



CITY COUNCIL MINUTES

REGULAR MEETING

MARCH 16, 2015

EXECUTIVE SESSION

At 6:00 pm, Mayor Bassett convened the Executive Session to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency pursuant to RCW 42.30.110(1)(i) for approximately 60 minutes.

The Mayor adjourned the Executive Session at 6:55 pm.

CALL TO ORDER & ROLL CALL

Mayor Bruce Bassett called the meeting to order at 7:00 pm in the Council Chambers of City Hall, 9611 SE 36th Street, Mercer Island, Washington.

Councilmembers Debbie Bertlin, Jane Brahm, Mike Cero, Joel Wachs, Benson Wong, Deputy Mayor Dan Grausz, and Mayor Bruce Bassett were present.

SPECIAL BUSINESS

King County Councilmember Jane Hague Presentation

King County Councilmember Jane Hague spoke to the Council about current issues facing King County and her focus in 2015 on infrastructure, equality, and the quality of life. She spoke about solid waste, transportation, the emerging eastside rail corridor, Mercer Island's voice on opposing I-90 tolling, the upcoming special election for a tax lid lift to replace the first responder radio system, the Metro bus service contract and new low-income fare, and the Factoria transfer station construction. She also spoke about the issues facing the State legislature and the impacts on King County services.

APPEARANCES

Tom Acker, 2427 84th Ave SE, thanked Deputy Mayor Grausz for their discussion regarding social media. He stated that while he hates social media he has learned a lot about it. He noted that Save Our Suburbs will soon be launching their new Facebook page, thanked everyone for getting him engaged in the process, and presented a Save Our Suburbs sign to Council.

Ira Appelman, 4436 Ferncroft Road, objects to the stakeholder group method of designing the Town Center as this method has failed in the past. He questioned how much population the City is required to accept under the Growth Management Act. He spoke about Senator Horn stating that the City was not required to accept any more population under GMA, just that they must consider it. He stated that actual public involvement in the process is missing and, in the end, the City should rely on island wide surveys and an island wide advisory vote to determine the future of the town center.

David Brondstetter, 3742 77th Place SE, spoke about the Stakeholder Group Meeting. He read from a Harvard study article on overcoming opposition to multi-family rental housing. He stated that the large majority of the stakeholders were hand-selected and is curious as to how they were chosen. He believes they were selected because they are predictable and have a vested interest, and he would like to hit the reset button.

Paul Manor, 2222 78th Ave SE, spoke about the Town Center and pointed out the unique setting of Mercer Island. He also spoke about how the Hines projects buildings look and their public amenities. He asked what the rush

is when there is currently no demand. He spoke about the Seattle real estate bubble and that the market will soften right when Mercer Island is building more apartments. He stated that downtown development should look like something that Mercer Island can be proud of.

Bob Medved, 7238 SE 32nd Street, asked the Council to really look at the facts critically. He spoke about a rolling changing story which does not seem to be based on facts, but on good intentions. He asked Council that once public comments are closed, to please do not go making up new facts.

Wayne Perryman, 2760 76th Ave SE, spoke about his sons wanting to co-author a book with him about when their grandma was a little girl. He spoke about the differences between his generation and his sons' generation. He stated that legislation is dictating the quality of life. He has heard that someone has applied for a license to have a marijuana store on Mercer Island and stated that Council has to have an answer about the changing quality of life on Mercer Island.

MINUTES

Regular Meeting Meetings of March 2, 2015

It was moved by Brahm; seconded by Bertlin to:

Adopt the Revised Regular Meeting Meetings of March 2, 2015 as written.

It was moved by Cero; seconded by Wong to:

Amend the previous motion as follows:

Amend Page 4, AB 5045, add as the 2nd paragraph:

Councilmember Cero asked for clarification on the one facility per lot requirement. The intent was not to deny a property owner of the ability to construct a dock if a neighbor's dock happened to overlap or infringe upon the Islander's property.

Failed 0-7

AGAINST: 7 (Bassett, Bertlin, Brahm, Cero, Grausz, Wachs, Wong)

Passed 7-0

FOR: 7 (Bassett, Bertlin, Brahm, Cero, Grausz, Wachs, Wong)

The Council discussed Councilmember Cero's reason for the amendment and directed City Manager Treat to issue a code interpretation to clarify the one facility per lot requirement in the Shoreline Master Program.

CONSENT CALENDAR

Payables: \$716,812.50 (02/26/15) & \$119,718.19 (03/05/15)

Recommendation: Certify that the materials or services hereinbefore specified have been received and that all warrant numbers listed are approved for payment.

Payroll: \$734,753.03 (03/06/15)

Recommendation: Certify that the materials or services specified have been received and that all fund warrants are approved for payment.

AB 5035 King County Regional 2014 Hazard Mitigation Plan Update

Recommendation: Pass Resolution No. 1479, adopting the King County Regional 2014 Hazard Mitigation Plan Update.

It was moved by Bertlin; seconded by Brahm to:

Approve the Consent Calendar and the recommendations contained therein.

Passed 7-0

FOR: 7 (Bassett, Bertlin, Brahm, Cero, Grausz, Wachs, Wong)

REGULAR BUSINESS

AB 5055 Continuation of Public Hearing on Moratorium Regarding Town Center Building Permits

City Attorney Katie Knight provided a history of the moratorium regarding the Town Center Building Process. She noted that this is the continuation of the public hearing from March 3, 2015, that there are two proposed ordinances: Version A and Version B, and that a previous ordinance can only be amended by adopting another ordinance. She also noted that Version A continues with the exceptions from the March 3 ordinance while Version B removes the exceptions.

At 7:38 pm, Mayor Bassett re-opened the public hearing.

Dick Winslow, 3761 77th Ave SE, noted that the word vibrant, as it relates to the Town Center, is supposed to convey a positive meaning, but to him it means busy, crowded, noisy, and urban. He would like a modest Town Center, and suggested using words like modest or friendly instead of vibrant. He asked if the majority of people are silent, how you could know what they think. He noted that Council appropriately changed their approach when they got feedback on the library reconstruction and the paving over of Kite Hill, and urged Council to do the same for the Town Center moratorium. He asked Council to do an island-wide survey to get a large number of Islander responses.

Toni Okada, 2909 84th Ave SE, urged the Council to apply the building moratorium to everyone and not make an exception for the Hines Project. She is a member of the Stakeholder Group and has heard that people want to preserve the small town feeling and would love a town square with green space where people could meet and gather. She stated that the visioning process has resulted in a consistent vision which describes how to handle growth and development, however the intent has not been carried out for the results that the citizens would like to see. She would like to get back to that vision and stated that the moratorium should include all developers.

Sean Sussex, 8401 SE 33rd Place, spoke in support of the Hines development as it would bring new retail and new liveliness to the area. He thinks that additional free parking and new grocery stores would be great, and that as it gets denser new amenities will come. He also thinks that a denser city center will bring the types of retail that he would like to see and be able to walk to and is excited about the potential for this project.

Kayla Burtness, 9057 Shorewood Drive, stated that Mercer Island is a great place to live but wishes there were more things to go to in the downtown area. She noted that she leaves the Island to go grocery shopping and that the Park and Ride is packed with cars. She would like more parking and more amenities downtown.

Dan Kezner, 7248 SE 27th Street, grew up on Mercer Island and does not understand why people would not want the Hines development or why anyone would want to keep that block in its current state. He thanked Council and staff for working on the issue and stated that there are difficult decisions ahead. He spoke about the old places on the island and that the accessibility was not good. He noted that the increased Town Center density has made it easier to walk around and would not go to the Town Center as often if the density had not increased. He believes the Hines project will enhance the village feel of the Town Center and that Council should take advantage of this opportunity and grant them an exemption.

Marc Clausen, 6107 SE 32nd Street, suggested that there be no exceptions to the moratorium unless the legal opinion is that Hines has a vested right to a permit under the existing code. His personal concern is to have an attractive Town Center. He stated the importance of knowing where you want to end up because if you don't, you will end up with a piece-meal unattractive Town Center. He noted the importance of getting the aesthetics right and would like to see attractive buildings rather than what is currently in the Town Center.

Marc Meinzinger, 5915 80th Ave SE, spoke about the concept of a walkable downtown and noted that whatever is done downtown affects the whole island. He loves the concept of a walking environment but people also need to be able to park cars and drive through the Town Center.

Austin Cohn, 7853 27th Ave SE, spoke about his grandparents living on Mercer Island and about spending a good deal of time on the Island. His current job involves retail leasing in and around the Seattle Area and is often asked by Mercer Island residents why there is not more retail on Mercer Island. He stated that an anchor is needed and a Whole Foods on Mercer Island could be the anchor for the Town Center. He spoke about Whole Foods stores that have become anchors in other communities.

Carrie Scull, 4035 80th Ave SE, spoke about the indoor/outdoor Pybus Market in Wenatchee which created a core for the community. She thinks the area by Mercerdale Park would be a great place for a market like the one in Wenatchee and believes Mercer Island could use something like that.

Emerson Fruehling, 7360 Island Crest Way, spoke about the expansion in the Town Center attracting more families which will increase crowding at the middle school and high school. He is concerned that one-on-one time with teachers will be compromised. He spoke about construction in the Town Center and believes the City needs to halt or slow down the number of families moving here.

David Witman, 6114 92nd Ave SE, spoke in support of the development of the Town Center and the exception of the Hines project. He thinks the City needs to move forward or we will be right back where we are now and it will cost a lot more money. He is afraid that stopping the momentum will send a message to future developers and retailers that the City of Mercer Island is moving backwards.

Nancy Hewitt Spaeth, 8320 SE 34th Street, read the definition of village. She believes that Mercer Island needs to stay smaller than a town and that Mercer Island can grow, but needs to do so beautifully. She would like to attract other small businesses but the rent is too high and there are not enough people walking around downtown. She noted that building is okay just don't make the buildings so high.

Beatrice Rauch, 6010 93rd Ave SE, would like to see in writing that Whole Foods has agreed to come to Mercer Island. She agreed with the comments of Nancy Hewitt Spaeth and hopes the Council votes in favor of a moratorium.

Meg Lippert, 4052 94th Ave SE, wants a walkable downtown that she really wants to walk to, does not need a Whole Foods on Mercer Island, is not afraid to lose Hines, and thanked Council for voting for the moratorium. She does not want Council to make an exception for Hines. She thinks it is important to remember that the silent majority has a vote and that a small stakeholders group does not necessarily represent the whole community. She thinks the community should be surveyed and allowed to vote as it is more important to get it right rather than get it done quickly.

Salim Nice, 5619 89th Ave SE, is a member of the Stakeholders Group and sees the depth and breadth of work to be done. His understanding of the moratorium was to slow the process down but now he is not sure if this is the right path to go down. He spoke about 2012 school enrollment data being used in 2014 and about some of the apartment buildings not being included. He thinks the process is too rushed and the moratorium should give the City the time to sort things out.

Lynn Fruehling, 7360 Island Crest Way, supports a complete moratorium as she would like a more community and friendly based downtown area. She encouraged Council to look at the Pybus Market in Wenatchee as a model as it is a private/public partnership with a lot of small retail. She stated that Mercer Island needs a real gathering place and does not need any more housing or a huge market like Whole Foods. She noted that Mercer Island needs to support smaller local businesses and that there is a lot of talent on Mercer Island.

Marc Glasser, 3467 77th Place SE, lives close to the Town Center and supports the Hines exemption as he would like more options for services on Mercer Island. He stated that Hines has been very receptive and is listening to what the community wants. He believes the City needs to seize this opportunity to put a development on that property so that residents will have more choices. He also believes that not being able to afford a home on Mercer Island should not preclude your children from going to school on Mercer Island.

Ty Bennion, 2624 E Aloha St, Seattle, Senior Managing Director for Hines spoke about the impact on the Mercer Island School District. He noted that the information provided by Superintendent Plano and Dean Mack of the MISD stated that the Hines project would add approximately 18 students, not 206 students, to the school populations. He noted that the discussions with Whole Foods are ongoing and that there has been significant interest from other retailers which would enliven the Town Center. Hines believes that the proper solution is not a moratorium but to require projects to provide the promised benefits required under the City code.

Claus Jensen, 9325 SE 57th Street, noted that 20% of Mercer Island's population are seniors and urged Council to remember that many live on fixed incomes. He stated that developers need to pay their fair share so that there is not a tax increase for those that can least afford it. He urged Council to serve all citizens, to not cave in to a developer, and to be open and transparent about it. He asked Council to not manipulate the system

and vote for the moratorium without an exemption.

Andy Albrecht, 3234 110th Ave SE, Bellevue, Managing Director of Asset Management for Hines spoke about opponents claiming that Hines is an out-of-town, out-of-touch multi-national corporation that does not understand Mercer Island or care about the community. He noted that he grew up on Mercer Island, continues to spend time on the island, and is proud to call Mercer Island his childhood home. He also noted that his two partners, Ty Bennion and Evan Kaseguma, are Seattle natives with long standing roots in the community. This project is of the utmost importance to his firm and to him personally. He is encouraged by the progress in the Town Center, hopes that Mercer Island continues to move forward, and asked Council to please exempt Hines from the moratorium.

Tom Acker, 2427 84th Ave SE, noted that the people who work for Hines are great people. He stated that since this development is in the heart of the Town Center, everything will be impacted. He asked what this project will do for future generations, and stated that it is unknown because we do not have all of the facts and data and do not have the codes to protect our community. He stated that there is no reason or benefit to Mercer Island by making an exemption for Hines. He spoke about the risk to the community and that the mitigation fees do not sustain the proposed growth and development. He noted that Whole Foods in Bellevue is only 8 minutes away and read quotes from Whole Foods and Howard Schultz.

Tom King, 4117 83rd Ave SE, spoke in support of the Hines exemption from the moratorium. He noted that Hines has been working with the City and with his family on what needs to be done and is concerned that, if they are not exempted from the moratorium, two years of work will be lost. He asked Council to keep the ordinance as currently written.

John Houlihan, 3401 Evanston Ave N, Seattle, represents Dollar Development and requested that his client's property (Cassan/Mercer) be exempted from the moratorium. He spoke about the legal risks associated with exempting and not exempting certain developments. He presented a map of the Town Center showing large blocks with no connections between streets. He stated that the City has time as there is no cavalcade of development projects coming to Mercer Island. He noted that there are alternatives, such as eliminating and repealing the moratorium or modifying the moratorium by changing the boundaries.

Meredith Tall, 7853 SE 27th Street, spoke in favor of seeing the Hines development go through as a Whole Foods would be good for Mercer Island. She noted that it is very hard to sustain small businesses on Mercer Island and that having an anchor tenant would do a lot to get some really great business on the island.

Ira Appelmam, 4436 Ferncroft Road, spoke about the agreement that there should be a visioning process and questioned why Council would allow a big property to be developed when things are still wrong with the Town Center. He also questioned how Hines can be so committed to the project and yet will walk away if they are not exempted. He stated that there is no relationship between Hines and Mercer Island, that the relationship is between the King family and Mercer Island, and that the whole process is about money. He asked for a vote as to what Islanders think about massive five story buildings. He would like to know if Judy Clibborn did intervene in the process and asked for Council to come clean and describe their relationships with the King family.

Teresa King Goesling, 1730 W Lake Sammamish Pkwy SE, Bellevue, spoke about her connection to the Island and about trying to make things better for the community. She noted that Hines has been working hard to put a nice building on the property. She spoke about the mudslinging directed at the King family, their difficulties in developing the property, and how hard it is to be a property owner in the Town Center. She stated that her family is trying to do the best thing for the community and has really been hurt by some of the public comments.

Ben Anderson, 8750 N Mercer Way, has not seen good information convincing him that these large developments are in the long term interest of the community. He is concerned about the schools being overloaded which may ultimately decrease property values. He has not seen drawings of a place that he would really like to go and noted that most of the people who are here now will not be enjoying these building in 20 years. He noted that the purpose of a moratorium is to be really convincing and that it seems like the City is making a decision about something in a vacuum. He also noted that the Council needs to be confident that this is something the community will be proud of 20 years from now.

Lloyd Gilman, 80th Ave SE, would like a Town Center with two story buildings, retail, and office space. He suggested that Council take the advice of the City Attorney who said think about strict scrutiny, fix the current ordinance, extend the moratorium, and exclude the special interests.

Evan Kaseguma, Hines, spoke about going before the Design Commission and about the City asking Hines to look at providing public parking. He noted that Hines could have said no, but instead agreed to work with the City in good faith. Hines put their project on hold and spent money even though it was not cost effective. He stated that if Hines is not exempted, the land assemblage dies and the public benefits will be killed. He noted that killing a project of this magnitude sends a message to the region and to retailers that Mercer Island is closed for business and tells future developers that good faith negotiations with Mercer Island may not be in good faith. He asked that Council keep the Hines property exempted from the moratorium.

David Brondstetter, 3742 77th Place SE, stated that the issue is about a lack of information, what the Town Center looks like, and what the amenities are. He noted that a consistent theme at the stakeholders meeting was a need for more data on impact fees, traffic, GMA, ADU's, school impact, and impact of infrastructure. He spoke about focusing on the qualitative such as commute, Town Center experience, island schools, children's education, and quality of life for all Mercer Island residents. He noted that people who support a more vibrant Town Center still want Council to hit the pause button to extend the moratorium and include Hines, and that it is wrong to exempt one family and one developer for their financial benefit.

Cynthia Winiski, 2750 68th Ave SE, stated that the reason a City passes a moratorium is to take a time-out in order to update its codes. She does not understand why the City would enact a moratorium and then exempt a significant project both in size and location.

Carla Anderson, 6004 SE 32nd Street, thinks the moratorium is great, feels the exclusion should be upheld for the Hines project, and appreciates that Hines is willing to incorporate parking. She believes the increase in number of students that Hines stated is realistic.

Bob Medved, 7238 SE 32nd Street, questioned whether the City had a clean opinion that the Hines exemption was legal. He noted that, in a moratorium, an exemption must be related to the purpose of the statute, which in this case is to take a time out and that letting one developer build is against the purpose of the statute. He spoke about the findings of fact & conclusions of law, and that the concerns for litigation gives no facts and omits the Dollar Development project and the 2411 project, and that those projects would have legal claims under equal protection. He urged Council to stick to the facts and believes there is no way to justify an exemption.

The Mayor closed the public hearing at 9:00 pm.

Mayor Bassett spoke about the process of deciding which version of the moratorium ordinance the Council would like to adopt. The Council agreed to 1) ask questions of staff, 2) engage in discussion and debate, 3) thumbs up/thumbs down vote on which version of the moratorium ordinance to adopt, and 4) discuss Councilmember edits to the ordinance.

Councilmembers asked questions about the School District's recommendation to change the SEPA mitigation fees, if Hines would be subject to a new impact fee ordinance, what the public input opportunities are as a project goes through the review process, and the differences between parking agreements and development agreements.

Following lengthy discussion, there was Council consensus to move forward with version A of the moratorium ordinance (retaining the Hines exemption). The Councilmembers who had proposed edits to the ordinance agreed that they would dispense with their changes in the interest of time.

It was moved by Bertlin; seconded by Grausz to:

Adopt Ordinance No. 15-05 (Version A) providing Findings of Fact for the moratorium regarding the acceptance and processing of building permits in the Town Center.

Passed 5-2

FOR: 5 (Bassett, Bertlin, Grausz, Wachs, Wong)

AGAINST: 2 (Brahm, Cero)

AB 5049 Discussion of GMA Impact Fees and SEPA Mitigation Fees

DSG Director Scott Greenberg provided information to the Council regarding SEPA mitigation fees and GMA impact fees. He noted that the City collects mitigation fees under the State Environmental Policy Act (SEPA) for school, transportation, and parks projects, which requires a project by project environmental impact analysis. He noted that there is limited applicability of the fees as any development of four housing units or less is exempt from SEPA. He provided statistics on the City's SEPA determinations since 2010 and which projects were eligible to pay transportation and/or school mitigation fees.

Dean Mack, Chief Financial/Operating Officer, Mercer Island School District clarified that the District's intent is to seek mitigation fees within the Town Center. Director Greenberg also spoke about the increasing trend in the number of MISD students in the Town Center over the past nine years in relation to the increase in total MISD student population.

Director Greenberg then spoke about GMA impact fees and that they can only be used for system improvements reasonably related to the new development. He noted that the possible uses of impact fees are limited to public streets and roads, publically owned parks, open spaces and recreational facilities, school facilities, and fire protection facilities. He explained how GMA impact fees are administered and that they need to be adopted by local ordinance to be implemented. He noted that the City may want to charge impact fees to pick up all of the single family development that is not subject to SEPA mitigation fees.

Staff recommended that Council direct staff to hire a consultant to look at schools, parks (and open space and recreational facilities), and transportation impact fees. The consultant would identify eligible projects and costs related to growth, compare projected revenues from SEPA mitigation fees and GMA impact fees, and advise City Council and staff on options.

AB 5052 Town Center Design Guidelines Update Budget Authorization

DSG Director Scott Greenberg presented information regarding an appropriation for increased funding for the consultants to update the Town Center Development and Design guidelines.

It was moved by Grausz; seconded by Brahm to:

Appropriate \$51,610 for the Town Center Development and Design Guidelines update using 2014 General Fund surplus.

Passed 7-0

FOR: 7 (Bassett, Bertlin, Brahm, Cero, Grausz, Wachs, Wong)

OTHER BUSINESS

Councilmember Absences

Deputy Mayor Grausz will be absent August 3.

Councilmember Brahm will be absent May 18.

Councilmember Wachs will be absent April 20.

Planning Schedule

City Manager Treat noted that the Mini-Planning Session is set for Saturday, June 27 and there will be a Study Session on April 20 on the Growth Management Act.

Councilmembers stated that it would be good to know where Mercer Island can challenge and push back on growth management and to know what the options are for the island. It was also requested that there be a public question and answer piece to the Study Session.

Board Appointments

It was moved by Brahm; seconded by Grausz to:

Affirm the appointments of Joy Langley to Position #3 (expiring May 2015) and Rene Stratton to Position #4 (expiring May 2016) on the Arts Council, Rory Westberg to Position #4 (expiring May 2018) on the Open Space Conservancy Trust, and Lea Reule to Position #3 (expiring May 2016) and Bart Dawson to Position #8 (expiring May 2016) on the Mercer Island Library Board.

Passed 7-0

FOR: 7 (Bassett, Bertlin, Brahm, Cero, Grausz, Wachs, Wong)

Councilmember Reports

Councilmember Brahm noted that the Arts Council met on March 11 and selected the art for Mostly Music in the Park, that the damaged gateway art has been assessed and will be repaired soon, and that the fire station dedication will be the weekend after Summer Celebration. She also spoke about attending the Transportation Policy Board meeting and a number of Town Center meetings.

Deputy Mayor Grausz spoke about the first Stakeholders Group meeting, noting that the group is off to a good start and is hopeful that the upcoming meetings will be productive.

Councilmember Cero spoke about attending 3 of the 4 public outreach meetings and that attendance could have been better. He asked about public outreach with Save our Suburbs. He also spoke about the need to get the state transportation package passed.

ADJOURNMENT

The Regular Meeting adjourned at 11:45 pm.

Bruce Bassett, Mayor

Attest:

Allison Spietz, City Clerk