed and agreed upon with respect to expectations concerning potential impacts associated with utilizing the Gehring property to access the City's property for facility repairs. Staff recommends adoption of Resolution No. 036-08, authorizing the Mayor to execute the Temporary Access and Use Agreement with Glennys R. Gehring as needed for repairs to the City-owned and maintained storm drainage system associated with the Bethel Sinkhole Repair project.

Councilmember Putaansuu moved and Councilmember Clauson seconded the motion to authorize the adoption of Resolution No. 036-08, authorizing the Mayor to Execute a Temporary Access and Use Agreement with Glennys R. Gehring. *Upon vote, the motion passed unanimously.*

Adoption of Resolution No. 037-08, Authorizing the Mayor to Execute an Access and Use Agreement with Nordic Properties, Inc.

Public Works Director Dorsey presented the staff report, noting that staff was directed to commence negotiations with Waste Management, Inc. for leachate disposal and conveyance services, with the "Wilkins Property" identified as the leachate disposal site of choice by Waste Management, Inc. and the City. A portion of SW Wilkins Drive was vacated on or about July 2007, causing the City to establish an Access and Use Agreement with Nordic Properties, Inc. Staff recommends that the City Council adopt Resolution No. 037-08, authorizing the Mayor to execute the Access and Use Agreement with Nordic Properties, Inc. as needed for contract negotiations with Waste Management, Inc. for leachate disposal and conveyance.

Councilmember Clauson moved and Councilmember Putaansuu seconded the motion to adopt Resolution No. 037-08, authorizing the Mayor to execute an Access and Use Agreement with Nordic Properties, Inc. *Upon vote, the motion passed unanimously.*

Adoption of Resolution No. 038-08, Regarding Interlocal Agreement Between the City and the Public Utility District No. 1 of Kitsap County

City Attorney Jacoby presented the staff report, noting staff was directed to prepare a letter to Public Utility District No. 1 (PUD) notifying them of the City's intent to not renew the Interlocal Telecommunications Agreement when it expires on September 22, 2008. Section 1.4(E) of the Agreement provides that the PUD's option to renew the Agreement is subject to changes in City ordinances, resolution, or policy. Accordingly, staff has prepared a resolution that describes the City's new policy as one that does not require a continuing agreement with PUD No. 1 for the use and occupancy of public right-of-way when there is no evidence that the PUD has any plans to use the public right-of-way for telecommunication purposes. The proposed resolution would also authorize the Mayor to send a letter to the PUD notifying them of the City's change in policy.

Councilmember Clauson moved and Councilmember Colebank seconded the motion to adopt Resolution No. 038-08, regarding the Interlocal Agreement between the City and the Public Utility District No. 1 of Kitsap County. *Upon vote, the motion passed unanimously.*

Authorization for the Mayor to Sign Interlocal Agreement with Kitsap County for GIS and Mapping Services

Development Director Weaver presented the staff report, noting the City of Port Orchard has had an agreement with Kitsap County to provide GIS services such as mapping and data analysis through their GIS database for several years. This Interlocal Agreement was approved in 2007 and is automatically renewable each year. The renewal will allow the City to continue this service through the 2008-2009 service years. The City does not now have either a system or software to provide these capabilities at this time. The amount for this service was identified in the 2008 budget and approved by Council. Again, the cost and use of this service will be shared by Planning, Engineering, and Public Works.

Councilmember Chang moved and Councilmember Childs seconded the motion to authorize the Mayor to sign an Interlocal Agreement with Kitsap County for GIS and mapping services. *Upon vote, the motion passed unanimously.*

Meeting with Initiating Parties Regarding Notice of Intent to Petition for Annexation for Blackjack Terrace

Development Director Weaver presented the staff report, noting the applicant submitted a Notice of Intent to Petition for Annexation of one parcel totaling 24.9 acres. The parcel is located at the east end of Goldenrod Street, Section 02, Township 23N, Range 1E, W.M., in Kitsap County, Washington, and is contiguous to the City limits. This parcel is in the City's currently recognized Urban Growth Area. The parcel has a County Comprehensive Plan designation of *Urban Low*

Density Residential and zoning of *Urban Restricted* (1–5 dwelling units/acre). Staff recommends that the Council allow a petition to be circulated for annexation of the property described in the Notice of Intent and require the simultaneous adoption of comprehensive plan and zoning designations, and the assumption of existing City indebtedness by the area to be annexed.

Councilmember Clauson moved and Councilmember Chang seconded the motion to authorize the meeting with initiating parties regarding Notice of Intent to petition for annexation for Blackjack Terrace. Upon vote, the motion passed unanimously.

Authorization for Mayor to Execute Change Order No. 1 on Bethel Avenue Sinkhole Repair and Appurtenances Contract

Public Works Director Dorsey presented the staff report, noting that due to unforeseen changes in field conditions two separate design modifications were required. These design modifications constitute as Change Order No. 1 for the Bethel Avenue Sinkhole Repair and Appurtenances Contract between the City and Northern Co-Agg dated April 28, 2008. Additional funding for these necessary changes may or may not be provided by FEMA and he will work with FEMA to determine if there is additional funding for the proposed changes.

Councilmember Colebank moved and Councilmember Clauson seconded the motion to authorize the Mayor to execute Change Order No. 1 on Bethel Avenue Sinkhole Repair and Appurtenances Contract. Upon vote, the motion passed unanimously.

Bed and Breakfast Lodging tax

Councilmember Chang clarified that as part of the Hotel/Motel Tax funding that Bed and Breakfast businesses are required to remit that tax to the State who in turn remits to the City.

Port of Bremerton 200' of Marina to Suquamish Tribe

Councilmember Chang was contacted via email regarding Port of Bremerton giving the Suquamish Tribe 200 feet of Port Orchard Marina for the Bremerton Marina to expand. The Council directed staff to contact the Port of Bremerton and follow up on whether they followed proper procedures on this matter.

Councilmember Olin asked that redistricting be placed on the August 19, 2008 Work Study Session agenda.

At 9:27 p.m. the Mayor recessed for a five-minute break.

EXECUTIVE SESSION

At 9:32 p.m. the Council moved into Executive Session for 20-minutes for the purpose of discussing contract negotiations and potential litigation pursuant to RCW 42.30.110. The City Attorney and City Clerk were invited to attend. Mayor Coppola announced that no action would be taken as a result of the Executive Session. At 9:58 p.m. Mayor Coppola reconvened the meeting.

COMMITTEE REPORTS

Councilmember Putaansuu announced the Utility Committee will meet on August 13, 2008 at 8:00 a.m. at Myhre's.

Councilmember Childs announced the Tourism Committee will meet on August 13, 2008 at 2:00 p.m. and the Festival of Chimes and Lights Committee will meet on August 13, 2008 at 6:00 p.m. at City Hall.

Councilmember Olin moved and Councilmember Chang seconded the motion to extend the meeting for an additional ten minutes. *Upon vote, the motion passed unanimously.*

MAYOR'S REPORT

Mayor Coppola reported the City placed 19 out of 75 for the Federal Parks Grant and the Paul Powers Park was rated in the top 6 by the State and that both grants should be funded; he announced the Make-A-Wish Foundation granted a Wish for Michaela Hargrave and it will be aired on Tuesday, August 19, 2008 at 7 p.m. on Channel 5, *Evening Magazine*. Mayor Coppola congratulated James Weaver who made the Under 40 List for the Top 40 and Under Business Entrepreneurs.

COUNCIL REPORTS

In response to Councilmembers concerns, City Attorney Jacoby reported first and second degree sex offenders cannot reside within 800 feet of a public or private school.

REPORT OF DEPARTMENT HEADS

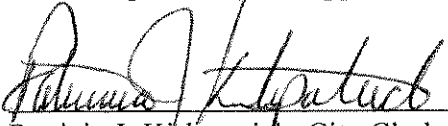
City Clerk Kirkpatrick introduced Brandy Rinearson as the new Deputy Clerk.

CITIZEN COMMENTS

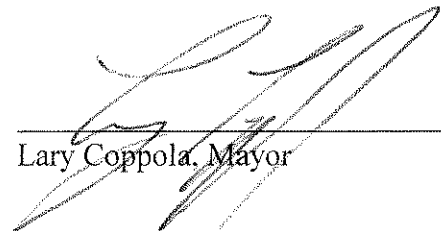
Gerry Harmon, 906 Kitsap, voiced her disappointment with Councilmembers who favored the new Bed and Breakfast sewer class rates.

ADJOURNMENT

At 10:10 p.m. Mayor Coppola adjourned the meeting.



Patricia J. Kirkpatrick, City Clerk



Lary Coppola, Mayor