

**City of Port Orchard
Council Meeting Minutes
Regular Meeting of October 28, 2008**

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

PRESENT: Lary Coppola, Mayor
Councilmembers: Mayor Pro-Tem Clauson, Chang, Childs, Colebank, Olin, Powers, and Putaansuu

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

PLEDGE OF ALLEGIANCE

Kevin Decker led the audience and Council in the Pledge of Allegiance.

CITIZEN COMMENT

There were no citizen comments.

APPROVAL OF AGENDA

Councilmember Clauson moved and Councilmember Colebank seconded the motion approving the Agenda as amended.

The following item was added to the Agenda after Public Hearings and before Business Items:

- Executive Session regarding potential litigation

Upon vote, the motion passed unanimously.

APPROVAL OF CONSENT AGENDA

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

- A. Approval of Claim Warrants #50609 through #50665 in the amount of \$158,303.81
- B. Minutes of the October 14, 2008, City Council Meeting
- C. Adoption of Ordinance No. 038-08, Amending Port Orchard Municipal Code Chapter 5.60 Fireworks
- D. Adoption of Ordinance No. 040-08, Rescinding Resolution No. 2045, and Amending Chapter 10.18 of Port Orchard Municipal Code to Codify Exemptions to Parking Restrictions For Boats, Boat Trailers, or Recreational Vehicles in the Public Right-of-Way

- E. Approval of Public Event Application: Festival of Chimes and Lights
- F. Approval of Fireworks Permit: Festival of Chimes and Lights
- G. Authorization for Mayor to Sign Contract with Gordon Sound Production to Provide Sound System during Festival of Chimes and Lights

PUBLIC HEARING

Anticipated 2009 Budget Revenue Sources

City Treasurer Tompkins reviewed the statutory property tax levy rates and how the rates have decreased with the one percent levy limit. The City's 2009 levy rate is approximately \$1.9536. The City is requesting the one percent increase plus new construction and annexations for an overall total increase of 5.3063% for 2009 property tax collections. In the last six years there has been a 99.6% increase in the City's assessed valuation.

City Treasurer Tompkins provided an overview of current expense and street budgets, noting projected 2009 property tax revenues are at 27.98% of the total taxes and sales tax at 47.93%. Sales tax collection through September 2008 has increased by approximately \$3,500 over the same time period in 2007. 77.55% of the City's budgeted revenues in 2008 were generated by taxes and in 2009 are projected at 80.84%. Other revenue sources included licenses and permits, state-shared revenues such as grants and boat registration fees; charges for services such as land-use, plan review, court probation and law enforcement services; fines and forfeits and miscellaneous fees such as interest and earnings and parking fees.

Treasurer Tompkins commented this information would be available on the City's web page and the Finance Committee has scheduled meetings in October and November to review the proposed budget and a draft of the property tax ordinance would be presented to the Council for action at the next regular meeting.

At 7:22 p.m. Mayor Coppola opened the Public Hearing and there being no public testimony, closed the Public Hearing at 7:22 p.m.

Public Hearing on Establishing Rates for Storm Water Drainage

Public Works Director Dorsey presented the staff report, noting that at the September 16, 2008, Council Work Study Session the City of Port Orchard's storm water consultant (JWM&A) presented to the Council the Annual Cost Summary, Comparative Utility Rates and the Preliminary Funds Generation Estimates. Sarah Davenport-Smith from the DOE was also in attendance to answer questions. The Council adopted Ordinance No. 036-08, establishing the Storm Drainage Utility on October 12, 2008. Further discussions regarding proposed Storm Drainage Utility Rates were held at the October 21, 2008, Work Study Session. Staff recommends that the Council hold the public hearing and provide staff direction as to the development of the ordinance.

The Council directed staff to provide a breakdown of single family rates versus commercial rates and whether or not schools and churches are exempt from paying the rate fees. Public Works Director Dorsey explained that most communities do not exempt schools; however, Kitsap County has exempted South Kitsap schools.

At 7:22 p.m. Mayor Coppola opened the Public Hearing and there being no testimony, closed the Public Hearing at 7:22 p.m.

Closed Record Public Hearing Regarding Poplar Heights Birthing Center Rezone R-1172

Mayor Coppola opened the Public Hearing at 7:23 p.m.

Development Director Weaver presented his staff report, noting the applicant is requesting a change in zoning designations from R4.5 to R20. This zoning request will provide conformance with the Comprehensive Plan designation of *Residential-High Density*. In addition, the zoning change would allow compliance with RCW 36.70A, Revised Code of Washington regarding consistent zoning and comprehensive plan designations. On September 18, 2008, the Hearing Examiner conducted a public hearing where testimony was taken; finding of facts were made; and on September 30, 2008, the Hearing Examiner issued a recommendation for approval to the City Council. The public testimony provided at the September 18th hearing was supportive of the rezone proposal and no negative testimony was received. City Code authorizes the Hearing Examiner to hold an open record hearing on rezone requests that are not part of the Comprehensive Plan amendment process. The open record hearing creates the City's official record through testimony and submittal of evidence and information. The City Council then reviews the Hearing Examiner's recommendation in a closed record hearing to ensure that no mistakes have been made. A closed record hearing does not provide a means for the introduction of new evidence or testimony and the City Council's decision is to be made solely on the exhibits, testimony, and records that are created during the proceedings before the Hearing Examiner.

Assistant City Attorney Forbes asked if any Councilmember had any ex-parte communication with anyone regarding this application. There was no response from any Councilmember. Assistant City Attorney Forbes 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. Assistant City Attorney Forbes 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. Assistant City Attorney Forbes 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.

Councilmember Chang voiced concern that he may be in violation of ex-parte contact due to an email communication with the applicant prior to the Hearings Examiner's open record hearing.

Assistant City Attorney Forbes stated there was no conflict of interest; and Councilmember Chang confirmed that he was able to base his decision on the facts presented in the closed record hearing process.

Marla McDonald, 469 Adelai Lane NW, Bremerton, read into the record a letter from Thomas and Shannon Driver, voicing their concern with a commercial business being located within a residential neighborhood.

In response to Councilmember's concerns, Assistant City Attorney Forbes explained that the letter is someone's opinion and did not violate the closed record hearing as no new information was being presented.

The applicant, Kevin Decker spoke in favor of the rezone, noting that there was no business activity in the home nor was anyone currently living there.

The Council held a brief discussion on the how to proceed with a closed record public hearing; the costs to the applicant if the Council does not approve the request; and whether this was property was already zoned R20 within the existing Comprehensive Plan.

There being no further testimony, Mayor Coppola closed the public hearing at 7:59 p.m.

Petition for Annexation for Sidney and Berry Lake Parcels with Zoning and Comprehensive Plan Designations

Development Director Weaver presented the staff report, noting that the property owner submitted a Petition for Annexation to annex five parcels totaling approximately 5.87 acres, and the associated right-of-way, located in the vicinity of Sidney Avenue and Berry Lake Road, adjacent to and west of State Highway 16 SW, in the NW ¼ of the SW ¼ of Sec. 2, T23N, R2E, W.M. The parcel is adjacent to a *commercial* zoned area and the applicant intends to extend additional commercial uses on this parcel. The property was incorporated into the City's Urban Growth Area by Kitsap County as part of the 10-year update of their Comprehensive Plan in December 2006 with a County Comprehensive designation of *Urban High-Intensity Commercial/Mixed Use* and zoning of *Highway Tourist/Commercial*. The applicant is requesting to be annexed with City comprehensive plan and zoning designations as *Commercial*. Staff recommends the Council hold the public hearing for designation of Zoning and Comprehensive Land Use designations upon annexation.

At 8:04 p.m. Mayor Coppola opened the public hearing and there being no public testimony, the Mayor closed the public hearing at 8:05 p.m.

EXECUTIVE SESSION

Mayor Coppola recessed the meeting into a fifteen-minute Executive Session regarding potential litigation in accordance with RCW 42.30.110(1)(i) at 8:05 p.m. Mayor Coppola invited

Development Director Weaver and Assistant City Attorney Forbes to the meeting and announced action may be taken as a result of the Executive Session.

At 8:22 p.m. Mayor Coppola reconvened the meeting.

At 8:26 p.m. Mayor Coppola reconvened the meeting after a five-minute recess.

NEW BUSINESS

Adoption of Ordinance No. 039-08, Approving the Poplar Heights Birthing Center Rezone R-1172

Councilmember Powers moved and Councilmember Clauson seconded the motion to adopt Ordinance No. 039-08, affirming the Hearing Examiner's recommendation to approve the request to rezone Poplar Heights Birthing Center properties with tax parcel number 352401-3-086-2007 from R4.5 to R20.

Councilmembers held a brief discussion on whether the applicant can obtain a home permit; the land use code allowance; conditional use permits; and basing their final decision on the Hearing Examiner's recommendations based upon the criteria set forth in Municipal Code.

Upon vote, the motion failed with Councilmembers Clauson and Putaansuu casting the two affirmative votes.

Authorization for Mayor to Sign Supplemental Agreement No. 1 with Universal Field Services, Inc. For Change of Completion Date

On November 27, 2007, the City of Port Orchard entered into Agreement Number LA-5855 with Universal Field Services, Inc. for right-of-way acquisition services in association with the Tremont Street Widening Project, STPUS-6610 (004). The completion date was anticipated to be October 31, 2008, but given project complications and associated delays, a revised completion date of December 31, 2009, is necessary. Staff recommends authorization for the Mayor to execute Supplement Agreement Number 1 with Universal Field Services, Inc., thereby extending the completion date for the right-of-way acquisition services for the Tremont Street Widening project to December 31, 2009.

Councilmember Powers moved and Councilmember Putaansuu seconded the motion to authorize the Mayor to execute Supplement Agreement Number 1 with Universal Field Services, Inc., thereby extending the completion date for the right-of-way acquisition services for the Tremont Street Widening project to December 31, 2009. *Upon vote, the motion passed unanimously.*

Authorization for Mayor to Sign Supplemental Agreement No. 1 with Perteet, Inc. For Change of Completion Date

On April 9, 2008, the City of Port Orchard entered into an Agreement with Perteet, Inc. for preparation of the six-year Capital Facilities Plan in association with the transportation element

of the City of Port Orchard Comprehensive Plan. The completion date was anticipated to be October 31, 2008, but given project complications and associated delays, a revised completion date of June 30, 2009 is necessary.

Councilmember Putaansuu moved and Councilmember Chang seconded the motion to authorize the Mayor to execute Supplement Agreement Number 1 with Pertect, Inc., thereby extending the completion date for the six-year Capital Facilities Plan in association with the transportation element of the City of Port Orchard Comprehensive Plan to June 30, 2009. Upon vote, the motion passed unanimously.

Ratification by Council for Mayor to Sign Contract with HD Supply Waterworks for Leak Detection Project

Public Works Director Dorsey presented the staff report, noting that each year the City has leak detection completed on a specific area of the City that allows preventative maintenance to be performed prior to a major problem such as a leaky valve or main break. Staff recommends approving the contract, since leak detection will result in fixing a problem in advance.

Councilmember Olin moved and Councilmember Colebank seconded the motion to move to authorize the Mayor to sign a contract with HD Supply Waterworks, for water main leak detection, in an amount not to exceed \$4,933. Upon vote, the motion passed unanimously.

Councilmembers directed staff to place discussion item on the November Work Study Session regarding the Mayor's purchase authority.

Petition for Annexation for Sidney and Berry Lake Parcels with Zoning and Comprehensive Plan Designations

Development Director Weaver presented the staff report, noting Fred Depee, property owner and agent, submitted a Petition for Annexation on October 20, 2008, to annex five parcels which total approximately 5.87 acres, and the associated right-of-way, located in the vicinity of Sidney Avenue and Berry Lake Road, adjacent to and west of State Highway 16 SW, in the NW ¼ of the SW ¼ of Sec. 2, T23N, R2E, W.M. (Tax Parcel Nos. 022301-3-003-2007, 022301-3-007-2003, 022301-3-007-2003, 022301-3-002-2008, 022301-3-001-2009). The parcel is adjacent to a Commercial zoned area and the applicant intends to extend additional commercial uses on this parcel. This property was incorporated into the City's Urban Growth Area by Kitsap County as part of the 10-year update of their Comprehensive Plan in December 2006 with a County Comprehensive designation of Urban High-Intensity Commercial/Mixed Use and zoning of Highway Tourist/Commercial. The applicant is requesting to be annexed with City comprehensive plan and zoning designations as Commercial. Staff recommends designating Parcel Nos. 022301-3-003-2007, 022301-3-007-2003, 022301-3-007-2003, 022301-3-002-2008, and 022301-3-001-2009 as *Commercial* on the City of Port Orchard Comprehensive Plan Map and Zoning Map, to become effective upon annexation.

Assistant City Attorney Forbes reminded the Council no action was necessary as this matter required two public hearings and would automatically move forward to the November 25, 2008, meeting.

COMMITTEE REPORTS

Councilmember Olin reported the McCormick Woods Homeowners Annexation Committee has collected about one-third of the required signatures and they would keep City staff informed of when they reach fifty percent.

Councilmember Powers reported on the Public Property Committee meeting, noting the Local MOM's group met with the Committee, which was very positive and the group has a better understanding of how the City deals with parks. Councilmember Powers requested staff provide an update on the *Mutt Mitt* program.

Councilmembers voiced their appreciation to staff regarding how well the right turn only lane was working at the intersection of Tremont and Port Orchard Boulevard, noting it has reduced the number of speeders.

MAYOR'S REPORT

Mayor Coppola provided an update on the Kitsap County Consolidated Housing Authority; and announced Monica Harstaad, Assistant City Treasurer was nominated and selected as the Employee of the Quarter for the Third Quarter.

REPORT OF DEPARTMENT HEADS


Public Works Director Dorsey reported that his department had purchased a forklift for the shop to help with moving/loading/off-loading heavy equipment and supplies; that the funds had been allocated in the current budget; that the total cost of the forklift was \$11,500; and shop personnel would become forklift operator certified.

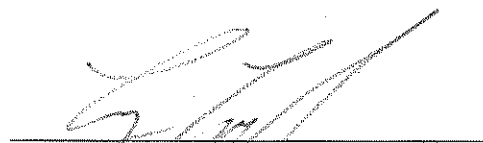
CITIZENS COMMENTS

Gerry Harmon, 906 Kitsap Street, voiced her concerns regarding the Comprehensive Plan and urged the Council to research the effects that *blanket zoning* has had in other communities and not move forward with the Comprehensive Plan at this time.

ADJOURNMENT

At 9:22 p.m. Mayor Coppola adjourned the meeting.


Patricia J. Kirkpatrick, City Clerk


Lary Coppola, Mayor