



MEDINA, WASHINGTON

AGENDA BILL

Monday, February 26, 2024

Subject: Moratorium on Applications for Right-of-Way Vacation

Category: City Council Business/Discussion/Direction

Staff Contact: Jennifer S. Robertson

Summary

On October 23, 2023 the City Council adopted Resolution No. 438 which created a moratorium on the acceptance or processing of applications for right-of-way vacation under Chapter 12.44 MMC and Chapter 35.79 RCW. The moratorium was adopted consistent with state law (see RCW 35A.63.220 and RCW 36.70A.390). The Council timely held the required public hearing on December 11, 2023 to maintain the moratorium. Therefore, the moratorium adopted under Resolution No. 438 is effective for six months and is due to expire on April 23, 2024. Following the public hearing, Council directed staff to prepare a workplan as to issues and options for right-of-way management for future Council review and discussion and prepare a final workplan for review and adoption prior to April 23, 2024.

Additionally, Council directed staff to take into consideration comments from the December 11, 2023 Council public hearing: "Rosalie Gann commented on the street vacation moratorium and proposed the following suggestions for the city to consider. On a process level, she suggested that the City Council create requirements to increase transparency and timely communication with neighbors. Residents should not have to submit a public records request to find out about an issue that has the potential to impact their neighborhood. She asked Council to consider a similar process to construction proposals that are sent out via direct mail and placards onsite. On a policy level, she requested that Council consider before selling Medina city-owned land, that Council seriously and meticulously anticipate adverse, long-term, and unintended consequences of the sale of the city's collective land."

Council provided direction in December to bring forward a work plan in 2024 prior to or contemporaneously with an extension of the moratorium in April 2024. During the Council meeting on February 26, 2024, the Council will have the opportunity to review the outline of a proposed work plan and give direction to staff on the draft work plan. Unless directed otherwise, staff will schedule a public hearing on extension of the moratorium for April 8, 2024. The updated work plan and legislation for extension will be on the Council agenda that night for consideration.

1. Extension of the Moratorium.

In order to extend the moratorium, the City Council will be required to hold another public hearing and adopt a work plan. That public hearing can be noticed and held on April 8, 2024. If action is taken that night to extend the moratorium, the moratorium would then be extended through October 8, 2024.

2. Adoption of a Work Plan.

If the moratorium is extended, the Council will be required to adopt a work plan. A draft outline of a proposed work plan is below for council consideration and discussion.

a) Review of Existing Rights of Way.

- i. Working to identify Medina rights of way, whether opened or unopened, including identifying unpaved portions of opened right-of-way.
- ii. Review projected future land use in the City and projected impacts on use of opened rights of way and projected need for expansion of existing right of way or improving unopened right-of-way for transportation and other public purposes, including landscaping, parking, ped/bike use, etc.
- iii. Identifying future public use of unopened or unimproved portions of rights-of-way.

b) Review of Chapter 12.44 MMC.

- i. Consider whether updates are needed. Possible updates may include revisions focused on creating additional transparency, including additional process, public notice, and outreach.
- ii. Updates may also include specific additional analysis performed by staff.
- iii. Updates may also include new code to create a similar process for applications to vacate utility easements.
- iv. Establish a schedule to bring forward any proposed revisions to Council so that the updates take effect prior to expiration of moratorium.

c) Creation of City Policy.

- i. Consider the creation of internal policy for processing petitions for vacation and evaluating petitions for vacation, including:
 - adding additional council touch points (i.e., study sessions as well as the public hearing),
 - establishing standards for informing the general public about pending petitions for vacation, and
 - requiring staff analysis of future development patterns in Medina and the need for rights of way with that context.

3. Expiration of Moratorium.

If the City Council believes that the moratorium is no longer necessary, it may direct staff to take no action and to allow the moratorium to expire. Even if the moratorium expires, the City could still create an internal policy to provide additional outreach and ensure that the Council has adequate procedures in place to fully consider any applications. Granting of a right-of-way vacation is a legislative action of the City Council and the Council has broad discretion. Therefore, even if the moratorium expires, the Council could opt for broader outreach and can hold study sessions on the application prior to setting it for public hearing, provided the procedures standards in the MMC and RCW are met. This only requires the public hearing to be held between 20 and

60 days *after* the Council sets the matter for public hearing. There is no requirement that limits the Council from holding a study session on the application prior to setting such hearing. Nor is there a limitation on the Council from holding study sessions after setting the hearing or after holding the hearing.

This meets and supports Council's priorities 3, 4, and 5.

Council Priorities:

1. Financial Stability and Accountability
2. Quality Infrastructure
3. Efficient and Effective Government
4. Public Safety and Health
5. Neighborhood Character

Attachment

Resolution No. 438

Budget/Fiscal Impact: Extending the moratorium will result in legal and staff costs, as well as publication costs for the notice of hearing. In addition, there will be legal and staff costs to prepare a work plan and implement the same.

Recommendation: Give direction to staff on the draft work plan. Unless directed otherwise, staff will schedule the public hearing on extension of the moratorium for April 8, 2024.

City Manager Approval: *Aimee Kellerman* On behalf of Stephen R. Burns

Proposed Council Motion: None needed.

Time Estimate: 45 minutes