



# CITY COUNCIL MINUTES REGULAR MEETING NOVEMBER 16, 2015

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## CALL TO ORDER & ROLL CALL

Mayor Bruce Bassett called the meeting to order at 6:02 pm in the Council Chambers of City Hall, 9611 SE 36th Street, Mercer Island, Washington.

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

## STUDY SESSION

### AB 5126 King County North Mercer Interceptor Sewer Upgrade Project

Assistant City Engineer Anne Tonella-Howe introduced staff from King County who provided information about the King County North Mercer Interceptor Sewer Upgrade Project. They explained that they are in the early stages of determining the feasibility of replacing their aging sewer interceptor which conveys sewage from their North Mercer Pump Station across the Island to their Sweyolockyn Pump Station in Bellevue. They presented the five current alternatives for the new sewer interceptor and spoke about the implications of each.

Assistant City Engineer Tonella-Howe noted that Mercer Island staff is involved in regular conversations with King County regarding the project. She stated that staff does not have a recommendation, as all of the alternatives can all be mitigated, but the mitigation will be dependent on mutual agreement between the City and King County.

## SPECIAL BUSINESS

### Recognition of Councilmember Terry Pottmeyer's Service to the Citizens of Mercer Island

Mayor Bruce Bassett spoke about Councilmember Pottmeyer's tenure on the City Council. He noted that she has brought a thoughtful and fresh perspective to Council deliberations. He and other Councilmembers thanked her for her service. Councilmember Pottmeyer thanked the Council for the experience and the opportunity to serve.

## APPEARANCES

Carv Zwingle, 6250 East Mercer Way, spoke about an email from the Army Corps of Engineers regarding needing a permit before anything is done on the proposed MICA site.

Larry McWilliams, 6020 86<sup>th</sup> Ave SE, spoke as a veteran on behalf of Bicentennial Park. He thanked the City for the ceremony as part of Summer Celebration. He spoke about the Bicentennial Plaza next to the Recycling Center and stated that the footprint for MICA cuts across the plaza. He would like Bicentennial Park to be preserved and believes that destroying it would be disrespectful.

Janice Cohen, 4655 90<sup>th</sup> Ave SE, read a statement from Thomas Booker (9111 SE 44<sup>th</sup> Street) regarding maintaining open spaces and park land. He stated that the City will be letting down its residents if part of Mercerdale is given over to a non-park use. He believes that the proposed lease is not in the interest of Mercer Island or its residents.

Jeff Bender, 2438 71<sup>st</sup> Ave SE, learned about YTN/MICA being sited at Mercerdale Park at the candidate forum. He spoke about growing up using Mercerdale Park. He recounted the history of how MICA ended up in Mercerdale Park and stated that it seemed like a short process with limited public outreach. He asked the City to step in and conduct a public process to get input on site alternatives.

Mark Hall, 6018 East Mercer Way, spoke about his experience with ground leases. He noted that while most leases are landlord centric, the MICA lease is more tenant centric. He stated that in the interest of transparency and full disclosure, the public really wants to know how much of the park is being taken by MICA. He also stated that parking is a big issue on Mercer Island and recommended the Council not adopt this lease until parking requirements are met. He noted that these projects take longer and cost more than people think they are going to.

Steve Parkinson, 7646 North Mercer Way, spoke about being part of the group who built the recycling center. He is 100% supportive of MICA being located in Mercerdale Park and believes the center will be a great community builder. As an environmental attorney he noted that there are always issues with land leases, but this one seems to be manageable. He is hopeful that the City will move forward with this lease.

Sarah Norman, 7858 SE 28<sup>th</sup> Street, supports siting MICA at the recycling center as she believes it will enhance and support the use of the park. She stated that downtown is very quiet in the evenings and this will drive foot traffic downtown. She noted that it is a minimal taking of existing parkland, spoke about the public plaza, and believes that parking can be managed.

Shane Antos, 4545 88<sup>th</sup> Ave SE, thanked MICA for a positive vision for the arts on Mercer Island. He asked if the City is committed to an expanded role as a cultural center for arts in the region.

Nancy Hewitt-Spaeth, 8320 SE 34<sup>th</sup> Street, former YTN Board Member, spoke about a conversation she had with her daughter about people not wanting MICA sited at Mercerdale Park. She spoke in support of siting MICA at Mercerdale Park and believes it will be a beautiful amenity for the downtown area.

Ann Thompson, 9030 SE 64<sup>th</sup> Street, YTN Board Member, is passionate about MICA and is confused why people are trying to save the recycling center. She noted that there is no upheaval when another sports field is added to the community. She stated that YTN needs more space, not just theatre space, and hopes that the City can come together to support our children that are interested in the arts.

Jim Eames, 2930 76<sup>th</sup> Ave SE, spoke about his home being very close to MICA. He supports MICA and believes it will be great for the community.

June Lindsey, 8405 West Mercer Way, asked what is not to like about MICA. She stated that this is a gift from generous philanthropic members of our community who want to give something to Mercer Island. She thinks MICA would be a fabulous addition to the downtown area, to the youth, and to the community. She has objected to other parkland being given away in the past, but stated that this is for the community. She spoke about the MIVAL gallery and noted that they would also like to move into MICA.

Toby Suhm, 7819 SE 22<sup>nd</sup> Place, has been involved with the Mercer Island soccer club and notices how many of the players are also involved in various arts groups/clubs on the Island. He noted that Mercer Island youth take advantage of many athletic and artistic opportunities. He believes that MICA is an important opportunity to provide facilities for our youth to pursue their artistic endeavors.

Natalya Ageyeva, 4463 East Mercer Way, artistic director of Russian Chamber Music Foundation of Seattle, spoke about their events and that her dream is to have all of their events at MICA. She is excited about what MICA will bring to Mercer Island.

Sue Sherwood, 7444 West Mercer Way, read a letter from former Mayors Bryan Cairns, Judy Clibborn, Alan Merkle, and Elliot Newman regarding supporting the ground lease for MICA at Mercerdale Park.

Sarah Smith, 7109 84<sup>th</sup> Ave SE, is concerned that the City and the Council do not have a strategic plan for MICA, especially regarding fiscal responsibility. She questioned what will happen if MICA does not succeed and is having a hard time understanding what the Council's legacy is and what they stand for. She asked the Council to look at City codes and vision, because otherwise it appears that they are bending towards special interest groups.

Marty Gale, 9404 SE 54<sup>th</sup> Street, agrees with Larry McWilliams' comments that people are not against MICA, they are for keeping Bicentennial Plaza/Park and its history. She noted that residents should be able to weigh in if park land use is going to change. She believes that the community has not been involved enough.

Jean Majury, 4544 88<sup>th</sup> Ave SE, read a statement from George Mack (2430 76<sup>th</sup> Ave SE) regarding the draft lease between the City and MICA. He believes it is a giveaway to MICA. He asked why the City is responsible for legal and consulting costs and is worried about liability, oversight, signs and naming, etc.

Robin Parkinson, 3438 83<sup>rd</sup> Ave SE, noted that there are many people in the audience who support MICA and support Bicentennial Park. She would like to see Bicentennial Park relocated and made better for veterans and all residents.

Al Lippert, 4052 94<sup>th</sup> Ave SE, stated that the pickleball issue is resolved. He was disappointed that no one from the City Council contacted him but that he worked with City staff to resolve the issue. He read a statement from the City Attorney about certain issues not needing to be resolved before signing the MICA lease.

Brian Kuttner, 8001 SE 37<sup>th</sup> Place, spoke in favor of MICA, but noted that downtown Mercer Island property is not free. He stated the need to float a bond, calculate the costs, and put it to a vote. He believes that under the table transactions are not the right thing to do.

Ralph Bufano, 8420 SE 47<sup>th</sup> Place, spoke in support of MICA and looks at Mercer Island as a community that is looking to build a community soul. He thinks that MICA is needed to build community, is a great idea, and is good for the Island.

Meg Lippert, 4052 94<sup>th</sup> Ave SE, spoke about her correspondence with the Department of Ecology regarding the wetland at the proposed MICA site on Mercerdale Park.

Gary Robinson, 6026 East Mercer Way, spoke about a component of effective community leadership: trust. He also spoke about the recent election, the closeness of the votes, and related it to an issue of trust.

Ira Appelman, 4436 Ferncroft Road, spoke about his involvement with Mercerdale Park. He stated that Mercer Island is attractive because it isn't vibrant and does not have a soul. He believes the MICA group sees the Recycling Center as a vacant lot, when it is actually parkland that should be restored. He believes that MICA's great fear is a vote as they are not supported by the Island. He questioned whether Islanders still care about their parks and are they going to defend them.

Manny Cawaling, YTN Executive Director, spoke about finding a new home for YTN and that without MICA, YTN does not have a future. He knows that they are supported by many Islanders and they are here for the kids.

Phoenix Smith, 6319 6<sup>th</sup> Ave NE, Seattle, works on Mercer Island at the School District and YTN, spoke about what MICA will offer this community. He stated that the kids on Mercer Island are a pleasure to work with and that this is an opportunity for a legacy. He also spoke briefly about the Mercer Island Comprehensive Plan amendments.

Bob Medved, 7238 SE 32<sup>nd</sup> Street, noted that people believe that MICA is good but that the conversations have been misdirected. He stated that there has been no cost analysis for the current or future costs of MICA. He was told that MICA is redesigning the building and that no one has seen the construction or operating budget from MICA. He stated that the wetland issue is critical, they are not just marshes and are protected by the GMA.

## **MINUTES**

### **Regular Meeting Minutes of October 19, 2015**

It was moved by Bertlin; seconded by Grausz to:

**Adopt the Regular Meeting Minutes of October 19, 2015 as written.**

Passed 7-0

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

### **Regular Meeting Minutes of November 2, 2015**

It was moved by Brahm; seconded by Grausz to:  
**Adopt the Regular Meeting Minutes of November 2, 2015 as written.**  
Passed 7-0  
FOR: 7 (Bassett, Berlin, Brahm, Cero, Grausz, Pottmeyer, Wong)

## CONSENT CALENDAR

### **Payables: \$200,036.01 (11/05/15) & \$204,739.87 (11/10/15)**

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

### **Payroll: \$766,502.96 (11/13/15)**

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

### **AB 5131 WRIA 8 Interlocal Agreement**

**Recommendation:** Authorize the City Manager to sign the 2016-2025 WRIA 8 Interlocal Agreement with the WRIA 8 Salmon Recovery Council.

### **AB 5130 Resolution Setting Public Hearing Date for the Assumption of the Mercer Island Transportation Benefit District**

**Recommendation:** Adopt Resolution No. 1508 setting December 7, 2015, 7:00 pm in the City Hall Council Chambers as the time and place for the public hearing on the proposed assumption of the Mercer Island Transportation Benefit District.

It was moved by Grausz; seconded by Brahm to:  
**Adopt the Consent Calendar and the recommendations contained therein.**  
Passed 7-0  
FOR: 7 (Bassett, Berlin, Brahm, Cero, Grausz, Pottmeyer, Wong)

## AGENDA AMENDMENT

Deputy Mayor Grausz requested that the following item be added to the agenda: Proposed moratorium on the acceptance of applications for subdivisions under Ch. 19.08 MICC and lot coverage deviations under MICC 19.02.020(D)(3). Councilmember Pottmeyer agreed. Mayor Bassett added it as the last item of Regular Business.

## REGULAR BUSINESS

### **AB 5133 Discuss the Draft Ground Lease Between the City and the Mercer Island Center for the Arts ("MICA") for a Portion of Mercerdale Park**

City Attorney Kari Sand provided background information about the Mercer Island Center for the Arts (MICA) and she reviewed key terms of the proposed lease for MICA at the Recycling Center site at Mercerdale Park.

John Gordon Hill and Josh Rosenstein from MICA, spoke to the Council about timing for the approval of the lease. They noted that once Council agrees to the concept of the lease, then MICA and the City will work through the issues. He explained that the issues may not be resolved for months, but preliminary approval of the lease will allow MICA to start fundraising for construction costs.

City Attorney Sand noted that there are three major issues to work through with MICA for the lease: 1) the wetland; 2) parking; and 3) zoning. She suggested working through the issues in that order and then addressing the other issues and concerns raised by Council regarding City use of the facility, fees, and scheduling.

City Manager Treat noted that negotiations are on-going. He suggested the Councilmember send him their comments and questions about the lease and he and the City Attorney will work through them with MICA during negotiations. He stated that he is unsure when the lease will be coming back to the Council.

## **AB 5127 Continuation of Public Hearing on Moratorium Regarding Town Center Building Permits (2nd Reading)**

City Attorney Kari Sand spoke about the changes made to the moratorium ordinance since the November 2 Council Meeting by adding language about the acceptance or processing of conditional use permits for parking in the Town Center.

The Mayor continued the public hearing at 9:48 pm.

Bruce Lorig, stated that he has extensive experience in planning issues. He has looked at the Comprehensive Plan and notes that it has two objectives that are incompatible with each other. He stated there is a conflict between having a walkable town center and for low-rise buildings (parking issues).

Joh Houlihan, from Houlihan Law, stated that he is renewing his request on behalf of his client that the Council consider revising the boundary for the moratorium to exclude properties north of SE 27th Street.

Leon Cohen, agrees with John Houlihan's comments to move the northern boundary of the moratorium to exclude properties north of SE 27th Street.

Ira Appelman, 4436 Ferncroft Road, stated that the Council needs to look back at decisions that did not work out well and figure out why the decision did not go well. He spoke about the moratorium starting with 4 months, even though staff suggested longer and now the Joint Commission needs more time to review the information and make decisions.

Mayor closed public hearing at 9:59 pm.

It was moved by Grausz; seconded by Brahm to:

**Adopt Ordinance No. 15-20 to renew the moratorium on Town Center building and land development permits for an additional six month term and to amend the moratorium's scope to include conditional use permits for parking in the Town Center zone.**

Passed 7-0

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

## **AB 5134 I-90 Loss of Mobility Negotiations Status Report**

City Manager Noel Treat provided an update about negotiations with Sound Transit. He noted that WSDOT has not participated in the negotiations to date. He reference the recently completed I-90 Loss of Mobility Issues List that will help guide the negotiation discussions.

Council requested that the term "TOD" is replaced with "multi-use" in relation to alternatives for commuter parking in the Issues List.

## **AB 5132 Public Hearing: 2015-2016 Mid-Biennial Budget Review**

Finance Director Chip Corder provided an overview of the 2015-2016 mid-biennial budget review.

The Mayor opened the public hearing at 10:19 pm.

Ira Appelman, 4436 Ferncroft Road, stated that he would like to see a breakout of the community center subsidy in the budget and not have it be part of the Parks and Recreation budget. He would also like to see the budget presented in a way that the average person could understand, including the costs of living on the Island (taxes, fees, etc.)

The Mayor closed the public hearing at 10:22 pm.

Director Corder reviewed the 3rd Quarter 2015 Financial Status Report, noting the projected General Fund surplus for 2015 and a breakdown of the revenue surplus. He noted the previously approved and new requests in the 2015-2016 budget amending ordinance. He spoke about the following 2015-2016 budget issues: 2016 biennial citizen survey, YFS Fund deficit and Water Quality Technician position.

Director Corder then guided the Council through resolutions and ordinances to be adopted relating to: 2015-2016 budget amendments, 2016 NORCOM budget approval, setting 2016 utility (water, sewer & storm) rates, 2016 property tax levy resolution (finding of substantial need to set 2016 levy limit at 101%) and 2016 property tax levy ordinances.

It was moved by Brahm; seconded by Wong to:

**Suspend the City Council Rules of Procedure 5.2, requiring a second reading for an ordinance.**

Passed 6-1

FOR: 6 (Bassett, Bertlin, Brahm, Grausz, Pottmeyer, Wong)

AGAINST: 1 (Cero)

It was moved by Bertlin; seconded by Wong to:

**Adopt Ordinance No. 15-25, amending the 2015-2016 Budget.**

Passed 6-1

FOR: 6 (Bassett, Bertlin, Brahm, Cero, Pottmeyer, Wong)

AGAINST: 1 (Grausz)

It was moved by Bertlin; seconded by Wong to:

**Pass Resolution No. 1506, which approves NORCOM's 2016 budget allocation to the City of Mercer Island.**

Passed 6-1

FOR: 6 (Bassett, Bertlin, Brahm, Grausz, Pottmeyer, Wong)

AGAINST: 1 (Cero)

It was moved by Bertlin; seconded by Brahm to:

**Pass Resolution No. 1503, which establishes classifications of water users and a schedule of charges for water usage, a schedule of rates for fire service, a schedule of special service charges, meter and service installation charges, and connection charges effective January 1, 2016 and thereafter.**

Passed 7-0

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

It was moved by Bertlin; seconded by Brahm to:

**Pass Resolution No. 1504, which establishes rates and connection charges for sewerage disposal services provided by the City of Mercer Island effective January 1, 2016 and thereafter.**

Passed 7-0

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

It was moved by Bertlin; seconded by Brahm to:

**Pass Resolution No. 1505, which establishes the bi-monthly service charge for storm and surface water services provided by the City of Mercer Island effective January 1, 2016 and thereafter. .**

Passed 7-0

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

It was moved by Bertlin; seconded by Brahm to:

**Pass Resolution No. 1507, which makes a finding of "substantial need" to set the 2016 levy limit at 101 percent.**

Passed 6-1

FOR: 6 (Bassett, Bertlin, Brahm, Grausz, Pottmeyer, Wong)

AGAINST: 1 (Cero)

It was moved by Bertlin; seconded by Brahm to:

**Adopt Ordinance No. 15-26, which appropriates funds and fixes the amount of property taxes to be levied for the year 2016.**

Passed 6-1

FOR: 6 (Bassett, Bertlin, Brahm, Grausz, Pottmeyer, Wong)

AGAINST: 1 (Cero)

It was moved by Bertlin; seconded by Brahm to:

**Adopt Ordinance No. 15-27, which identifies the dollar amount and percentage increases of the regular property tax levy and the levy lid lifts for the year 2016.**

Passed 6-1

FOR: 6 (Bassett, Bertlin, Brahm, Grausz, Pottmeyer, Wong)

AGAINST: 1 (Cero)

#### **AB 5128 Parks Impact Fees Ordinance (1st Reading)**

Development Services Director Scott Greenberg presented an ordinance amending Title 19 of the Mercer Island City Code (MICC) to would adopt impact fees for publicly owned parks, open space and recreational facilities. He spoke about the Planning Commission's recommendations that (1) the impact fee shall only apply to residential development, (2) the exemption shall not apply to transitional housing and (3) eliminate the impact fee for non-residential land uses.

It was moved by Brahm; seconded by Wong to:

**Set Ordinance No. 15C-22 for second reading at the City Council's December 7, 2015 meeting.**

Passed 4-3

FOR: 4 (Bassett, Bertlin, Brahm, Grausz)

AGAINST: 3 (Cero, Pottmeyer, Wong)

#### **AB 5129 Transportation Impact Fees Ordinance (1st Reading)**

Development Services Director Scott Greenberg presented an ordinance amending Title 19 of the Mercer Island City Code (MICC) to would adopt impact fees for transportation facilities (public streets and roads). Director Greenberg will provide additional information regarding impact fees on accessory dwelling units at second reading.

It was moved by Pottmeyer; seconded by Grausz to:

**Set Ordinance No. 15C-23 for second reading at the City Council's December 7, 2015 meeting restoring the exemptions for senior housing, shelters or dwelling units for temporary placement, accessory dwelling units, and transitional housing facilities.**

It was moved by Pottmeyer; seconded by Wong to:

**Call the question.**

Passed by super majority vote.

Main Motion Passed 5-2

FOR: 5 (Bassett, Bertlin, Brahm, Pottmeyer, Wong)

AGAINST: 2 (Cero, Grausz)

#### **No AB Moratorium on the Acceptance of Applications for Subdivisions and Lot Coverage Deviations**

Deputy Mayor Grausz presented an ordinance for a six-month moratorium on the acceptance of applications for subdivisions under Ch. 19.08 MICC and lot coverage deviations under MICC 19.02.020(D)(3). He stated that he added this to the agenda as he is concerned about development problems on First Hill and that construction is changing the character of the neighborhood. He noted that the biggest impact is short plats, as they add more houses and that trees end up being on lot lines and in inconvenient places once the lot are redrawn. He also noted that the current code does not give staff a lot of tools to address the issues.

Development Services Greenberg spoke about current applications for short plats and deviations that have been accepted and are under review. He also noted that there have been nine short plats applications and 23 deviation applications in 2015.

It was moved by Cero; seconded by Grausz to:

**Set Ordinance No. 15-28 for second reading at the December 7 City Council Meeting regarding a six-month moratorium on the acceptance of applications for subdivisions under Ch. 19.08 MICC and lot coverage deviations under MICC 19.02.020(D)(3).**

## **EXECUTIVE SESSION**

At 12:27 am, the Mayor called an Executive Session for 10 minutes 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).

At 12:37 am the Mayor extended the Executive Session for a period of 10 minutes, until 12:47 am.

At 12:43 am, the Mayor adjourned the Executive Session.

The Regular Meeting resumed.

Motion Passed 5-2

FOR: 5 (Brahm, Cero, Grausz, Pottmeyer, Wong)

AGAINST: 2 (Bassett, Bertlin)

## **OTHER BUSINESS**

### **Councilmember Absences**

There were no absences.

### **Planning Schedule**

City Manager Treat noted that the 2016 Planning Session is set for January 22-24, 2016.

Deputy Mayor Grausz reminded staff that a briefing on conservation easements is needed before the Council considers approval of the final Coval Long Plat. City Attorney Sand agreed that a Council briefing will be scheduled before final plat approval.

### **Board Appointments**

There were no appointments.

### **Councilmember Reports**

Councilmember Wong spoke about: the King County Mental Substance Abuse Legislative Forum; SCA meeting and committee member orientation; and SCI PIC legislative priorities.

Councilmember Bertlin spoke about: GMPC meeting regarding affordable housing in King County; the ETP meeting regarding I-405 tolling early results; the Utility Board meeting regarding rate reductions; and the Public Safety Committee meeting.

Councilmember Cero spoke about the Public Safety Committee's discussion on cameras on school bus paddles and the EIS for the Energize Eastside.

Councilmember Brahm spoke about the candlelight ceremony for the Paris tragedy.

## **ADJOURNMENT**

The Regular Meeting adjourned on Tuesday, November 17, 2016 at 12:53 am.

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Bruce Bassett, Mayor

Attest:

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Allison Spietz, City Clerk