



CITY COUNCIL MINUTES REGULAR MEETING JUNE 18, 2019

CALL TO ORDER & ROLL CALL

Deputy Mayor Salim Nice called the meeting to order at 6:00 pm in the Council Chambers of City Hall, 9611 SE 36th Street, Mercer Island, Washington.

Mayor Debbie Bertlin (by phone at 6:02 pm), Deputy Mayor Salim Nice, and Councilmembers Lisa Anderl (by phone at 6:02 pm), Bruce Bassett, Wendy Weiker, David Wisenteiner, and Benson Wong were present.

AGENDA APPROVAL

It was moved by Wisenteiner; seconded by Wong to:

Approve the agenda as presented.

Passed: 5-0

FOR: 5 (Anderl, Bassett, Bertlin, Nice, Weiker and Wong)

ABSENT: 2 (Anderl & Bertlin)

EXECUTIVE SESSION

At 6:02 pm, Deputy Mayor Nice convened the Executive Session to discuss pending or potential litigation with legal counsel pursuant to RCW 42.30.110(1)(i) for approximately 60 minutes.

At 7:03 pm, Deputy Mayor Nice adjourned the Executive Session.

Deputy Mayor Nice convened the Regular Meeting at 7:05 pm.

SPECIAL BUSINESS

Resolutions of Appreciation recognizing Francie Lake & Cathy Gentino's Service to the City of Mercer Island

Deputy Mayor Nice read Resolution No. 1560, recognizing Assistant Finance Director Francie Lake's service to the Mercer Island Community.

Deputy Mayor Nice read Resolution No. 1561, recognizing Mercer Island School-based Counselor Cathy Gentino's service to the Mercer Island Community.

APPEARANCES

Jim Schwab, owner of a unit in the 7800 Plaza and president of the HOA, spoke about the MOU with MainStreet. He expressed concern that although it is not a binding agreement, certain things that are said become the truth but are not memorialized. He noted that the 7800 Plaza has only had one meeting with the City regarding the project. He also spoke about the emergency comprehensive plan amendment and expressed concern about the SEPA process.

Ryan Thomas, attorney with Perkins Coie, thanked the staff and Council for their efforts on the revisions to the Critical Areas code amendments and Shoreline Management Program.

Peter Struck, Concerned Citizens for Mercer Island Parks, thanked the Council for terminating the MOU with MICA.

Olivia Lippens, expressed concern about a needle being found at Lakeridge Elementary. She spoke about drug

use and camping on public grounds in Seattle. She encouraged the Council and Police to have a plan for when these issues come to Mercer Island. She asked if the transit police will be enough to bridge the gap?

Shannon Schell, requested that the Council keep the community safe and be proactive in the future. She further encouraged the Council to plan for being the last stop on the bus line and asked the City to take a strong stance against negative actions.

Beth Christofferson, thanked Councilmember Anderl for responding and listening to her concerns and expressed concern about keeping Mercer Island safe.

Genevieve Manfredo, in response to Community Facilities Zone and the Bus Intercept, expressed concern for what she believes represents choosing special interests over the interests of Mercer Island residents.

Gary Robinson, stated that the Bus Intercept creates a transit center on Mercer Island and asked who the customer is.

CONSENT CALENDAR

Minutes: June 10, 2019 Special Meeting

Recommendation: Adopt the June 10 meeting minutes as written.

AB 5581: Third Amendment to Purchase and Sale Agreement with Parkway Management Group to Develop Long-Term Transit Commuter Parking in the Town Center

Recommendation: Authorize the Interim City Manager to execute the Third Amendment to the Purchase and Sale Agreement, in substantially the form attached as Exhibit 1 hereto, to extend the Due Diligence Period to Friday, November 1, 2019.

AB 5579: Acceptance of Washington State Health Care Authority Funds for Trauma Informed Approaches

Recommendation: Accept a grant of \$50,000 from the Washington State Health Care Authority, Division of Behavioral Health, to expand the Department's work in Trauma Informed Approaches.

It was moved by Nice; seconded by Wisenteiner to:

Approve the Consent Calendar and the recommendations contained therein.

Passed 7-0

FOR: 7 (Anderl, Bassett, Bertlin, Nice, Weiker, Wisenteiner and Wong)

PUBLIC HEARING

AB 5565: Interim Design and Concealment Standards for Small Cell Facilities Deployment Ordinance

Mayor Bertlin opened the public hearing at 7:37 pm.

Joe Coco, Mercer Island, spoke in opposition the cell towers, references a recently installed cell tower near his property line that emits sound 24 hours per day. He encouraged the Council to consider how they intend to address the issue as he believes the sound is in violation of both state and federal laws.

David Kline, Mercer Island, spoke in opposition to the cell towers explaining that the cell tower in his neighbor is visually unattractive.

Kevin Chester, Mercer Island, spoke in opposition to the cell towers, explaining that it negatively effects the character of the city. He encouraged Council to slow down the process and regain control of the process. Mr. Chester also commended the City for introducing the code in January.

There being no additional public comment, Mayor Bertlin closed the public hearing at 7:46 pm.

Evan Maxim, Community Planning and Development Director, summarized the process to date, reporting that City Council adopted an interim small cell ordinance on January 15 and scheduled a public hearing within 60 days of the interim ordinance's passage as required by law, on March 5, 2019. He further explained that Ordinance No. 19C-02 was scheduled to expire on July 15, 2019, six months after adoption, unless extended by the City Council.

Director Maxim also explained that adoption of permanent design and concealment standards for small cell facilities deployment would require review, a public hearing, and a recommendation by the Planning Commission prior to City Council action. Based upon the Planning Commission's current work plan and schedule, staff recommended that the effective period of the Interim Design and Concealment Standards for Deployment of Small Cell Facilities, adopted by Ordinance No. 19C-02, be renewed for another six-month period.

It was moved by Wong; seconded by Bassett to:

Suspend the City Council Rules of Procedure 6.3, requiring a second reading of an ordinance.

Passed 7-0

FOR: 7 (Anderl, Bassett, Bertlin, Nice, Weiker, Wisenteiner and Wong)

AGAINST: 0

It was moved by Wong; seconded by Bassett to:

Adopt Ordinance No. 19-10, extending the Interim Design and Concealment Standards for Small Cell Facilities deployment established under Ordinance No. 19C-02.

Passed 7-0

FOR: 7 (Anderl, Bassett, Bertlin, Nice, Weiker, Wisenteiner and Wong)

REGULAR BUSINESS

AB 5578: REVISED Memorandum of Understanding (MOU) with Mainstreet Property Group for the Proposed Commuter Parking and Mixed-Use Project

Interim City Manager Jessi Bon introduced the following participants:

- Tom Brubaker, Lighthouse Law Group
- Kari Sand, Ogden Murphy Wallace
- Kelly Price, President, MainStreet
- Jeremy Eckert, Tharsis Law
- Craig Johnson, Heartland
- Matt Anderson, Heartland

Interim City Manager Bon summarized the project's background, benefits of a public-private partnership, and recent milestones, which included the Purchase and Sale Agreement authorized for the BP/ARCO site at the June 5 Council meeting. Bon further explained that the MOU was revised earlier in the day to include:

- Modifying some sections to improve readability;
- Adding clarifying language and additional background; and,
- Addressing scrivener's errors.

Bon summarized the MOU's highlights including, project description and goals and values, MainStreet and City obligations, expectations for the MICA and MainStreet partnership, and other sections that provided the initial framework for the future Purchase & Sale Agreement, Development Agreement, and other binding documents.

Continued discussion explained how a non-binding MOU would define what the City and MainStreet can do now to keep the project moving forward and allow for the following:

- The City of Mercer Island can resolve the outstanding issues related to the environmental site clean-up and property ownership issues.
- MainStreet can plan for delivering a mixed-use project.
- MICA can maximize the time available to develop their program and meet fundraising goals.

Staff, the City's attorneys, and MainStreet responded to Council questions, explaining that the goal is to complete the Commuter Parking Project concurrent with the opening of the Sound Transit station and in advance of the 2025 deadline for expenditure of Sound Transit settlement funds.

It was moved by Nice; seconded by Weiker to:

Authorize the Interim City Manager to execute the Memorandum of Understanding with MainStreet Property Group, LLC, in substantially the form attached as Exhibit 1, for the proposed commuter parking and mixed-use project, and direct the Interim City Manager to prepare a Purchase and Sale

Agreement, Development Agreement and related agreements for City Council consideration as soon as may be practical. This approval is contingent on adding new language that extends MICA's Section 7.3 fundraising obligations and MainStreet's Section 16 exclusivity option for each day of delay that the BP/ARCO settlement agreement extends beyond six months from the effective date of this MOU.

Passed 5-2

FOR: 5 (Bassett, Nice, Weiker, Wisenteiner and Wong)

AGAINST: 2 (Anderl & Bertlin)

AB 5582: Agreement to Terminate Memorandum of Understanding (MOU) with the Mercer Island Center for the Arts (MICA)

It was moved by Bassett; seconded by Nice to:

Authorize the Interim City Manager to execute the Termination Agreement, in substantially the form attached as Exhibit 2 hereto, to terminate the February 22, 2016 MOU with MICA..

Passed 7-0

FOR: 7 (Anderl, Bassett, Bertlin, Nice, Weiker, Wisenteiner and Wong)

AB 5580: Critical Areas Code, Shoreline Master Program, SEPA, and Ancillary Amendments (3rd Reading & Adoption)

It was moved by Wong; seconded by Wisenteiner to:

Adopt Ordinance Nos. 19C-05 and 19-07 regarding critical area, shoreline and SEPA regulations in Title 19 of the Mercer Island City Code.

Passed 7-0

FOR: 7 (Anderl, Bassett, Bertlin, Nice, Weiker, Wisenteiner and Wong)

It was moved by Wong; seconded by Anderl to:

Adopt Ordinance No. 19C-06 regarding critical area, shoreline and SEPA regulations in Title 19, as amended to include the 50% dock threshold for repair of exterior services.

Passed 7-0

FOR: 7 (Anderl, Bassett, Bertlin, Nice, Weiker, Wisenteiner and Wong)

OTHER BUSINESS

Councilmember Absences

There were no absences reported.

Planning Schedule

Interim City Manager Jessi Bon reported on the following:

- June 21, 2019 Mid-year Planning Session
- July 2, 2019 meeting is canceled
- July 16, 2019 – the two study session items will be reduced to one, Aubrey Davis Master Plan

Mayor Bertlin asked whether Council wanted to cancel one of the August meetings. It was agreed that the City Clerk would poll Council and this question would be answered later.

Mayor Bertlin asked if Chief Heitman intended to provide guidance regarding 4th of July fireworks. Interim City Manager Bon responded explaining that Chief Heitman intended to provide a report as the holiday got closer.

Councilmember Reports

Councilmember Weiker congratulated the Mercer Island High School Graduates.

Councilmember Anderl stated that she would get an update on the Utility Board's meeting.

Councilmember Wong spoke about the KC Regional Water Quality Meeting and its Clean Water Plan and the Mercer Island Chamber of Commerce membership update.

Mayor Bertlin spoke about the ETP meeting and Metro's long-range planning and the GMPV Work Session

ADJOURNMENT

The Regular Meeting adjourned at 11:26 pm.

Debbie Bertlin, Mayor

Attest:

Deborah A. Estrada, City Clerk