

RESOLUTION NO. 2013-10

A **RESOLUTION** of the City Council of Bainbridge Island, Washington, approving the City of Bainbridge Island Shoreline Master Program Update and related amendments and directing staff to forward the draft to the Department of Ecology for state review and approval pursuant to WAC 173-26-110 and WAC 173-26-120.

WHEREAS, the Washington Shoreline Management Act (RCW 90.58, referred to herein as "SMA"), recognizes that shorelines are among the most valuable and fragile resources of the state, and that state and local government must establish a coordinated planning program to address the types and effects of development occurring along shorelines of state-wide significance; and

WHEREAS, pursuant to the SMA, the City of Bainbridge Island adopted a Shoreline Master Program (Ordinance No. 96-38) in 1996; and

WHEREAS, the SMA and WAC 173-26 require that the City of Bainbridge Island prepare and adopt amendments to the City's Shoreline Master Program that are based on state laws and rules and tailored to the specific jurisdiction to address emerging shoreline issues and revisions of the state guidelines set forth in WAC 173-26; and

WHEREAS, through four public meetings during March and April, 2010, the City developed a Public Participation Plan with the community to review and update the City's Shoreline Master Program, and the City Council adopted the participation plan on May 12, 2010; and

WHEREAS, there was extensive public participation with respect to updating the City's Shoreline Master Program, including but not limited to the following: holding public forums and open houses, meeting with property owners and forming citizen involvement committees to review and recommend amendments to the designations, policies and regulations of the Shoreline Master Program consistent with the Shoreline Management Act (RCW 90.58; WAC 173-26) through a succession of 43 public meetings from September 2010 through August 2011; and

WHEREAS, the Planning Commission reviewed the citizen committees' recommendations on amendments to the designations, policies and regulations of the Shoreline Master Program and held seventeen topic-based study sessions and other meetings on the Shoreline Master Program Update, from July 2011 through April 2012; and

WHEREAS, on March 2, 2012, a Determination of Non-Significance consistent with the State Environmental Policy Act (RCW 43.21C) was published, and no person filed an appeal; and

WHEREAS, on March 29, 2012, the Planning Commission held a public hearing on the Shoreline Master Program Update consistent with WAC 173-26-100, at which time members of the public had the opportunity to present testimony and other evidence in favor of or against the proposed amendment; and

WHEREAS, on April 12, 2012, the Planning Commission considered public testimony and other evidence submitted regarding the proposed Shoreline Master Program Update and recommended approval finding the proposed amendments consistent with the Shoreline Management Act (RCW 90.58; WAC 173-26); and

WHEREAS, from May, 2012 through April 2013 the City Council reviewed the Planning Commission's recommendation relating to the Shoreline Master Program Update and associated amendments and held eleven (11) study sessions on May 22, 2012, June 20, 2012, July 2 and 18, 2012, August 1 and 15, 2012, September 5, 2012, January 16, 2013, February 6, 2013, March 13, 2013, and April 10, 2013; and

WHEREAS, on May 8, 2013, the City Council held a duly noticed public hearing in accordance with WAC 173-26-100, and at which time members of the public had the opportunity to present testimony and other evidence in favor of or against the proposed amendments; and

WHEREAS, on May 15, 2013, the City Council considered public testimony and other evidence submitted regarding the proposed Shoreline Master Program Update; and

WHEREAS, on May 15, 2013, the City Council, after giving full consideration of all public testimony and other evidence submitted regarding the Shoreline Master Program Update, recommended approval finding the proposed amendments consistent with the Shoreline Management Act (RCW 90.58; WAC 173-26); and

WHEREAS, in accordance with WAC 173-26-100 and RCW 36.70A.106, a Notice of Intent was transmitted to the Washington State Department of Commerce; and

WHEREAS, the Notice of Intent to Adopt will be filed with the Washington State Department of Ecology as required by RCW 90.58.090; and

WHEREAS, the purpose of this resolution is to provide the approval necessary to forward the proposed Shoreline Master Program Update to the Washington State Department of Ecology for review and comment prior the City's formal adoption of the Shoreline Master Program Update in accordance with WAC 173-26-110, now, therefore,

THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND DOES RESOLVE AS FOLLOWS:

Section 1. The City of Bainbridge Island City Council intends to adopt the Shoreline Master Program Update, attached as Exhibit 1, including revisions to other related plans and codes as attached, and incorporated herein by this reference.

Section 2. In support of this resolution, the City Council hereby concludes the following with regard to the Shoreline Master Program Update approved by this resolution:

- A. Implementation of the Shoreline Master Program Update will result in “no net loss” of shoreline ecological functions relative to the established baseline and may ultimately produce an improvement in shoreline ecological functions through incentive-based restoration; and
- B. The Shoreline Master Program Update is consistent with and meets the State Shoreline Master Program Guidelines established under Chapter 173-26WAC; and
- C. The Shoreline Master Program Update is consistent with and implements the Shoreline Management Act (Chapter 90.58 RCW) and the Growth Management Act (Chapter 36.70A RCW); and
- D. The Shoreline Master Program Update is consistent with the Bainbridge Island Comprehensive Plan; and
- E. The Shoreline Master Program Update is internally consistent; and
- F. Based upon an analysis prepared by the Interim City Attorney and presented under attorney-client privilege, the Shoreline Master Program Update will not constitute an unconstitutional taking of private property in violation of RCW 36.70A.020(9), RCW 36.70A.370, and the Washington State Attorney General’s “Advisory Memorandum and Recommended Process for Evaluating Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property.”

Section 3. The Director of Planning and Community Development is authorized to forward the approved Shoreline Master Program Update and all supporting documentation required to accompany the Shoreline Master Program update pursuant to WAC 173-26-110 to the Washington State Department of Ecology for formal review and approval in accordance with WAC 173-26-120.

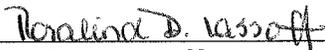
PASSED by the City Council this 15th day of May, 2013.

APPROVED by the Mayor this 15th day of May, 2013.

By: 

 Steven Bonkowski, Mayor

ATTEST/AUTHENTICATE:

By: 

 Rosalind D. Lassoff
 City Clerk

FILED WITH THE CITY CLERK:	May 10, 2013
PASSED BY THE CITY COUNCIL:	May 15, 2013
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