

Archived: Monday, March 23, 2020 12:21:05 PM

From: [Debbie Tarry](#)

Sent: Monday, March 23, 2020 12:03:55 PM

To: [Chris Roberts](#); [John Norris](#)

Cc: [Pollie McCloskey](#); [Heidi Costello](#); [Sara Lane](#); [Julie Ainsworth-Taylor](#); [Margaret King](#)

Subject: RE: Council questions

Sensitivity: Normal

Chris –

See responses below in red. We'll put this in the Green Folder for this item for tonight.

Debbie Tarry
City Manager
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From: Chris Roberts <croberts@shorelinewa.gov>
Sent: Sunday, March 22, 2020 5:16 PM
To: Debbie Tarry <dtarry@shorelinewa.gov>; John Norris <jnorris@shorelinewa.gov>
Cc: Pollie McCloskey <pmccloskey@shorelinewa.gov>
Subject: Council questions

Debbie,

I was wondering if you could answer the following questions about the emergency power resolution.

1) In your initial email introducing the proposal and in the staff report, you mention several issues where either you have been asked, or the staff has recommended a suspension of the Shoreline Municipal Code. Using each of those examples, can you explain which part of the SMC is proposed to be suspended and provide an explanation of why the suspension needed to occur prior to a currently scheduled council meeting.

ANSWER

- Temporary Use Permit – medical facilities and shelters are not permitted use in R-6 zoning district which is where A&B Fields are. Cost of TUP \$1632 is not subject to waiver. Fields are rented by hour, not a flat daily rate; no waiver authority. SMC 20.30.395, SMC 20.40.140, SC 3.01.010(P), SMC 3.01.300(A)(5), SMC 3.01.800
- Tax Administrative Code SMC 3.23 – Applies to utility taxes, B&O, Gambling Taxes, Business Licenses per SMC 3.23.015. Specifically SMC 3.23.040 addresses When due and payable, Reporting periods, etc.; SMC 3.23.050 is Payment Methods – requests from business to have delayed payment/reporting time. Other agencies, such as Seattle, have already provided opportunity to delay for a quarter, etc.
- Refund policies are provided through Resolution No. 451 as explained in the staff report. Other specific fee refund/waiver conditions are provided in SMC 3.01
- Retail Carryout Bag Regulations – SMC 9.25, regulations specifically in 9.25.030 and violation-penalty in 9.25.040. Requests have come from groceries in an attempt to limit exposure to their employees by not using reusable bags and wanting to provide some equity with larger costs for paper bags. Some cities have already granted waiver – others have not.

2) With regard to the development code, can you clarify the relationship between the Planning Commission and the Council. Under state law, what is required to go before the planning commission? What powers does the Council have in acting independently of the Planning Commission (I know there are certain requirements for public hearings and the Council has the ability to issue moratoriums, but I am not sure what proactive measures the Council can take).

ANSWER

Planning Commission only deals with land use regulations. RCW 35A.63 permits the City to establish a Planning Agency (Commission) to serve as an advisory body and shall have the powers/duties provided by ordinance. Chapter 2.20 SMC establishes the Shoreline Planning Commission and tasks it with preparing comprehensive plan and development regulations consistent with RCW 36.70A and providing public participation. SMC 20.30.070, 20.30.340, and 20.30.350 states forth the process – e.g. Planning Commission reviews, holds public hearing, makes recommendation to City Council, City Council reviews recommendation and makes final decision. Council can adopt a moratorium and interim zoning/land use regulations pursuant to RCW 36.70A.390 without holding a public hearing, stating forth its justifications, but must hold the hearing w/in 60 days of adoption whether or not it has received a recommendation from Planning Commission. As to the rest of the SMC, the Council can adopt ordinances when there is a designated public emergency (RCW 35A.13.190) and no public hearing is required.

3) Who has the authority to end the declaration of emergency? Does that power belong to the City Manager, or does that power solely reside in the Council? (I know the Council can decide not to extend a declaration of emergency, but if the Council were to extend the declaration for a year [as an example] and the emergency declaration was not needed for that entire length, who is able to end the declaration)?

ANSWER:

Section 4 of the City' Manager's Local Declaration of Public Health Emergency states that the declaration remains in place until terminated or extended by further resolution of the City Council. However, Resolution No. 454 states that that all acts taken consistent with the Declared Emergency are authorized until such time as the declaration has been amended, rescinded, or otherwise terminated by the City Manager or City Council. Since any modification to the March 4 Declaration would require subsequent ratification by the Council, then my conclusion is that the City Manager may terminate the declaration but it would still be subject to City Council ratification.

4) What limitations of the City Manager (other than time limits - the suspension of a provision of the SMC can extend only through the end of this resolution), are present in the text of the resolution?

ANSWER

The time limit is that no suspension/waiver can be in effect for longer than the public emergency. So whenever the emergency is declared over, any suspension/waiver would automatically terminate unless City Council extends.

The other key limit is found in Section 1(A) where it states that a suspension/waiver is only possible when "strict compliance ... would in any way prevent, hinder, or delay actions in responding to the declared public emergency."

And, of course, the other limit is in Section 1(C) with the ability of City Council to terminate an order of suspension/waiver at any time if the Council believes the action was not necessary to preserve and maintain public life, health, welfare, or peace.

Lastly, this language is pulled from the Governor's statutory powers at RCW 43.06.220(2)(g) which grants waiver/suspension authority when strict compliance with the provisions of a statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency unless the authority has been granted to another statewide elected official; would conflict with federal emergency funding conditions, or with conflict with 1st Amendment rights of speech or assembly.

Thank you,

Chris

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