



BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND

AB 6441
April 2, 2024
Regular Business

AGENDA BILL INFORMATION

TITLE:	AB 6441: City Council Planning Session Follow Up Regarding Land Use Work Plan	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed: <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution
RECOMMENDED ACTION:	Provide direction to staff on both a reconstitution of the Planning Commission as well as draft consolidated interim development regulations.	

DEPARTMENT:	City Manager
STAFF:	Jessi Bon, City Manager Jeff Thomas, CPD Director
COUNCIL LIAISON:	n/a
EXHIBITS:	1. MICC Chapter 3.46 DRAFT Amendments
CITY COUNCIL PRIORITY:	n/a

AMOUNT OF EXPENDITURE	\$ n/a
AMOUNT BUDGETED	\$ n/a
APPROPRIATION REQUIRED	\$ n/a

EXECUTIVE SUMMARY

The purpose of this agenda bill is to present to City Council the directed follow up from the March 1, 2024 Planning Session regarding the land use work plan ([AB 6428](#)). Specifically, there are two matters requiring follow up:

- Options for City Council consideration related to the reconstitution of the Planning Commission.
- A timeline for bringing interim regulations for temporary uses and structures related to docket item 23-15 to City Council for consideration.

BACKGROUND

The City Council conducted a Planning Session on March 1, 2024. An overview of the Community Planning and Development Department’s land use work plan was presented as part of the agenda. To increase land use planning capacity and efficiency as well as provide additional direction to work program priorities, the City Council made several motions including the following:

Planning Commission Reconstitution

Approved Motion: Direct the City Manager to bring a proposal to City Council at its regular meeting on April 2, aiming to reconstitute the Planning Commission. The new composition shall include four (4) land use professionals not affiliated with Mercer Island entities or interests, to be compensated for their dedicated time, and three (3) laypersons who are Mercer Island residents. The proposal must specify the effective date, detail the range of the number of meetings that will occur annually, outline the annual cost, and describe any necessary amendments to the Mercer Island Municipal Code (MICC).

Interim Regulations – Temporary Uses and Structures

Approved Motion: Direct the City Manager to prepare interim regulations regarding docket item 23-15 - temporary use or structure permits, as soon as reasonably possible.

ISSUE/DISCUSSION

Discussion points for City Council direction on both motions are included below.

Planning Commission Reconstitution

The following are options for the City Council to consider and provide guidance on should it wish to proceed with reconstituting the Planning Commission. Exhibit 1 provides a draft track change of MICC 3.46 to illustrate the nature of the necessary code amendments related to this item. Please note, there are more items listed here than in the initial motion as additional matters have surfaced as part of the staff analysis.

1. Effective Date Options:

- A. July 15, 2024
- B. September 15, 2024
- C. January 15, 2025

Discussion: A mid-month start for all options will allow the City Council to make the new Planning Commission appointments at its first regular business meeting of the respective months listed.

From a practical perspective, having an effective date prior to July 15, 2024, doesn't make sense as the current Planning Commission will be wrapping up a two plus year review of the Comprehensive Plan in June. Both July and September 2024 effective dates will create compressed timelines for recruitment. January 2025 provides adequate recruitment runway and aligns with the 2025-2026 Biennial Budget to allow for proper financial planning.

2. Member Composition Options:

- A. 4/3 Paid Practitioner – Non-Resident / Lay Person – Resident
- B. 3/4 Paid Practitioner – Non-Resident / Lay Person – Resident
- C. 3/3/1 Paid Practitioner – Non-Resident / Lay Person – Resident / Paid Practitioner – Resident

Discussion: The 4/3 Paid Practitioner – Non-Resident / Lay Person – Resident reflects the motion from City Council. However, providing a 3/3/1 Paid Practitioner – Non-Resident / Lay Person – Resident / Paid Practitioner – Resident option allows for a Planning Commission composition to contain both four paid practitioners and four residents.

3. Paid Practitioner – Non-Resident Definition:

An individual not affiliated with Mercer Island entities or interests with a minimum of five years of paid professional experience in land use planning as well as five years of such experience in the State

of Washington. Examples of qualifying positions for paid professional experience include land use / municipal attorney, hearing examiner, or urban planner. Demonstrated experience in public service, working with the Growth Management Act (GMA), Shoreline Management Act (SMA), and State Environmental Policy Act (SEPA) as well as the drafting of land use policies and codes preferred. This position will be compensated.

4. Lay Person – Resident Definition:

An individual with general interest in land use planning, environmental affairs, and/or economic development. Demonstrated experience in public service and land use planning preferred. Proof of Mercer Island residency required. This position will not be compensated.

5. Paid Practitioner – Resident Definition:

An individual with a minimum of five years of paid professional experience in land use planning as well as five years of such experience in the State of Washington. Examples of qualifying positions for paid professional experience include land use / municipal attorney, hearing examiner, or urban planner. Demonstrated experience in public service, working with the Growth Management Act (GMA), Shoreline Management Act (SMA), and State Environmental Policy Act (SEPA) as well as the drafting of land use policies and codes preferred. Proof of Mercer Island residency required. This position will be compensated.

6. Annual Meeting Frequency Options:

- A. 21 (11 Regular Meetings + Up To 10 Special Meetings)
- B. 16 (11 Regular Meetings + Up To 5 Special Meetings)
- C. 11 (11 Regular Meetings)

Discussion: Until 2022, the Planning Commission had 22 regular meetings per year (2 per month less August) and cancelled as necessary. Since then, there are 11 regular meetings per year (1 per month less August) and special meetings scheduled as necessary.

While the Planning Commission has entered a three-to-four-month intensive period of meetings to complete their work on the 2024 Comprehensive Plan Periodic Update in a timely fashion, the total 2024 meeting count is projected to be approximately 18 total meetings. Moving forward, the need for more than 16 total meetings per year (11 regular meetings less August + up to 5 special meetings) is unlikely.

7. Paid Practitioner Compensation Options:

- A. Flat Rate Per Year
- B. Flat Rate Per Meeting Completed
- C. Base Rate For Regular Meetings + Flat Rate Per Special Meeting Completed

Discussion: Options “B” and “C” are similar, but option “C” provides a base rate for the 11 regular meetings meaning that in the unlikely event a Planning Commission didn’t meet at least this number of times, the entire base rate would be paid anyways. While this option may prove to be more attractive to potential candidates, option “B” avoids having to pay for undelivered service and is the only option providing a Paid Practitioner Annual Compensation Minimum Amount of \$0 should the Planning Commission not meet at all or be dissolved at some point during a calendar year.

8. Paid Practitioner Annual Compensation Maximum Amount Options:

- A. Not to Exceed \$12,000 (\$750 per meeting)
- B. Not to Exceed \$8,000 (\$500 per meeting)
- C. Not to Exceed \$4,000 (\$250 per meeting)

Discussion: These numbers were derived by assuming middle of the road option “B” direction for both item numbers 6 and 7 above.

With a total of four paid practitioners serving in Planning Commission roles, the total maximum cost to the City based on the options above is \$48,000 per year. While it should be assumed support for this effort – both short and long term – is from the General Fund, staff will look at other alternatives including grant funding.

The value derived in moving to a paid practitioner approach for populating a portion of the Planning Commission is realized in efficiency and effectiveness of the assigned body of work. While the annual meeting frequency may not measurably change year over year, the volume of work accomplished at these meetings will, specifically work that is becoming more and more prescriptive from the State legislature. Paid practitioners can bring additional levels of support to the City through academic training as well as professional experience.

Any direction from City Council for item numbers 6 and 7, different than the staff recommendations, will require recalculation of the options for this item.

9. Paid Practitioner Poor Performance – Termination Authority:

- A. Either the City Council OR City Manager can terminate.
- B. Only the City Council can terminate.
- C. Only the City Manager can terminate.

Discussion: Current code provides for the City Council to remove uncompensated Planning Commission members. The question is whether compensating a Planning Commission member warrants changing the termination authority.

10. Ethics Code Applicability:

- A. Apply to all Planning Commission members.
- B. Apply only to Lay Person – Resident members.

Discussion: The current code provides that the Code of Ethics ([MICC 2.60](#)) applies to all Planning Commission members. The question here is whether compensating a Planning Commission member changes the applicability of the Code of Ethics.

11. Planning Commission Seats – Short / Long Term Options:

- A. Maintain the Planning Commission at 7 seats by filling the 2 seats expiring on May 31, 2024 temporarily.
- B. Maintain the Planning Commission at 7 seats by leaving the 2 seats expiring on May 31, 2024 temporarily vacant.
- C. Permanently reduce the Planning Commission to 5 seats on June 1, 2024.

Discussion: Options “A” and “B” are consistent with the City Council motion from March 1 by having 7 seats long-term. These options simply address the question of how to handle the short-term with 2 seats expiring May 31, 2024. Option “C” presents a short and long-term option of reducing the Planning Commission to 5 seats on June 1, 2024.

Interim Regulations – Temporary Uses and Structures

There are three current land use work plan items related to temporary uses and structures – docket items 23-10 “temporary use regulations” and 23-15 “temporary use or structure permits” as well as interim regulations for outdoor dining. While the City Council motion from March 1 regarding this subject was specific to preparing interim regulations for docket item 23-15, the staff recommendation is to consolidate these three work items and bring back interim regulations for all three. This work is anticipated to return to the City Council on June 4, 2024. The required Public Hearing will also be noticed to occur on this date.

If adopted by City Council, the consolidated interim regulations will become effective immediately for a period of up to 12 months and staff will seek opportunities to complete the required process for these consolidated interim regulations to become permanent regulations prior to the end of that period.

NEXT STEPS

Should the City Council provide direction to continue with efforts to reconstitute the Planning Commission, staff will prepare the necessary MICC Chapter 3.46 amendments for City Council consideration on May 7, 2024.

Should the City Council provide direction to draft consolidated interim regulations for temporary uses and structures, staff will prepare the necessary ordinance with MICC Chapter 19 amendments for City Council public hearing and consideration on June 4, 2024.

RECOMMENDED ACTION

Provide direction to staff on both a reconstitution of the Planning Commission as well as draft consolidated interim development regulations.