



# CITY COUNCIL MINUTES

## STUDY SESSION & REGULAR MEETING

### MAY 4, 2015

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#### STUDY SESSION

Deputy Mayor Dan Grausz called the Study Session to order at 6:00 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, and Deputy Mayor Dan Grausz were present. Mayor Bruce Bassett was absent.

#### **AB 5064 Cross-Connection Control Program Update**

Deputy Finance Director Francie Lake introduced staff and Utility Board Chair Ben Levie. She spoke about the fundamentals of cross connections including residential and commercial cross connections, backflow, and backflow preventer assemblies. She provided some background on the City's Cross-Connection Control Program (CCCP). She spoke about the City's current program and the three ways in which the City works to prevent backflow events, backflow device statistics, and backflow customer statistics. She noted that, with the water contamination event last fall, the Department of Health recommended that the City review its high hazard properties and thus the City formed a cross-departmental review team which has focused on three areas: updating the City's ordinance and program, education, and surveys. She spoke briefly about high health hazards, including lakefront properties, lakefront properties backflow status, and commercial properties, and enforcement.

Assistant City Attorney Christina Schuck spoke about enforcement, stating that the City's current ordinance declares an unlawful cross-connection to be a misdemeanor and that the proposed ordinance would change it to a fine. She also spoke about the right to inspect premises and the three means of enforcement.

Deputy Finance Director Lake asked for direction from Council on four questions.

The Study Session adjourned at 6:57 pm.

#### **CALL TO ORDER & ROLL CALL**

Deputy Mayor Dan Grausz called the meeting to order at 7:10 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, and Deputy Mayor Dan Grausz were present. Mayor Bruce Bassett was absent.

#### **SPECIAL BUSINESS**

##### **Staff Recognition**

Police Chief Ed Homes recognized Sergeant Brian Noel for his time serving as the leader of the Special Operations Team (SOT). He stated that the SOT is comprised of nine officers who have received specialized training in tactical scenarios. He noted that the SOT has been used for some higher risk search warrants, demonstrations, crowd control, and some dignitaries' security, conducts risk assessments for schools, and they train other officers. He also noted that Sergeant Noel joined the MIPD in 1991 and joined the SOT 19 years ago, and spoke about his job duties and accomplishments as the team leader. Council presented a plaque to Sergeant Noel in recognition of his service to Mercer Island on the SOT.

City Manager Noel Treat noted that this will be City Attorney Katie Knight's last meeting, that she has served Mercer Island for 10 years as both an Assistant City Attorney and City Attorney, and that she will be missed as an attorney, a colleague, and as a friend. Deputy Mayor Grausz presented a crystal cut vase to Katie in recognition of

her outstanding service to the City of Mercer Island.

Deputy Mayor Grausz noted that what makes Mercer Island so special is the people who work for the city to make sure that the quality of life is great. He thanked Katie for her diligence in working with the Council, recognized the difficulty of her job, and wished her the best in her retirement.

Councilmembers each expressed their thanks and congratulations to Katie Knight on her service and retirement and thanked Sergeant Brian Noel for his time serving as the leader of the Special Operations Team.

### **Safe Boating Week Proclamation**

Deputy Mayor Grausz read a proclamation declaring May 16-20, 2015 as Mercer Island Safe Boating Week and encouraged all of Mercer Island's residents to dedicate themselves to learning about and practicing safe boating including wearing life jackets.

### **Blue Planet Recycling Award**

Janet Pritchard with Republic Services noted that Department of Ecology statistics show that the United States residential customer diverts only 35% from the landfill while on Mercer Island that number is 65%, which makes Mercer Island a Class A city. She presented Mercer Island with the 2014 Blue Planet Award.

## **APPEARANCES**

There were no appearances.

## **MINUTES**

### **Regular Meeting Minutes of March 16, 2015**

It was moved by Brahm; seconded by Wong to:

**Adopt the Regular Meeting Minutes of March 16, 2015 as written.**

It was moved by Cero; seconded by Wong to:

**Amend Previous motion as follows:**

**Amend Page 1, Special Business, Jane Hague Presentation, by adding:**

**Additionally, she said Mercer Islanders are seeing first hand that the Legislature is not fulfilling their promise to King County Citizens to provide the resources to accommodate increased growth in the urban areas that don't satisfy the quality of life that many are looking. "And that you are not alone."**

Passed 5-1

FOR: 5 (Bertlin, Brahm, Cero, Wachs, Wong)

AGAINST: 1 (Grausz)

ABSENT: 1 (Bassett)

Passed 6-0

FOR: 6 (Bertlin, Brahm, Cero, Grausz, Wachs, Wong)

ABSENT: 1 (Bassett)

### **Regular Meeting Minutes of April 20, 2015**

It was moved by Brahm; seconded by Cero to:

**Adopt the Regular Meeting Minutes of April 20, 2015 as written.**

It was moved by Bertlin; seconded by Cero to:

**Amend Previous motion as follows:**

**Amend Page 3, Regular Business, AB 5051, to add:**

**Councilmember Bertlin expressed her concerns over a lack of enforcement ability and that people will set off fireworks irrespective is insufficient justification for permitting.**

Passed 5-0  
FOR: 5 (Bertlin, Brahm, Cero, Grausz, Wong)  
ABSENT: 1 (Bassett)  
ABSTAIN: 1 (Wachs)

Passed 5-0  
FOR: 5 (Bertlin, Brahm, Cero, Grausz, Wong)  
ABSENT: 1 (Bassett)  
ABSTAIN: 1 (Wachs)

## CONSENT CALENDAR

Councilmember Wong requested removal of AB 5061: 1% for the Arts Funding Approval for Sculpture Purchase from the Consent Calendar. Deputy Mayor Grausz moved it to the first item of Regular Business.

### **Payables: \$1,297,857.68 (04/23/15) & \$287,258.00 (04/30/15)**

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

### **Payroll: \$755,384.27 (05/01/15)**

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

It was moved by Brahm; seconded by Bertlin to:

**Approve the Consent Calendar and the recommendations contained therein.**

Passed 6-0  
FOR: 6 (Bertlin, Brahm, Cero, Grausz, Wachs, Wong)  
ABSENT: 1 (Bassett)

## REGULAR BUSINESS

### **AB 5061 1% for the Arts Funding Approval for Sculpture Purchase**

Councilmember Wong asked about the significance of the foxes sculpture, what the process is for selecting their location, and when that might occur. Councilmember Brahm responded.

It was moved by Wong; seconded by Bertlin to:

**Approve the purchase of Twin Foxes sculpture, a pedestal/base, and a plaque from the 1% for Arts Fund in the amount of \$3,300.00.**

Passed 6-0  
FOR: 6 (Bertlin, Brahm, Cero, Grausz, Wachs, Wong)  
ABSENT: 1 (Bassett)

### **AB 5068 Update on Sound Transit Bus Intercept Proposal and Commuter Parking**

Deputy Mayor Grausz spoke about meeting with Sound Transit and Metro and that the City had a firm reaction to what Sound Transit was proposing for the bus intercept on Mercer Island. He noted that it was far outside what the Council and the community would find acceptable. Councilmember Bertlin spoke about the four categories of concern and the recommendation to communicate that what the City saw was untenable. She reiterated that there is no inherent value in the bus intercept as it stands and that equal, if not greater, commensurate mitigation must be offered.

Discussion followed regarding the drafting of the Sound Transit letter.

It was moved by Brahm; seconded by Wong to:

**Concur with the recommendations in the report and direct the City Manager or Mayor to draft a letter expressing the recommendations including a request for a response from Sound Transit in writing.**

Passed 6-0

FOR: 6 (Bertlin, Brahm, Cero, Grausz, Wachs, Wong)  
ABSENT: 1 (Bassett)

### **AB 5067 2015 Periodic Comprehensive Plan Update (1st Reading)**

Deputy Mayor Grausz stated that there will be no final action on the Comprehensive Plan this evening and that the Council may decide that there will be no final action at their review on June 15 either. He noted that in putting together the discussion topics, he has purposely tried to avoid the areas that the current Town Center Visioning process is undertaking.

DSG Director Scott Greenberg noted that Washington State currently requires all cities to update their Comprehensive Plan every eight years. He spoke about the minimum required updates, the scope of work, the Planning Commission review and their review timeline, the proposed changes, and next steps. He also spoke about the implications of Council delaying adoption of the Comprehensive Plan past June 30, 2015.

Planning Commission Vice-Chair Richard Weinman noted that the Planning Commission was frustrated with "review light" as there were other areas and edits they wanted to review and make. He stated that they spent a fair amount of time discussing how the Growth Management Act works and what the Planning Commission could and couldn't do. He spoke about the GMA targets and about Mercer Island accepting the target while also saying that Mercer Island is approaching build out.

DSG Director Greenberg recommended approving the current changes by June 30, 2015 and then come back in 2016 with further changes.

Joe Jacobazzi with KPG provided an update of the transportation element of the Comprehensive Plan. He noted that KPG updated all of the traffic count information, incorporated all the regional projects that impact Mercer Island, worked with the new growth rates for future analysis of traffic volumes, and updated any land use changes. He spoke about changing the standard from LOS C to LOS D at arterial intersections, the LOS criteria for intersections, and the potential improvements that would be needed to meet LOS D. He also spoke about what other cities are doing and why Mercer Island would decide not to continue with LOS C and change to LOS D.

### **Public Comment**

Bob Medved, 7238 SE 32<sup>nd</sup> Street, spoke about RCW 36.78.300, noting that the only thing that will happen if the City doesn't meet the deadline is that they could be taken to the Hearings Board, and that the only thing the Hearings Board can do is to remand it back and give the City 180 days to comply. He noted that if the City is still not done, then the Hearings Board can have a compliance hearing and can recommend sanctions. He stated that once the City adopts or amends a comp plan, no further changes can be made for a year. He spoke about the concept of concurrency and consistency with the Growth Management Act.

John Scherzo, 9 Holly Lane, encouraged Council to look at something other than mitigation and to look for alternatives, as Bellevue is an excellent alternative for a bus terminal.

Meg Lippert, 4053 94<sup>th</sup> Ave SE, thanked Council for an excellent report about the bus intercept. She is concerned that the Hines project will increase the number of stories at that particular location and will have a negative effect in terms of the way the space will feel and the amount of light coming in.

Cynthia Winiski, 2750 68<sup>th</sup> Ave SE, spoke about the public being remiss in not getting involved in the Planning Commission's process throughout 2014. She acknowledged the work of the Planning Commission, staff, and Council over the past year. She asked why the City continues to spend resources to amend the comp plan if it will not be supported by city codes. She noted that adopting a plan is a big process and asked why the City is continuing the approval process knowing that they plan to do the same process in a few months.

Ira Appelman, 4436 Ferncroft Road, has been complaining about too much development on the Island for the past 18 years and the response has always been that all of the impacts have been mitigated. He believes that LOS D is not good for Mercer Island and that traffic and development in the town center have been changing the character of the island, not the changing of the LOS. He does not agree that Mercer Island should adopt a poor standard. He questioned why innovative projects are always increasing density, why can't there be an innovative project that decreases the number of people in a small area.

Michelle Goldberg, 2212 78<sup>th</sup> Ave SE, does not believe Mercer Island should go down to level of service D. She also does not believe that the bus intercept would be able to work within the existing LOS, and that it would be much harder to have the bus turnaround if the Island maintains its current level of service for transportation. In terms of innovative housing, she does not want to see micro apartments or boarding home type houses and believes there should be something in the comp plan about maximum density. She would not put off until 2016 the Town Center visioning changes.

Steve Marshall, 8150 West Mercer Way, noted that the Planning Commission had a lot to cover in 4 months. He suggested that Council take elements of the comp plan that do not deal with the Town Center and pass those changes, but then incorporate Town Center changes into the remaining elements. He has issues with how the data was gathered to recommend changing from LOS C to LOS D. He stated that if the City wants more leverage with Sound Transit on the bus intercept it should not move from LOS C to LOS D.

Salim Nice, 5619 89<sup>th</sup> Ave SE, noted that the stakeholder group has asked a lot of questions about the GMA, including many questions around growth targets. He thinks that the two are linked and that there is still a couple more months of work to be done. He also spoke about the next round of GMA targets in 2017.

Lloyd Gilman, 80<sup>th</sup> Ave SE, is opposed to "living" documents and likes to see things on paper. He believes the comp plan should be done in parts, not all at once, and that the way it is being done now is very specious.

Deputy Mayor Grausz stated that tonight's discussion would not be considered first reading since Council is not giving staff final direction, that Council will give further direction to staff at the Study Session on May 18, and that first reading will then be held on June 15.

Council agreed to continue discussions on affordable housing and cottage housing/demo project as part of the comp plan, to include a general statement regarding historical homes, and to include a policy that Council should consider impact fees and growth paying for growth, as an overriding principal.

Council agreed that Residential Zoning Outside the Town Center will not be included as part of this comp plan update.

## **OTHER BUSINESS**

### **Councilmember Absences**

Mayor Bassett's absence was excused.

Councilmember Wachs' absence was excused from the Special Joint Meeting on April 30.

### **Planning Schedule**

Deputy Mayor Grausz noted that a Study Session will be added to the May 18, 2015 meeting regarding the Comprehensive Plan.

City Manager Treat noted that impact fees and an R8A update will be added to future meetings.

### **Board Appointments**

There were no appointments.

### **Councilmember Reports**

Councilmember Bertlin spoke about becoming Vice-Chair of the GMPC caucus.

Councilmember Cero asked when the Design Commission packets are published, noted that the public is owed an update on what occurred at the April 20, 2015 Executive Session, and spoke about using the south Luther Burbank parking lot for park and ride overflow.

City Attorney Knight noted that there were two matters resolved at the April 20, 2015 Executive Session, the settlement agreement of the Calkins Landing encroachment and the settlement agreement for AT&T mobility.

Deputy Mayor Grausz spoke about the PSRC general assembly meeting. He also noted that the stakeholder group meeting will be held at 6:00 pm tomorrow night at the MICEC and that there will be a public meeting on May 11 from 5:30-7:30 pm also at the MICEC.

**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)**

At 11:01 pm, Deputy Mayor Grausz 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 10 minutes.

At 11:11 pm, Deputy Mayor Grausz adjourned the Executive Session.

**ADJOURNMENT**

The Regular Meeting adjourned at 11:12 pm.

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Bruce Bassett, Mayor

Attest:

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Allison Spietz, City Clerk