

City of SeaTac

Council Study Session Minutes Synopsis

July 9, 2013
4:00 PM

City Hall
Council Chambers

CALL TO ORDER: The SeaTac City Council Study Session (CSS) was called to order by Mayor Tony Anderson at 4:01 p.m.

COUNCIL PRESENT: Mayor Anthony (Tony) Anderson, Deputy Mayor (DM) Mia Gregerson, Councilmembers (CMs) Rick Forschler, Terry Anderson, Dave Bush, and Pam Fernald. Excused absence: CM Barry Ladenburg.

STAFF PRESENT: Assistant City Manager (ACM) Gwen Voelpel, City Attorney Mary Mirante Bartolo, City Clerk Kristina Gregg, Senior Assistant City Attorney Mark Johnsen, Stormwater Compliance Manager Don Robinett, Program Manager Soraya Lowry, Human Resources (HR) Director Anh Hoang, Senior HR Analyst Stephanie Johnson, City Engineer Susan Sanderson, Assistant City Engineer Florendo Cabudol, Police Chief Lisa Mulligan, Community and Economic Development (CED) Director Joe Scorcio, Building Services Manager Gary Schenk, and Fire Chief Jim Schneider.

PUBLIC COMMENTS (related to the agenda items listed below): The following people spoke against the Ordinance setting minimum employment standards for hospitality and transportation industry workers: Michael J. West, Scott Ostrander, and Daryl Tapio.

Agenda Bill #3523; A Motion accepting the City of SeaTac Surface Water Plan prepared by Herrera Environmental Consultants

Summary: The City of SeaTac Surface Water Plan is a detailed evaluation of the City's existing surface water programs and future needs. This programmatic document replaces and provides a needed update to the City's 1997 Surface Water Plan. This Plan, and the recommendations made within it, will assist in effective and efficient management of the utility, while providing a strategy for meeting regulatory requirements and community service levels. Furthermore, the Plan serves as a basis for evaluating the utility's finances.

The City entered into a contract with Herrera Environmental in 2012 to develop a new Surface Water Plan for the City. Since the last Surface Water Utility Plan was published in 1997, significant regulatory and programmatic changes have taken place making the existing plan out of date. The Plan includes: an evaluation of existing Surface Water programs, identification of future program needs, and recommendations to address utility services, new regulations, and maintenance, repair and replacement of existing infrastructure.

Some of the key issues that are addressed in the utility plan include:

- **Evaluation of Regulatory Impacts:** The 2013 – 2018 National Pollution Discharge Elimination System (NPDES) Phase II Municipal Stormwater permit includes new program requirements such as mandating the use of Local Improvement District (LID) where feasible, as well as expansion of water quality and stormwater maintenance programs. The Plan provides an assessment to identify program gaps, which need to be addressed, and makes recommendations to meet the new permit requirements.
- **Asset Management:** The City's existing stormwater infrastructure is aging. In some areas the system is 40 years old or more and is reaching the end of its life expectancy. The Plan describes scope and breadth of the City's essential stormwater infrastructure. It also makes recommendations on how to avoid system failure and potential damage to public and private property through the creation of an asset management program designed to thoroughly inspect and assess City stormwater assets and develop a proactive repair and replacement program.
- **Stormwater Capital Improvement Project (CIP) Program:** The Plan identifies and evaluates existing drainage issues within the City's municipal stormwater system. The Plan then proposes solutions to these issues and ranks these improvement projects. The Plan also makes a recommendation that the City develop a formal Stormwater CIP program and update the program annually, or as necessary to respond to new stormwater issues with projects and funding plans. Stormwater Projects Identified – South 204th Street Pond – \$270,000, Des Moines Memorial Drive (DMMD) Manhole - \$270,000, South 182nd Street Catch Basins – \$13,000, South 138th Street Pipe - \$140,000, and Military Road South/South 150th - 152nd Streets Drainage Improvements - \$750,000.
- **Private Property Policy:** The City does not have a clear, written policy in regards to drainage problems on private property and there is a need for a policy so staff can fairly and consistently respond to requests from private property owners. The Plan identifies the factors limiting the utility's ability to spend public funds on private property and recommends a policy to clarify under what conditions the City may spend public funds to address stormwater issues on private property.

Agenda Bill #3523 (Continued):

In summary, this plan is a programmatic document for the Surface Water Utility, which does not establish new policies or create new laws. The program evaluations and recommendations contained within it are intended to serve as a strategic guide for the utility into the future.

The Plan will be completed within the \$205,334 authorized by City Council. The acceptance of the Plan, by itself, does not commit the City to any further financial expenditures. The surface water rate study will be used to evaluate the costs for implementing the recommendations identified in the plan.

Stormwater Compliance Manager Robinett introduced Herrera Environmental Project Engineer Rebecca Dugopolski. Mr. Robinett reviewed the agenda bill summary.

Council discussion ensued regarding the Surface Water Plan.

Council consensus: Refer this to the 07/23/13 RCM Action Item

The following two agenda bills were discussed together.

Agenda Bill #3526; An Ordinance setting minimum employment standards for hospitality and transportation industry employers

Summary: An Ordinance proposed by Initiative petition titled "Ordinance Setting Minimum Employment Standards for Hospitality and Transportation Industry Employers" was received by the City on June 5, 2013. The Director of King County (KC) Department of Elections issued a certificate of sufficiency dated June 20, 2013. On June 28, 2013, City Clerk Kristina Gregg also issued a Certificate of Sufficiency. Therefore, this initiative is required to be placed on the Council agenda for consideration by the Council.

The City Council has two options with regard to this Ordinance. The first option is to adopt the Ordinance as written. The second option is to refer the Ordinance to the voters at the November General Election. Any action related to this Ordinance must be completed by August 6, 2013. Since the last Regular Council Meeting (RCM) before this date is July 23, this Ordinance will be placed on the July 23 agenda for Council action. Should the Council decline to adopt this Ordinance as written, a second agenda item (Agenda Bill #3527) related to placing this Ordinance on the ballot will also be addressed that same evening.

This Ordinance imposes wage, benefit, and hiring restrictions upon hospitality and transportation employers. Some of the provisions of this Ordinance are highlighted below:

7.45.020 Paid Leave for Safe and Sick time. This Ordinance requires that employees of a hospitality or transportation employer accrue 1 hour of sick and safe time for every 40 hours worked. This sick and safe time can be used by the employee once earned.

7.45.050 Establish a Living Wage for Hospitality Workers and Transportation Workers. This Ordinance requires that employees of a hospitality or transportation employer must receive a minimum wage of \$15.00 per hour, adjusted annually for inflation.

7.45.040 Require that Service Charges and Tips go to those Performing the Service. This Ordinance requires that tips or service charges must be distributed to the employees who actually perform the services for customers from whom the tips are received or the service charges are collected.

7.45.030 Promoting Full-Time Employment. This Ordinance requires that hospitality or transportation employers must offer additional hours to existing part-time employees before hiring additional part-time employees or subcontractors.

7.45.060 Setting Additional Labor Standards for City Hospitality Workers and Transportation Workers. This Ordinance requires that successor employers, as defined, hire employees of predecessor employers before hiring workers off the street or transferring workers from elsewhere.

7.45.070 Employee Work Environment Reporting. This Ordinance requires hospitality and transportation employers to retain records documenting hours worked, paid sick and safe time, and wages and benefits to employees, for a period of two years. The City Manager or designee is allowed access to such records for a period of two years to monitor compliance.

7.45.080 Waivers. The provisions of the Ordinance cannot be waived in a collective bargaining agreement unless such a waiver is explicitly set forth in a bona fide collective bargaining agreement in clear and unambiguous terms. The requirements cannot be waived by workers who are not included in a collective bargaining agreement.

Agenda Bill #3526 (Continued):

7.45.090 Prohibiting Retaliation Against Covered Workers for Exercising Their Lawful Rights. This Ordinance states that it shall be a violation for hospitality or transportation Employers or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any rights of the employees. Also, taking adverse action or discriminating against a hospitality or transportation worker who has exercised in good faith the rights protected under the Ordinance is a violation of the Ordinance.

7.45.100 Enforcement of Chapter. This Ordinance provides that an employee may file a private cause of action against an employer to enforce the provisions of the Ordinance, and that they would be entitled to remedies available at law or in equity, including lost compensation, reinstatement, or injunctive relief. A plaintiff who prevails in an action against an employer would be entitled to attorney's fees.

This Ordinance also provides that the City adopt auditing procedures sufficient to monitor and ensure compliance with the Ordinance. Complaints that the Ordinance has been violated may be brought to the City Attorney, who is authorized to investigate and if deemed appropriate, initiate legal or other action to remedy the violation. The City Attorney is not obligated to expend funds or resources in the pursuit of any remedy.

7.45.110 Exceptions. This Ordinance provides that to the extent that state or federal law or regulations require the consent of another legal entity, such as a municipality, port district, or county, prior to becoming effective, the City Manager is directed to formally and publicly request that such consent be given.

During the May 14, 2014 RCM, CM Forschler requested that staff conduct an analysis of how administration of the ordinance would impact the City, if adopted. The following is a list of some potential impacts:

- The City would be responsible for determining the adjusted rates of inflation and distributing this information to impacted employers and other interested parties. (7.45.050(c)).
- The City is responsible for investigating potential violations and to monitor compliance with the requirements of the Ordinance. (7.45.070). The City may need additional resources and expertise to investigate the potential violations and to conduct the performance audits.
- The City would be required to adopt auditing procedures. (7.45.100). Development of these procedures would likely be undertaken by collaboration between the City Manager's Office, the Legal Department and the Finance & Systems Department. It is possible that outside consulting assistance could be sought in development of these procedures. In terms of investigation and initiation of legal action to remedy any violation, the City Attorney would determine the course of action, if any. Should the City Attorney deem this course of action appropriate, outside resources may be necessary.

The direct fiscal impact is unknown. While there will likely be direct costs associated with monitoring compliance of this Ordinance, it is not possible to calculate the precise cost until a plan has been developed with regard to how the Ordinance will be enforced and administered.

City Attorney Mirante Bartolo reviewed the agenda bill summary.

Council discussion ensued regarding the Ordinance. It was clarified that the City did not bring this Ordinance forward. It was written and sponsored by the Committee for Good Jobs.

Council consensus: No longer discuss this item at a Council Study Session (CSS) or Regular Council Meeting (RCM)

Agenda Bill #3527; A Resolution calling for a special municipal election to be held on November 5, 2013 on the Ordinance proposed by an initiative petition titled "Ordinance Setting Minimum Employment Standards for Hospitality and Transportation Industry Employers" and appointing committee members to prepare the statements for and against the measure for the Local Voters' Pamphlet

Summary: This Resolution calls for a special election, to be held concurrent with the November 5, 2013 General Election, on the question of whether the Ordinance proposed by Initiative petition should be adopted by the voters. In addition, this Resolution appoints committee members to prepare the statements for and against the measure for the Local Voters' Pamphlet, as authorized by Revised Code of Washington (RCW) 29A.32.280.

An Ordinance proposed by Initiative petition titled "Ordinance Setting Minimum Employment Standards for Hospitality and Transportation Industry Employers" was received by the City and the Director of KC Department of Elections issued a Certificate of Sufficiency dated June 20, 2013. On June 28, 2013, City Clerk Kristina Gregg also issued a Certificate of Sufficiency dated June 28, 2013. If the City Council does not adopt the Ordinance as

Agenda Bill #3527 (Continued): proposed, the Ordinance must be placed on the ballot, and it will be referred to as “Ballot Proposition No. 1.” This Resolution is being brought forward for Council action only if the City Council does not adopt, as written, the proposed Ordinance.

First, this Resolution calls for a special election to be held in conjunction with the November 5, 2013 General Election, for voters to consider whether the proposed Ordinance should be adopted.

Since the call for the special election will be concurrent with the general election, it is presumed by KC Elections that the City will want to have this measure listed in the voters’ pamphlet. Therefore, this Resolution appoints members to serve on the committees who would write the pro and con statements for the voters’ pamphlet. RCW 29A.32.280 provides that the legislative authority shall:

“...formally appoint a committee to prepare arguments advocating voters' approval of the measure and shall formally appoint a committee to prepare arguments advocating voters' rejection of the measure. The authority shall appoint persons known to favor the measure to serve on the committee advocating approval and shall, whenever possible, appoint persons known to oppose the measure to serve on the committee advocating rejection. Each committee shall have not more than three members, however, a committee may seek the advice of any person or persons. If the legislative authority of a unit of local government fails to make such appointments by the prescribed deadline, the county auditor shall whenever possible make the appointments.”

The City will post notice on the City website and outside City Hall, at the Community Center, at Fire Station 46, and at Valley View Library soliciting volunteers to serve on the committees with a deadline of July 16, 2013 for individuals to submit their name to the City Clerk’s Office, requesting to serve on one of the two committees.

If the City Council does not want to have this measure appear in the voters’ pamphlet, the proposed Resolution would need to be amended prior to adoption indicating the decision not to participate. The City Council races would still be included in the voters’ pamphlet regardless of the Council decision.

Following adoption of the Resolution, a certified copy shall be transmitted by the City Clerk to the King County Department of Elections. King County Elections will coordinate with the members of the two committees listed above to arrange for the statements to be prepared for the voters’ pamphlet.

The exact fiscal impact is unknown at this time. However, the cost to place this measure on the general election ballot in November, and the inclusion in the voters’ pamphlet, will be small since this will be voted on in conjunction with City Council elections.

City Attorney Mirante Bartolo reviewed the agenda bill summary.

Council discussion ensued regarding the ballot item and committees.

Council consensus: Refer this to a Council Workshop on 07/16/13 to hear public comment related to the initiative petition Ordinance and the 07/23/13 RCM Action Item

PRESENTATIONS:

•Term Sheet between the City of SeaTac and Sound Transit in anticipation of a second amendment to the South Link Development and Transit Way Agreement

Program Manager Lowry provided a brief project overview, a summary of the term sheet and the next steps.

Term sheet purpose: Identify issues to include in Second Amendment to DA, to be acted on by elected bodies in September 2013. She reviewed the departure request and the public benefit for: parking, landscaping, traffic circulation, retail, plaza, and area topography. This will be brought forward for Council action.

Next steps: Sound Transit/City administratively execute Term Sheet by July 22, Sound Transit incorporates Term Sheet into Request for Proposals in August, Sound Transit/City amend DA, incorporating revised project requirements and departures in September, Sound Transit receives proposals in October, Complete evaluation/selection in December, and board action to award contracts in March 2014.

Council discussion ensued regarding the term sheet.

PRESENTATIONS (Continued):

● **Non-Represented Job Audits**

Senior HR Analyst Johnson reviewed a Job Audit request for the Parks Operations Supervisor position. The recommendation is that the position be reclassified to Park Operations Manager and that the position be changed from salary range/step 58F to 61F as a non represented position. The fiscal impact is \$558 per month base wage for the one employee.

Council consensus: Ratify the job audit

● **Public Safety Statistics**

Assistant Fire Chief Brian Wiwel presented the statistics for June 2013, and training activities.

He reviewed the 4th of July Fire activities. There were no fire incidents or injuries on the 4th of July related to fireworks.

Police Chief Mulligan stated that on the 4th of July, Police made over 40 contacts related to fireworks, had 38 dispatched calls and confiscated 250 lbs of fireworks.

Fire Marshal Napier reviewed issues with the Angle Lake Fireworks display.

ADJOURNED: Mayor A. Anderson adjourned the Council Study Session at 6:19 p.m.