



# CITY COUNCIL MINUTES REGULAR MEETING FEBRUARY 23, 2015

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## EXECUTIVE SESSION

To discuss planning or adopting the strategy or position to be taken by the governing body during the course of any collective bargaining, professional negotiations, or grievance or mediation proceedings, or reviewing the proposals made in the negotiations or proceedings while in progress pursuant to RCW 42.30.140 (4)(b) for approximately 60 minutes.

At 6:00 pm, Deputy Mayor Grausz convened the Executive Session (as noted above) for approximately 60 minutes.

The Deputy Mayor adjourned the Executive Session at 6:58 pm.

## CALL TO ORDER & ROLL CALL

Deputy Mayor Dan Grausz called the meeting to order at 7:02 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.

## APPEARANCES

Leon Cohen, property owner where Freshy's is located, spoke about working with the City regarding developing his property. He spoke about conversations with staff, hiring architects to draw plans for the property, and the availability of WSDOT property adjacent to his. He stated that in the past eight years he has submitted seven different schemes/proposals to the City for developing the properties. He feels that his property should be exempt from the moratorium.

Dick Winslow, 3761 77<sup>th</sup> Ave SE, thinks the City needs a better community engagement process before plans are made. He stated that most Mercer Island residents are oblivious to what is being planned or proposed until a chance learning. He spoke about residents who get the word out and how learning about something belatedly causes an uproar. He believes Council only gets a limited picture of what residents want as public input opportunities are limited. He suggested using signs like during the boil water advisory event as they are helpful to get the word out on a regular basis. He thinks getting citizen input in advance would make it less likely that droves of people would come to meetings at the last minute.

Tom Imrich, 6231 Island Crest Way, believes the Council is failing to recognize that there are finite limits to growth and that serious consequences will follow. He noted the following: 1) the proposed Town Center Liaison Group is not a representation of the broader community; 2) the moratorium should be extended to the full six months with no exceptions allowed; 3) all Mercer Island zoning should be updated to reflect current "as built" density; 4) new zoning provisions or comprehensive plan updates should not be based on the 1994 Town Center Plan; 5) identify the Island's true community stakeholders – multinational corporation developers such as Hines are not true community stakeholders.

Stacey Dimak, 3230 80<sup>th</sup> Ave SE, spoke about this history of the Hines project from 2013 to present. She noted that more residential units, 5000 square feet of commercial space, and 200 parking stalls were added to the project between the 2013 concept and the 2014 concept. She does not believe the Hines project is vested under the applicable Washington State law.

Cynthia Winiski, spoke about sending findings of fact to the Council last week regarding the moratorium. She stated that her comments are not intended to be a personal attack on anyone. She spoke about vested rights, the Washington State vested rights statues, and Washington State Supreme Court opinions. She believes that the Hines project has no vested rights. She stated that City Attorney Knight did not address vested rights in relation to the moratorium.

Deputy Mayor Grausz responded that no Councilmember believed that the Hines project was vested and that the City Attorney was not withholding any information in that respect.

Evan Kaseguma, from Hines, invited the public to the Hines open house about the proposed project on February 26, 2015 from 5:30 pm to 7:00 pm.

Matt Winiski, 2750 68<sup>th</sup> Ave SE, stated that his comments are not intended to be a personal attack on anyone. He stated that Deputy Mayor Grausz, as a Washington State Bar member, did not address vested rights in relation to the moratorium.

Curtis Brown, 7015 80<sup>th</sup> Ave SE, stated that the Council meeting a month ago bothered him, as much of what the Council is hearing is emotion based and not fact based. He would like the Council to start looking at the Growth Management Act and find opportunism to push back on the Act. He noted that other cities and towns have pushed back and have been successful. He would like to see the public become better informed.

Ira Appelman, 4436 Ferncroft Road, objects to the exemption of the Hines project from the Town Center moratorium. He stated that he provided emails to the Council about a system of amenities for increased building heights. He would like the guidelines fixed before another worthless plaza or fountain is built. He noted that there is a need for mid-block connection, especially at the north corner of the proposed Hines project. He believes the Stakeholder Group is a special interests group and is influencing the public engagement process. He expressed concern that the public engagement process being adopted tonight has been developed without any public engagement.

Tom Acker, 2427 84<sup>th</sup> Ave SE, spoke about getting engaged in issues three months ago. He was disappointed after the last council meeting and the special allowances made for Hines. He stated that he will not sell the community out for Whole Foods and that Hines does not represent the Island's interests. He noted that he will be focusing on the next meeting and having the Council reconsider exempting Hines. He supports the process and will encourage people to come in with good spirits. He asked Councilmember Wong to step down from the Town Center Subcommittee and have Councilmember Cero replace him. He asked the Council to include Hines in the moratorium.

Richard Kloppenburg, 8050 84<sup>th</sup> Ave SE, reminded the Council that they have taken an oath to represent the people. He believes they are not doing that if they are representing the developers. He asked what the impact will be on the school system if all of the apartments are added and what the traffic impacts will be. Deputy Mayor Grausz responded that staff will be bringing that information back to the Council soon.

## MINUTES

### Regular Meeting Minutes of January 5, 2015

It was moved by Bertlin; seconded by Brahm to:

**Adopt the Executive Session & Regular Meeting Minutes of January 5, 2015 as written.**

It was moved by Cero; seconded by Wong to:

**Amend the previous motion as follows:**

**Amend Page 4, AB 5030, add to the 2<sup>nd</sup> Paragraph:**

**Councilmember Cero spoke about the legislative priorities he does not support. Specifically he voiced strenuous disagreement in not making SR520 funding with the State Gas tax a standalone priority; State funding of local & regional transit service; adjusting the property tax increases; and the statewide price on carbon pollution.**

Motion to Amend Passed 4-1

FOR: 4 (Brahm, Cero, Grausz, Wong)

AGAINST: 1 (Bertlin)

ABSENT: 1 (Bassett)

ABSTAIN: 1 (Wachs)

Amended Motion Passed 5-1  
FOR: 5 (Bertlin, Brahm, Cero, Grausz, Wong)  
AGAINST: 1 (Wachs)  
ABSENT: 1 (Bassett)

### **Special Meeting Minutes of January 6, 2015**

It was moved by Brahm; seconded by Bertlin to:  
**Adopt the Special Meeting Minutes of January 6, 2015 as written.**  
Passed 5-0  
FOR: 5 (Bertlin, Brahm, Cero, Grausz, Wong)  
ABSENT: 1 (Bassett)  
ABSTAIN: 1 (Wachs)

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

It was moved by Brahm; seconded by Bertlin to:  
**Adopt the Regular Meeting Minutes of January 20, 2015 as written.**  
Passed 5-0  
FOR: 5 (Bertlin, Brahm, Cero, Grausz, Wong)  
ABSENT: 1 (Bassett)  
ABSTAIN: 1 (Wachs)

### **AGENDA CHANGES**

Deputy Mayor Grausz announced that AB 5035: King County Regional 2014 Hazard Mitigation Plan Update would be moved to a future meeting and that AB 5040: Community Engagement Plan and Town Center Community Engagement Strategy would be moved up to the first item of Regular Business.

### **CONSENT CALENDAR**

Councilmember Wong requested removal of AB 5039: Water System Improvements Project Bid Award from the Consent Calendar. Deputy Mayor Grausz moved it to the first item of Regular Business.

#### **Payables: \$699,152.75 (01/29/15), \$1,038,208.02 (02/05/15), & \$358,474.31 (02/12/15)**

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

#### **Payroll: \$740,891.49 (02/06/15)**

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

#### **AB 5041 Resolution Establishing Policy for Unpaid Holidays for Reasons of Faith or Conscience for Employees**

**Recommendation:** Adopt Resolution No. 1498 Establishing Unpaid Holidays for Reasons of Faith or Conscience and authorizing the City Manager to amend the City's personnel policies, consistent with SSB 5173.

It was moved by Cero; seconded by Brahm 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 5039 2015 Water System Improvements Project Bid Award

Councilmembers asked questions about the disparity in the bid responses; the engineer's estimate being higher than the approved bid; contractors' ability to complete this large of a project in the allotted timeframe and budget; if the improvements will replace cast iron pipe; and expressed concerns about the bidding process. Assistant City Engineer Anne Tonella-Howe answered these questions.

The Council decided to put a discussion of the bidding process on the June mini-planning session agenda.

It was moved by Brahm; seconded by Bertlin to:

**Award the 2015 Water System Improvements project to Earthwork Enterprises in the amount of \$1,582,001.25, set the total project budget at \$2,398,035 and direct the City Manager to execute the construction contract.**

Passed 6-0

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

ABSENT: 1 (Bassett)

### AB 5040 Community Engagement Plan and Town Center Community Engagement Strategy

Sustainability & Communications Manager Ross Freeman presented the Community Engagement Plan that staff has developed to be used for any process warranting public input. He noted the following components of the plan: a single website starting point; custom online calendar for engagement opportunities; multiple engagement formats; and applicability to a variety of planning processes.

He detailed the components as they relate to the current focus of the Town Center Community Engagement Strategy. He explained that the single website starting point links to a focused webpage on each topic which includes: an overview, recent updates, the roadmap, how to get involved, summary of comments, and a custom calendar link. He noted that the Town Center Community Engagement Strategy calendar will include City Council, Planning Commission, and Design Commission meetings, open houses, town halls, outreach and road show dates, and other key events.

He spoke about the multiple engagement formats for collecting information and feedback: stakeholder groups, steering committees, open houses, town halls, online comment forms, email/phone call to staff and the outlets to reach the community: website, news releases, local newspaper, social media, email lists, ads/sandwich boards/flyer and direct mail.

He explained how this process will apply to the Town Center Visioning Process. He explained the roadmap of City Council topics and how all of the components of Town Center Visioning and Transportation are interrelated.

DSG Administrative Service Manager Alison Van Gorp presented a diagram for the Town Center Code Update Community Engagement Process. She noted that as part of the Community Input Process there will be a series of meetings of the Town Center Liaison Group (3 Councilmembers, 3 Planning Commissioners, and 3 Design Commissioners), the Town Center Stakeholder Group (40 people representing a cross section of the community), and public meetings for the community at large to get engaged.

Development Services Group Director Scott Greenberg, spoke about the Technical Work process by the consultant team (Seth Harry & Associated and 3 Square Blocks) and city staff to provide information and develop a design charrette with the Stakeholder Group over two days. After this the consultant team and staff will draft the design guidelines. He noted that the final, more formal piece will be the draft code that comes out of the public process. The draft code revisions will then go to public hearings in front of the Planning Commission and City Council. The final step will be for the Council to adopt the code amendments in September.

The Council asked, and staff responded to, various questions about the process, public input opportunities, posting outcomes on the website throughout the process, how to gather a cross section of the community and include local organizations for the Stakeholder Group, if the moratorium will need to be extended, and how these code changes relate to the Comprehensive Plan Update, GMA impact fees, and SEPA mitigation fees.

It was moved by Wachs; seconded by Wong to:

**Approve the February 19, 2015 draft of the Community Engagement Plan and Town Center Community Engagement Strategy as presented in AB5040.**

Passed 6-0

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

ABSENT: 1 (Bassett)

**AB 5038 Interlocal Agreement with King County for Regional Animal Control Services Two-Year Extension**

Police Operations Commander David Jokinen presented a two-year extension to the interlocal agreement with King County for Regional Animal Control Services with the same terms and conditions.

It was moved by Cero; seconded by Brahm to:

**Authorize the City Manager to sign the agreement to extend the interlocal agreement with King County for Regional Animal Control Services through December 31, 2017.**

Passed 6-0

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

ABSENT: 1 (Bassett)

**AB 5035 King County Regional 2014 Hazard Mitigation Plan Update**

This item was moved to a future Council meeting.

**OTHER BUSINESS**

**Councilmember Absences**

Mayor Bassett's absence was excused.

**Planning Schedule**

City Manager Treat noted that the Fire Union contract will be coming back to the Council and that Executive Sessions will be added to the March 2 or March 16 meeting.

Councilmember Cero asked that meetings associated with the Town Center Visioning process, Town Center moratorium, and Comprehensive Plan update be added to the planning schedule.

Deputy Mayor Grausz noted that on March 16 the Council may need to weigh in on a new county homeless strategy.

Councilmember Bertlin asked that realistic times are reflected on the planning schedule.

**Board Appointments**

Mayor Bassett presented the Town Center Liaison Group (TCLG) appointments for affirmation by the Council.

It was moved by Brahm; seconded by Bertlin to:

**Affirm the appointments of Deputy Mayor Dan Grausz, Councilmembers Benson Wong and Jane Brahm, Planning Commissioners Suzanne Skone, Steve Marshall, and Craig Olson, and Design Commissioners Rich Erwin, Lara Sanderson and Colin Brandt to the Town Center Liaison Group (TCLG).**

Passed 5-1

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

AGAINST: 1 (Cero)

ABSENT: 1 (Bassett)

**Councilmember Reports**

Councilmember Brahm spoke about the February 9 unveiling of the new logo at Farmers New World Life, the Giving from the Heart Breakfast on February 11, which raised \$160,000, the February 11 Arts Council meeting, and the February 19 Parks & Rec Subcommittee meeting.

Councilmember Cero spoke about the City of Redmond's new access to financial data. He stated that he would like to know if there has been any agreements with Hines.

Councilmember Bertlin spoke about the Parks and Rec Subcommittee and Public Safety Subcommittee meetings.

Councilmember Cero asked when the Police annual report will be scheduled.

Councilmember Wong spoke about the Paws on Patrol training and going on a wastewater treatment facility tour.

Deputy Mayor Grausz spoke about the Puget Sound Clean Air Advisory Committee meeting, bringing the county homeless strategy to the Council on March 16, the Mercer Island Library Board meeting, and soliciting questions about the library remodel to ask residents.

### **EXECUTIVE SESSION**

**To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or 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 30 minutes.**

At 9:29 pm, Deputy Mayor Grausz convened the Executive Session (as noted above) for approximately 15 minutes.

The Deputy Mayor adjourned the Executive Session at 9:44 pm.

### **ADJOURNMENT**

The Regular Meeting adjourned at 9:44 pm.

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Bruce Bassett, Mayor

Attest:

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Allison Spietz, City Clerk