



CITY COUNCIL MINUTES SPECIAL MEETING FEBRUARY 13, 2017

CALL TO ORDER & ROLL CALL

Mayor Bruce Bassett called the meeting to order at 5:33 pm in the Council Chambers of City Hall, 9611 SE 36th Street, Mercer Island, Washington.

Mayor Bruce Bassett, Deputy Mayor Debbie Bertlin, and Councilmembers Dan Grausz, Jeff Sanderson, Wendy Weiker, David Wisenteiner, and Benson Wong were present.

AGENDA APPROVAL

It was moved by Wong; seconded by Bertlin to:

Approve the agenda as presented.

Passed 7-0

FOR: 7 (Bassett, Bertlin, Grausz, Sanderson, Weiker, Wisenteiner, Wong)

EXECUTIVE SESSION

Executive Session to discuss (with legal counsel) pending or potential litigation pursuant to RCW 42.30.110(1)(i) for 90 minutes

At 5:34 pm, Mayor Bassett convened an Executive Session to discuss (with legal counsel) pending or potential litigation pursuant to RCW 42.30.110(1)(i) for 90 minutes.

At 6:58 pm, Mayor Bassett adjourned the Executive Session and the Regular Meeting reconvened. The Council took a break until 7:03 pm.

REGULAR BUSINESS

AB 5256 I-90 Loss of Mobility Negotiations Status Report

Mayor Bassett provided an update from their meeting with the Governor, legislative representatives, and Transportation Secretary Millar. Mayor Bassett advised that despite both the Governor and Secretary Millar's expressed support, the planned closure of the I-90 center lanes is quickly approaching and it is now time to litigate to protect the interests of Mercer Island.

Councilmember Wisenteiner advised the Council decided during executive session to adjust the order of business, moving the public comment period to after regular business had taken place. This would allow citizens to give more relevant feedback to the Council.

City Manager Julie Underwood spoke about the status of negotiations. There was a Principal's meeting held on January 23. The City received a letter from Secretary Millar on February 1, and held a meeting and call with Governor Inslee and Secretary Millar on February 13. Currently the state plans to turn the center lanes over to Sound Transit this summer. Their current proposal is to mitigate the projects impacts through local street improvements.

She spoke about Mercer Island's legal strategy of addressing mobility issues and traffic safety concerns. The City's goal is to reach a mutually agreeable resolution. This is not an attempt to stop the light rail. She spoke about risks involved in litigation, including significant costs the City may face, and the outcome of the case is uncertain. She commented on the length of time the court process takes, which could be to Mercer Island's

benefit as it gives more time to negotiate, but litigation may also force negotiations to chill or stall as the other parties may be less willing to come to the table.

It was moved by Wisenteiner; seconded by Bertlin to:

Authorize the commencement of legal proceedings against Sound Transit and Washington State Department of Transportation (WSDOT) to enforce historic agreements related to I-90 access and to mitigate loss of mobility for traffic to and from Mercer Island due to the impending closure of the I-90 center roadway and construction of a light rail station in Mercer Island.

Passed 7-0

FOR: 7 (Bassett, Bertlin, Grausz, Sanderson, Weiker, Wisenteiner, Wong)

City Attorney Kari Sand spoke about the motion to authorize the City's Attorney's office, including outside legal counsel, to initiate legal proceedings against Sound Transit and Washington State Department of Transportation. That action is not expected to commence immediately, instead it is expected to take place by the end of the month.

Councilmember Wong and Deputy Mayor Bertlin advised of their full support of motion and action. They thanked the community for expressing their opinions to the Council and for their patience through the process.

Councilmembers Sanderson, Grausz, Weiker, and Wisenteiner expressed support of the motion.

It was moved by Wong; seconded by Weiker to:

Adopt Ordinance No. 17-05, to establish an immediate, emergency, six-month moratorium on the acceptance, processing, and approval of applications for any development or construction activity of any type, that is inconsistent with, or different from, the existing public highway use of that portion of the Public Institution zone referred to as the Mercer Island I-90 Right-of-Way. It is the intent of this moratorium, set forth in Ordinance No. 17-05, to preserve the existing status quo of the Mercer Island I-90 Right of Way so that new development regulations can be considered by the Planning Commission and City Council to regulate and adequately mitigate, as appropriate, other non-highway uses of the Mercer Island I-90 Right-of-Way within the Public Institution zone.

Passed 7-0

FOR: 7 (Bassett, Bertlin, Grausz, Sanderson, Weiker, Wisenteiner, Wong)

City Attorney Kari Sand explained the definition of a moratorium and explained that it is an interim land use control that temporarily suspends the right of property owners and developers to submit development applications and obtain development approvals while the local legislative body considers, drafts and adopts land use comprehensive plans and/or development regulations (or amendments) to respond to new or changing circumstances not addressed in current laws. The purpose of the moratorium is to preserve the status quo while that planning process occurs, it is not designed to stop the expansion of regional light rail.

City Attorney Sand advised the City will be updating the FAQ portion of the City website regarding the proposed moratoriums and there are public hearings scheduled for each moratorium on March 6.

City Manager Julie Underwood clarified that the City has some controls over what uses are approved within the City's Public Institution Zone. The moratorium will give time for the City to review whether the current zoning is adequate.

It was moved by Sanderson; seconded by Bertlin to:

Adopt Ordinance No. 17-06, to establish an immediate, emergency, six-month moratorium on the acceptance, processing, and approval of applications for certain development, with the exception of design review, that: (1) will cause any locally-owned intersection to decline below the Level of Service standards adopted by the City in the transportation element of its Comprehensive Plan; or (2) relate to the siting or development of any essential public facility. It is the intent of this moratorium set forth in Ordinance No. 17-06 to preserve the existing status quo so that new land use regulations can be considered by the Planning Commission and City Council to address both transportation concurrency, as required by the Growth Management Act (specifically, RCW 36.70A.070(6)(b)) and the siting or development of any essential public facilities, including mitigation measures as appropriate.

Passed 7-0

FOR: 7 (Bassett, Bertlin, Grausz, Sanderson, Weiker, Wisenteiner, Wong)

City Attorney Kari Sand explained that this moratorium's intent is to temporarily bar the development while the City prepares, considers, and adopts development regulations that address aspects provided for by the Growth Management Act and adopt a transportation concurrency ordinance to ensure that the City does not approve of development permits when the proposed development would cause any locally-owned intersections to decline below the City's adopted level of service ("LOS") standards, unless the impacts are adequately mitigated concurrently with the development.

City Manager Julie Underwood advised that the Growth Management Act is one area that the City is behind. There should have been a transportation concurrency ordinance on the books, so staff has been left playing catch up. One of the items identified in the final EIS for Sound Transit is the agreement that the project will have effects on the Mercer Island community, and while the City may not be able to prohibit the siting of Light Rail, the City can provide restrictions if the project impacts traffic safety.

Councilmember Wong asked City Attorney Sand under what circumstances could the time period of the moratorium be extended.

City Attorney Kari Sands advised that the moratoria can be extended if needed, depending on the pace of the work being done by the Planning Commission with regards to the zoning review. The City has to have a plan in place, the moratoria cannot be extended in perpetuity. Conversely, if the work is completed before the six-month period is up, the moratoria would need to end, because the City would no longer have need to freeze development if there is no active related zoning review.

It was moved by Grausz; seconded by Wong to:

Direct staff to prepare a letter, by tomorrow, that can be signed by all seven Councilmembers to the Sound Transit board of directors, explaining the reasoning for the actions taken tonight.

Passed 7-0

FOR: 7 (Bassett, Bertlin, Grausz, Sanderson, Weiker, Wisenteiner, Wong)

It was moved by Grausz; seconded by Sanderson to:

Direct staff to engage in a proactive communication effort with our public to advise them on the government officials they may choose to contact in order to provide their opinions on the current situation involving the closure of I-90.

Passed 7-0

FOR: 7 (Bassett, Bertlin, Grausz, Sanderson, Weiker, Wisenteiner, Wong)

It was moved by Wisenteiner; seconded by Bertlin to:

Direct the City Manager to create a plan in which the City Manager becomes the primary person in the I-90 negotiations going forward to be delivered to the City Council next week.

Passed 6-1

FOR: 6 (Bassett, Bertlin, Sanderson, Weiker, Wisenteiner, Wong)

AGAINST: 1 (Grausz)

PUBLIC COMMENT:

Carv Zwingle, 6250 East Mercer Way, spoke about traffic congestion concerns expected with the East Link Light Rail project which will affect the Town Center. He asked that Council preserve all options to mitigate loss of mobility for Mercer Island and gave several recommendations of how the City traffic grid could be improved to help mitigate traffic congestion at the 76th Ave SE entrance to I-90.

Mariya Frost, Transportation Director at Washington Policy Center in Seattle, read from prepared statement regarding I-90 East Link Light Rail Project safety concerns and questions whether the project will actually worsen traffic congestion rather than improve it. She also comments on the effects that additional traffic congestion will have on the ability to move freight through the region effectively.

Doug McKiernan, 9200 SE 70th Place, applauded the motions made by the Council prior to the public comment period. He advised he believed more money should be allocated for litigation costs regarding this issue. He expressed concerns regarding traffic congestion the project will cause in the Town Center and what that congestion will mean for emergency vehicles trying to get through.

Ira Appelman, 9039 E. Shorewood Drive, speaks about concerns regarding I-90 loss of mobility issues and the history of the project. He agreed that the issue should be litigated and asked the Council not consider trade deals that would remove or limit SOV access to the I-90 ramps.

Nancy Hewitt Spaeth, 8320 SE 34th Street, spoke about concerns for safety and property values regarding the East Link Light Rail Project and advised she is willing to donate to a litigation fund to fight to preserve SOV access.

Alex Baumgarten, 9253 SE 59th Street, commented on the Council's conversation regarding delegating authority to negotiate the I-90 litigation to the City Manager. He also recommended that the City produce an Open Letter to Sound Transit and WSDOT advising of safety concerns with the project limiting mobility of emergency vehicles.

Tomas Vetrovsky, 8515 SE 72nd Street, advised that he approves of the action taken by the Council earlier in the meeting. Requested Council take time and action to further strengthen the City's position in negotiations, to include additional funds for litigation and revoking permits if possible.

Kevin Peck, 6825 84th Ave SE, advised that he believes the City should revoke Sound Transit's shoreline permit due to misstatements that Sound Transit made when applying for the permit. He also recommended that the City seek a temporary restraining order on the project due to safety concerns additional traffic will present to pedestrians and emergency vehicles.

Elizabeth Buckley, 15 Brook Bay Road, spoke about safety concerns regarding decreased mobility for residents of Mercer Island due to the Light Rail project, as well the safety of motorist using I-90 across the floating bridge and in the tunnels because there is little to no shoulder planned.

Diana Buist, 6228 83rd Place SE, spoke about concerns with traffic congestion in the region and encouraged the Council to promote mass transit to fight this congestion. She also asked that the City consider reopening the environmental impact study. City Attorney Kari Sand spoke about plans to have City staff revisit Sound Transit's shoreline permit that was issued in July of 2017. She also spoke about plans to pursue a supplement to Sound Transit's environmental impact study.

Kevin Cobden, 2943 76th Ave SE, spoke about the need to fight Sound Transit and WSDOT and force them back to the bargaining table. He spoke about his willingness to contribute towards litigation costs, and recommended that Council request studies from the King County Sheriff, Mercer Island Police, and Mercer Island Fire to determine the financial impacts that public safety will experience from loss of mobility on the island.

Denise Cobden, 2943 76th Ave SE, commended Council for the willingness to litigate the issues with I-90. She shared concerns with Sound Transit's growth management plans and traffic congestion that will result from the planned development.

Bryan Cairns, 9115 Fortuna Drive, spoke about his desire to see the City delay the closure of the center lanes of I-90 until a new agreement can be reached and that the City attempt to get Sound Transit to commit to a reasonable timeline for the proposed closure.

Steve Hearon, 8019 SE 20th Street, advised that he is happy the Council has elected to file suit.

Carl Erickson, 7119 84th Ave SE, thanked the Council for rescheduling the meeting due to heavy snow fall the previous Monday. Expressed safety concerns for children due to new traffic congestion the project will bring. He was also concerned about traffic congestion and the affect it will have on property values.

Daniel Witmer, 8206 SE 41st Street, expressed concerns that traffic congestion will degrade the quality of life in Mercer Island. Asked Council to consider taxes to help fund litigation. Also asked Council to consider assembling a temporary I-90 Mobility Commission to help find solutions to the problem.

Gary Robinson, 6026 East Mercer Way, spoke about concerns with the potential for group think issues to arise for Council due to the number of Executive Sessions being called to discuss strategies on the I-90 litigation.

Carrie Wernick, 3422 97th Ave SE, spoke about concerns with noise pollution that will occur due to Light Rail

construction.

Jim Lovsted, 8001 84th Ave SE, spoke about concerns that not enough is being done to require Sound Transit to mitigate the impacts that I-90 Light Rail Project will have on Island traffic congestion.

Doug Cargill, 8940 SE 56th Street, expressed concerns that Sound Transit board is untrustworthy.

Tom Acker, 2427 84th Ave SE, expressed concerns with safety, mobility, and infrastructure on schools. Recommended Council allow the City Manager take the lead in I-90 negotiations and consider hiring a program manager to help with increased workload due to litigation. Requested Council fight solely for the shutdown of the closure of I-90's center lanes until an appropriate mitigation plan is in place, not for the shutdown of the Light Rail project all together.

Roger Shanafelt, 4466 Ferncroft Road, thanked the Council for their plan to file suit. Expressed that he is hopeful the City will be able to pull Sound Transit's EIS. Recommended Council consider bringing ALS service to the Island to help mitigate safety concerns for emergency vehicles trying to get on the Island.

Steve Marshall, 8150 West Mercer Way, spoke about his desire to see Sound Transit decrease the planned closure of the I-90 center lanes from 6 years, to 1 or 2 years to help mitigate the impact. Requested that Council release the draft agreement that Sound Transit walked away from so that the public can see what was offered.

Eric Rothenberg, 8284 SE 82nd Street, thanked Council for their service to the community. Thanked City staff for their work during snow storm.

David Beatty, 5419 96th Ave SE, thanked Council for their work. Expressed concerns with the length of time it has taken Council and staff to fight the Light Rail plan.

Dwight Schaeffer, 6958 96th Ave SE, requested Council to take a look at eliminating non-essential services to fund litigation and rely more on the expertise that citizens are willing to offer.

Joan Beludy, 7627 79th Ave SE, recommended Council consider bringing in other eastside municipalities that will be affected by the traffic impacts so they can share in the litigation costs.

Traci Granbois, 8440 SE 82nd Street, thanked Council for their service and City staff for their excellent response to the snow storm. Requested Council consider recording planning sessions in the future.

Laura Althoff, 7442 North Mercer Way, praised the Council and citizens for working towards interactive communication.

Subeer Manhas, 48994 Forest Ave, recommended that Council take a more aggressive approach to negotiations, to include stopping Light Rail all together if that's what needed. Recommended Council assemble a citizen steering committee to aid Council with I-90 negotiation plans.

OTHER BUSINESS

Councilmember Absences

Mayor Bassett will be absent February 21

Councilmember Sanderson will be absent April 3

Planning Schedule

City Manager Julie Underwood advised that Sound Transit was invited to attend a study session on Tuesday, February 21 to discuss the questions the Council has been receiving from the public regarding the south Bellevue Park and Ride and safety. They tentatively said they would be attending, but that is now uncertain do to actions taken tonight.

City Manager Underwood also commended staff on the stellar job they did during snow event and congratulated the Youth and Family Services Foundation for raising over \$350,000.

Councilmember Sanderson commented regarding the desire for a more study sessions. He also requested an update on residential code project study session. Councilmembers Weiker, Grausz, and Wong voiced support

of a high level update regarding Residential development standards revisions currently being discussed by the planning commission. City Manager Underwood advised that she would direct staff to provide that update in a study session format at the next Council meeting.

City Attorney Sand will add the moratoria public hearings to the March 6 agenda.

Board Appointments

There were no appointments.

Councilmember Reports

Councilmember Wisenteiner commended Jason Kintner for setting up the debris collection sites to help citizens with storm cleanup. He also commended Police Officer Greg Levinson regarding a CPR/First Aid course provided over the weekend.

Councilmember Grausz provided an update from the King County Regional Policy Committee. Councilmember Grausz He also questioned whether there may be grant opportunities the City is missing out on.

Deputy Mayor Bertlin attended an ETP meeting. She noted that the GMPC meeting scheduled in February was moved to March.

Councilmember Sanderson commended Public Works staff for their performance during the snow event, City Attorney Kari Sand and staff for I-90 work, and the Arts Council for their community building work on Mercer Island Swing event.

Councilmember Weiker attended KC Emergency Advisory Committee meeting and acknowledged Jennifer Franklin's work in Emergency Management community engagement committee. She encouraged attendance at the March 2 Chamber of Commerce lunch, where City Manager Underwood will be a featured speaker.

Councilmember Wong took a tour of the EOC during the Public Safety Subcommittee meeting. She spoke about the discussion on the potential human services/veteran's levy by King County at the SCA PIC meeting.

ADJOURNMENT

The meeting adjourned at 10:22 pm.

Bruce Bassett, Mayor

Attest:

Allison Spietz, City Clerk