



## CITY COUNCIL MINUTES SPECIAL MEETING JULY 5, 2017

### CALL TO ORDER & ROLL CALL

Mayor Bruce Bassett called the meeting to order at 6:00 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 (left at 9:49 pm), David Wisenteiner, and Benson Wong were present.

### AGENDA APPROVAL

Mayor Bassett added appearances and other business to the agenda.

It was moved by Bertlin; seconded by Wisenteiner to:

**Approve the agenda as amended.**

Passed 7-0

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

### SPECIAL BUSINESS

#### Parks and Recreation Month Proclamation

Mayor Bassett proclaimed July 2017 as Parks and Recreation Month and encourages all citizens to participate in and support the many recreation activities, events, programs and facilities by public and private agencies on Mercer Island and by attending Summer Celebration! this weekend at Mercerdale and Luther Burbank Parks.

### APPEARANCES

Johan Valentin, 4346 East Mercer Way, spoke about the side-yard setback portion of the Residential Development Standards. He requested the Council consider creating an exemption to the side-yard setback rules for properties that border greenbelts.

Vicky Harper, 9829 SE 42nd Place, spoke about the new house in her neighborhood that it "sticks out like a sore thumb." Asked Council to protect neighborhood character.

Jason & Melinda Moss, 6550 80th Ave SE, spoke about the amendment to the Crown Castle franchise agreement. Mr. Moss asked the Council to delay approving the amendment as the proposed locations of the small cell facilities violate Mercer Island City Code and Comprehensive Plan.

Charles Czech, 8434 SE 39th Street, spoke about the Residential Development Standards. He asked the Council to keep the development standards the City has today to preserve property values on Mercer Island.

Sue Sherwood, 7444 West Mercer Way, spoke about sister city, Thonon-les-Bains. She thanked the Public Works Department for the flowers in the town center.

David Hoffman, Master Builders Association, 335 116th Ave SE Bellevue, spoke about the Residential Development Standards. He presented a packet of information for the Council to review regarding the proposed code amendments. He asked the Council to focus on design aspects of development.

Dennis Dahl, 2530 70th Ave SE, read a statement from Allen Hovsepian (4344 90th Ave SE) regarding personal property rights. He believes the Residential Development Standards changes should be put in front of the

voters for approval.

Lynn Hagerman, 3058 61st Ave SE, spoke about the Residential Development Standards. She encouraged the Council to stand behind the proposed changes.

David Youssefnia, 8214 SE 30th Street, thanked the Council for their efforts in regards to the Residential Development Standards code update. He advised that the reduction of hardscape in lot coverage makes it difficult to utilize the lot and enjoy outdoor activities on the property. He asked the Council to raise the hardscape allowance to 25%.

Jenni Mechem, 8451 SE 36th Street, spoke about ADA exemption to gross floor area previously discussed by the Council. She believes that the Council should reconsider the ADA exemption with the focus being on encouraging builders to create accessible entries and doorways, to assist in travel to and inside the house.

Greg Hart, 17 Brook Bay Road, advised the Residential Development Standards code update is an important issue for all Islanders and should be put to a vote. He asked the Council to gauge whether the proposed changes would fall in line with the desire of the community, by looking at the percentage of current lots that would be in violation of the new residential development standards. He also noted that many lots have long driveways and the proposed regulations would remove the flag lot allowance, making it difficult for those home owners to do anything with their lot.

Stewart Wallin, 2248 77th Ave SE, spoke about a tree located at the 77<sup>th</sup> Ave SE Landing. He expressed concern that the tree may be in danger due to the shoreline erosion. He concurred with Jenni Mechem's comments relating to the importance of improving home accessibility.

Suzanne Skone, 2834 60th Ave SE, spoke about the Residential Development Standards code update. She asked the Council to support reducing gross floor area to 40%. She asked the Council to reject the ADU exemption to the gross floor area standard, because there is no guarantee that once the structure is built that it will be used for affordable housing.

Kristin Hart, 17 Brook Bay, does not agree with not allowing any deviations for impervious surfaces requirements. She would like the full community to provide their opinion on the issue of Residential Development Standards by putting it to a vote.

Ira Appelman, 9039 E. Shorewood Drive, doesn't believe that zoning regulations fall under personal property rights. He feels the city staff is too friendly with developers and the Residential Development Standards should be straight forward to eliminate any flexibility in the code. He asked the Council to only regulate tree in lots with new development or redevelopment, and flat lots should be exempt.

Daniel Thompson, 7265 North Mercer Way, expressed concern that the Town Center process is being recreated in the Residential Development Standards process. He concurred with Jenni Mechem's accessibility comments, but didn't agree that a gross floor area exemption is needed for those accessibility improvements to be made. He advised that the Council is not going to be able to limit the scale of homes being built without limiting gross floor area and building height.

Marc Coen, 3220 73<sup>rd</sup> Ave SE, spoke in support of a letter sent to the Council by Dan Thompson about arborist and enforcement concerns. He feels that the City is lacking in effective tree management both with retention and with strategic removal for safety concerns. He asked the Council to make developers responsible for canopy assessment on individual property, so there is no expense to the City. He asked the Council to consider modeling the Mercer Island tree code after the current tree code in the City of Sammamish.

Nancy Hewitt Spaeth, 8320 SE 34th Street, spoke in opposition to requiring one car garages. She feels that residents need the ability to have larger garages for storage purposes and to prevent vehicles from parking on the streets.

## **CONSENT CALENDAR**

Mayor Bassett moved AB 5323: SE 47th Open Space Drainage Easement Exchange for Trail Easement and AB 5326: Amendment to Small Cell Franchise Agreement with Crown Castle (WA - CLEC, LLC), as requested by

Councilmembers Wong and Grausz, to the first items of Special Business.

**AB 5324 2017 Summer Celebration Fireworks Display Permit Approval**

**Recommendation:** Approve the public fireworks display permit for July 8, 2017, sponsored by Summer Celebration!

It was moved by Wisenteiner; seconded by Bertlin to:

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

Passed 7-0

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

**SPECIAL BUSINESS**

**AB 5323 SE 47th Open Space Drainage Easement Exchange for Trail Easement**

Councilmember Wong spoke about an amendment to the indemnification provision of the public trail easement.

It was moved by Wong; seconded by Bertlin to:

**Grant the proposed private drainage easement in the SE 47th Open Space Property to Millad II LLC in exchange for receiving the proposed public trail easement on the Millad II LLC property at 4709 East Mercer Way, amending the indemnification provision (section 4) in the public trail easement agreement by adding the following language to the end of the first sentence: "but only to the extent that the claims, demands, losses, actions or liabilities do not arise or result from the Grantor's negligence or willful misconduct." and authorize the City Manager to sign the easements.**

Passed 7-0

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

**AB 5326 Amendment to Small Cell Franchise Agreement with Crown Castle (WA – CLEC, LLC)**

Councilmember Grausz asked about the public comment received regarding whether an anchor poles is a utility pole. Planning Manager Evan Maxim noted that guide poles are not defined specifically one way or the other in the franchise agreement.

It was moved by Weiker; seconded by Wong to:

**Adopt Ordinance No. 17-18, amending the City's small cell franchise agreement with WA – CLEC LLC (Crown Castle) to revise page 1 of Exhibit C to the agreement in order to properly depict, consistent with NESC standards, the sections and measurements of a typical PSE utility pole in the City of Mercer Island.**

Passed 7-0

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

It was moved by Grausz; seconded by Wisenteiner to:

**Direct staff to engage with Crown Castle on a possible further amendment to the Crown Castle agreement that would clarify that guide poles and underground utility areas should not be used for small cell facilities**

Passed 5-2

FOR: 5 (Bertlin, Grausz, Sanderson, Wisenteiner, Wong)

AGAINST: 2 (Bassett, Weiker)

Councilmember Weiker encouraged staff to consult with PSE as well as Crown Castle regarding the poles.

**AB 5325 Residential Development Standards Code Amendments (continued 1st Reading)**

Evan Maxim, Planning Manager, continued review of the remaining policies for the Council to address in the proposed ordinance of code amendments for Residential Development Standards as follows:

**Lot Coverage - Minimum Allowances:**

- Councilmember Grausz' proposal: 60% landscape required and lots with 6,000 sqft or less can have 20%

hardscape, reducing by 1% every 400 sqft, and not less than 10% (594 to 900 sqft)

- Alternative: 60% landscape required and hardscape is greater of 10% of landscape or 600 sqft

Council Direction: Asked to prepare a graph that would depict lot coverage as related to lot area before providing final direction.

#### **Gross Floor Area - Minimum Allowance:**

- Councilmember Grausz' proposal: For 45% GFA allowance for 6,000 sqft, 1% reduction in allowed GFA for every 600 sqft of lot area and a minimum allowed GFA of 40%.
- Alternative: Where the allowed GFA is the greater of 40% or 3,000 sqft.

Council Direction: Support alternative where the allowed gross floor area is the greater of 40% or 3,000 sqft, but not more than 45%.

#### **Variance Criteria:**

- Planning Commission Recommendation: prohibit / limit variances to GFA, minimum lot size, height, fence height and staff does not recommend adopting this amendment
- Alternative: Limit variance approvals to those circumstances where a house could not otherwise be built on a legal, residential lot and remove ambiguous language regarding groundcover, trees, physical condition of the lot from "d."

Council Direction: Staff propose a solution for "flag lots." Support alternative to limit variance approvals to those circumstances where a house could not otherwise be built on a legal, residential lot and remove ambiguous language regarding groundcover, trees, physical condition of the lot from "d."

#### **Code Interpretations:**

- Proposed amendment to allow for an appeal of a code interpretation whenever it relates to a land use project approval.

Council Direction: Support the proposal to allow for an appeal of a code interpretation whenever it relates to a land use project approval.

#### **Tree Code:**

##### **Tree Permit and Retention Thresholds**

- Planning Commission's Recommendation: Tree permits are not required for trees over 10 inches in diameter. Trees over 10 inches in diameter are subject to retention
- Alternative: Require tree permits for 10-inch trees

Council Direction: Support alternative to require tree permits for 10-inch trees.

##### **Exemptions from Tree Permit**

- Planning Commission's Recommendation: Several types of trees are exempt from tree code
- Alternative: Reduce exemptions, and require "after the fact" permit for hazardous tree removal

Council Direction: Support alternative to reduce exemptions and require "after the fact" permit for hazardous tree removal. Also require a permit to remove nuisance trees greater than 10 inches.

##### **Tree Removal and Approval and Tree Retention for Development**

- Planning Commission's Recommendation: Code is organized based upon project type (not consolidated)
- Alternative: Consolidate and clarify these sections

Council Direction: Support alternative to consolidate and clarify the tree removal and approval and tree retention for development sections.

##### **Tree Removal Not Associated with a Development Proposal**

- Planning Commission's Recommendation: Tree replacement or retention is not required for trees removed if removal is not part of development
- Alternative: Prohibit removal of exceptional trees and require replacement of all removed trees regardless of whether tree removal results from development

Council Direction: Require replacement, but not retention for tree removal not associated with a development proposal.

##### **Tree Removal with a Development Proposal**

- Planning Commission's Recommendation: No specific standards for multifamily tree removal
- Alternative: Clarify that tree retention is required for single family and multifamily development. Staff

recommends adopting this amendment

Council Direction: Support alternative to clarify that tree retention is required for single family and multifamily development.

#### **Tree Retention Requirements and Reasonable Best Efforts**

- Planning Commission's Recommendation: Require a minimum of 30% retention + reasonable best efforts
- Alternative: Define reasonable best efforts based on GFA and lot / unit limitations

Council Direction: Staff propose further clarifications regarding "reasonable best efforts" to retain trees.

#### **Tree Replacement (Ratio)**

- Planning Commission's Recommendation: Replace removed trees at 1:1, 2:1, and 4:1
- Alternative: Replacement trees increased 2:1, 3:1, and 4:1 respectively

Council Direction: Support alternative to replace removed trees at 2:1, 3:1, and 4:1.

#### **Tree Replacement (Size)**

- Planning Commission's Recommendation: Allow for limited tree replacement with smaller replacement trees
- Alternative: Clarify that smaller trees cannot be shrubs and limit smaller replacement trees to 20% of required plantings

Council Direction: Support alternative to clarify that smaller trees cannot be shrubs and direct staff to bring back information regarding trees versus shrubs.

#### **Tree Protection Standards**

- Planning Commission's Recommendation: Specific tree protection standards + additional ISA Best Management Practices
- Alternative: Eliminate specific protection measures and require compliance with ISA. Staff recommends adopting this amendment

Council Direction: Support alternative to eliminate specific tree protection measures and require compliance with International Society of Arborists (ISA) best management practices.

#### **Trees on Public Property (Parks)**

- Planning Commission's Recommendation: Annual tree removal permit for Parks is required
- Alternative: Require replacement trees at same ratio as private development. Staff does not recommend adopting this amendment

Council Direction: Support Planning Commission's Recommendation to require a permit, but not replacement of trees removed on public property (parks).

#### **Tree Removal on Public Property (ROW)**

- Planning Commission's Recommendation: Allow for removal on public street by private property owner in some circumstances
- Staff Alternative: Further reduce removal allowances on public street

**Council Decision:** Support alternative to further reduce allowances for tree removals on public property (ROW).

The Council decided to continue the First Reading to the July 17, 2017 Council Meeting and the August 7, 2017 meeting if needed. Councilmember Weiker asked for visuals to be posted in City Hall with the proposed changes.

Mr. Maxim noted areas of further review, as requested by Council, to be discussed at the July 17 meeting:

- Master Builders Association proposal
- ADUs and Gross Floor Area
- Parking
- Net Lot Area calculations
- Noise regulations
- Other Council proposed edits

#### **OTHER BUSINESS**


City Manager Underwood noted that the Arts Council would like to have a Councilmember on the artist selection committee for a mural project. Councilmember Wisenteiner volunteered.

Councilmember Grausz spoke about an incident on the 630 bus route.

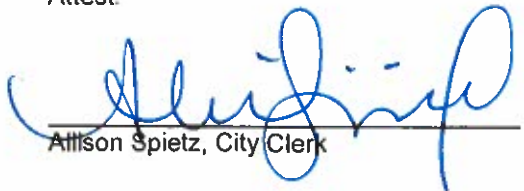
City Manager Underwood spoke about canceling the July 24 special meeting. The Council concurred.

**ADJOURNMENT**

The Special Meeting adjourned at 10:57 pm

  
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Bruce Bassett, Mayor

Attest:

  
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Allison Spietz, City Clerk