



# CITY COUNCIL MINUTES REGULAR VIDEO MEETING SEPTEMBER 15, 2020

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## EXECUTIVE SESSION

At 5:01 pm, Mayor Wong convened an Executive Session for approximately 30 minutes to discuss with legal counsel litigation or potential litigation pursuant to RCW 42.30.110(1)(i).

Mayor Benson Wong, Deputy Mayor Wendy Weiker and Councilmembers Lisa Anderl, Jake Jacobson, Salim Nice, Craig Reynolds, and David Rosenbaum participated remotely using a teleconferencing platform provided by Microsoft Teams.

City Manager Jessi Bon participated from City Hall and City Attorney Bio Park participated in the executive session from a remote location.

At 5:26 pm, Mayor Wong adjourned the Executive Session.

After a brief break, Council went into open session at 5:31 pm.

## CALL TO ORDER & ROLL CALL

Mayor Benson Wong called the meeting to order at 5:00 pm from a remote location.

Mayor Benson Wong, Deputy Mayor Wendy Weiker and Councilmembers Lisa Anderl, Jake Jacobson, Salim Nice, Craig Reynolds, and David Rosenbaum participated remotely using a video teleconferencing platform by Zoom.

City Manager Bon and City Clerk Deborah Estrada participated remotely from separate rooms at City Hall, 9611 SE 36th Street, Mercer Island, Washington. The Mercer Island City Leadership Team participated from remote locations.

## PLEDGE OF ALLEGIANCE

Councilmember Lisa Anderl led the Council in the Pledge of Allegiance.

## AGENDA APPROVAL

It was moved by Jacobson; seconded by Anderl to:

**Approve the agenda as presented.**

A roll call vote was conducted, and the results were as follows:

Passed 7-0

FOR: 7 (Anderl, Jacobson, Nice, Reynolds, Rosenbaum, Weiker and Wong)

## CITY MANAGER REPORT

City Manager Bon reported on the following:

- COVID-19 Update
- City Service Update
  - Luther Burbank Docks Open House & Waterfront Plaza Repairs
  - Thrift Shop Open Sundays and Thank you to volunteers
  - Fall Recycling Event

- Fire Department
  - Remember 9/11
  - Small local fire and Mutual Aid Assistance
  - Search & Rescue Team deployed to Oregon
  - Local burn ban & fire safety
- National Preparedness Month
- Paving Project at MI Park & Ride
- Pop-up StoryWalk
- Friends of the Mercer Island Library – Pop-Up Sale in Town Center
- City Council Special Meeting

## APPEARANCES

Mark Madden, Mercer Island – Expressed concern that information shared at Sound Transit’s Open House was incorrect and misleading.

The following individuals encouraged City Council to reject the G. Richard Hill Code Amendment:

- Ryan Rahlfs, Mercer Island
- John Hall, Mercer Island
- Matt Goldbach, Mercer Island

## CONSENT CALENDAR

Approve **Accounts Payable** Reports:

- A) August 28, 2020 in the amount of \$588,921.53
- B) September 4, 2020 in the amount of \$1,016,186.85

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

Approve **Certification of Payroll** dated September 11, 2020 in the amount of \$720,104.18

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

Approve **Minutes** of the September 1, 2020 Regular Video Meeting.

AB 5751: WRIA 8 Interlocal Agreement Amendment.

**Recommended Action:** Authorize the City Manager to sign the First Amendment to the Interlocal Agreement for the Watershed Basins within Water Resource Inventory Area 8.

It was moved by Anderl; seconded by Reynolds to:

**Approve the Consent Calendar as presented.**

A roll call vote was conducted, and the results were as follows:

Passed 7-0

FOR: 7 (Anderl, Jacobson, Reynolds, Rosenbaum, Nice, Weiker, and Wong)

## REGULAR BUSINESS

**AB 5752: Public Hearing on Emergency Ordinance No. 20C-17 to Temporarily Allow Private Parking and Right-of-way Use by Businesses to Meet Safe Start Guidelines**

Mayor Wong opened the public hearing at 6:15 pm.

There being no comments by the public, Mayor Wong closed the public hearing at 6:16 pm.

EOC Small Business Liaison Sarah Bluvás explained that on August 4, 2020, the City Council unanimously passed Emergency Ordinance No. 20C-17 which enabled local eating and drinking establishments to use Right-of-Way and private parking to expand outdoor seating. The ordinance assisted businesses impacted by the

COVID-19 Pandemic emergency in operating under the Safe Start Washington phased guidelines for reopening.

Bluvas further explained that staff continue to actively reach out to eating and drinking establishments about outdoor seating opportunities and have scheduled additional trash pick-ups in Town Center to off-set the increase in takeout and other garbage. Additional support activities include free consulting service for small business, a new marketing campaign called MInext, and distributing information about the King County Small Business Emergency Grant Program.

#### **AB 5748: Permit Expiration Extension (Ordinance No. 20C-21 First Reading and Adoption)**

Deputy CPD Director Alison Van Gorp reported that the COVID-19 pandemic has adversely impacted construction sites. Van Gorp went on to explain that given the impacts of the Pandemic, staff recommend a code amendment allowing the Building Official to authorize a permit extension of up to 6-months during or after a declared emergency, when the emergency has resulted in work stoppage or significant delays to the construction project. The 6-month extension would be granted upon request by the permit applicant at no additional fee. The permit extension may be requested at the end of the two-year period, or at the end of the three-year period, if the applicant had already applied for an extension. Van Gorp further noted that the maximum period for a permit to be active will be 3.5 years under the proposed code amendment.

It was moved by Nice; seconded by Jacobson to:

**Suspend Council Rules of Procedure 6.3 and 10.1 requiring second reading of an ordinance.**

A roll call vote was conducted, and the results were as follows:

Passed 7-0

FOR: 7 (Anderl, Jacobson, Reynolds, Rosenbaum, Nice, Weiker, and Wong)

It was moved by Nice; seconded by Jacobson to:

**Adopt Ordinance No. 20C-21, allowing the building official to extend permits for an additional 6 months.**

A roll call vote was conducted, and the results were as follows:

Passed 7-0

FOR: 7 (Anderl, Jacobson, Reynolds, Rosenbaum, Nice, Weiker, and Wong)

#### **AB 5750: G. Richard Hill Code Amendment Initial Review and Direction**

Deputy CPD Director Alison Van Gorp explained that the G. Richard Hill Code Amendment Application was submitted on February 11, 2020 on behalf of the French American School and the Stroum Jewish Community Center. The amendment would allow exceptions to the lot coverage, height, and gross floor area requirements for regulated improvements, to include schools, noncommercial recreational areas, and religious buildings. Van Gorp further explained that the Application was previously scheduled for review at the March 2020 City Council meeting which was canceled due to the Pandemic. Review of the Application was then further delayed due to Pandemic-related restrictions on public meetings last spring, limiting the City Council meeting agenda to items that were "necessary and routine" or specifically related to COVID-19.

Council debated the following three options presented by staff at length:

1. Decline further review of the G. Rich Hill Code Amendment Application and refund the application fees.
2. Remand the G. Rich Hill Code Amendment Application to the Planning Commission for review.
3. Postpone initial action on the G. Rich Hill Code Amendment Application and set a new City Council review date and possible initial action in 2021.

Staff also reported that the applicant sent an email supporting postponing review of the application (Option 3).

It was moved by Jacobson; seconded by Anderl to:

**Decline further review of the G. Rich Hill Code Amendment Application and refund the application fees.**

A roll call vote was conducted, and the results were as follows:

Failed 4-3

AGAINST: 4 (Reynolds, Rosenbaum, Weiker, and Wong)

FOR: 3 (Anderl, Jacobson, and Nice)

It was moved by Reynolds; seconded by Rosenbaum to:

**Postpone initial action on the G. Rich Hill Code Amendment Application and set a new City Council review date and possible initial action no later than March 2021.**

Passed: 4-3

FOR: 4 (Reynolds, Rosenbaum, Weiker, and Wong)

AGAINST: 3 (Anderl, Jacobson, and Nice)

**AB 5749: Temporary Increase in Utility Tax Rates (Ordinance No. 20C-20 Second Reading and Adoption) and Interfund Loans Authorization (Resolution No. 1586) for Potential Litigation Costs to Enforce the Terms of the City's 2017 Settlement Agreement with Sound Transit.**

City Manager Jessi Bon reported that on September 1, 2020, the City Council set Ordinance No. 20C-20 for a second reading and adoption on September 15, 2020. She continued, explaining that Ordinance No. 20C-20 temporarily increases the utility tax rate on water, sewer, and stormwater utilities within Mercer Island from 5.3 percent to 8.0 percent for a 36-month period from November 1, 2020 through October 31, 2023. The new tax revenue would be used to pay back the interfund loans authorized by Resolution No. 1586. Resolution No. 1586 would authorize the City's water and sewer utility funds to lend \$750 thousand each, for a combined total of \$1.5 million, to the General Fund to finance the cost of potential litigation to enforce the terms of the City's 2017 Settlement Agreement with Sound Transit. Bon also explained that there would be no penalty for early repayment of the loan and that if the City is able to resolve its dispute with Sound Transit without expending the full amount borrowed, the interfund loan may be paid back early.

It was moved by Reynolds; seconded by Jacobson to:

**Adopt Ordinance No. 20C-20 temporarily increasing utility tax rates to raise additional revenue for potential litigation to enforce the terms of the City's 2017 Settlement Agreement with Sound Transit.**

A roll call vote was conducted, and the results were as follows:

Passed 7-0

FOR: 7 (Anderl, Jacobson, Reynolds, Rosenbaum, Nice, Weiker, and Wong)

It was moved by Rosenbaum; seconded by Jacobson to:

**Pass Resolution No. 1586 authorizing interfund loans in the amount of \$750 thousand each, for a combined total of \$1.5 million, from the City's water and utility funds to the General Fund..**

A roll call vote was conducted, and the results were as follows:

Passed 7-0

FOR: 7 (Anderl, Jacobson, Reynolds, Rosenbaum, Nice, Weiker, and Wong)

It was moved by Jacobson; seconded by Weiker to:

**Appropriate \$1.5 million in loan proceeds authorized in Resolution No. 1586 for litigation costs.**

A roll call vote was conducted, and the results were as follows:

Passed 7-0

FOR: 7 (Anderl, Jacobson, Reynolds, Rosenbaum, Nice, Weiker, and Wong)

**AB 5754: City Council direction on proposed PIC recommendations to the SCA Board of Directors**

Mayor Wong reported that the Public Issues Committee (PIC) met on September 9 and addressed the following items that might require future action by PIC representatives on behalf of member cities:

1. SCA 2021 Legislative Agenda - This information may help the City Council formulate the Mercer Island 2021 Legislative Agenda. The committee discussion emphasized the importance of keeping the agenda "tight" and "focused" due to the budgetary constraints facing the State of Washington.

Staff will prepare Legislative Priorities for discussion at a future Council meeting.

2. Affordable Housing Committee - PIC members were asked to solicit comments and feedback regarding HB 1590. Most cities at the PIC meeting had not discussed HB 1590 and, those that had, did not indicate a desire to proceed with a city-imposed sales tax increase due to the economic recession.

There were general comments that the King County Council needed to collaborate with cities on the use of the additional sales tax revenue. Some Councilmembers hoped that there would be some ability for cities to exercise local control over the amount of additional sales tax raised within that city while others asked

whether some portion of the new sales tax revenue raised from sales on Mercer Island could be provided to ARCH to further its mission.

3. Vision 2050 - SCA is looking for direction from SCA-member cities about Snohomish County's proposed amendment. Whether to approve or reject the amendment as part of Vision 2050 would be presented to the PSRC Executive Board on September 24, 2020. PIC has asked that PIC representatives ascertain the position of their respective city councils relative to this amendment and to convey those positions to PIC as soon as possible.

City Council did not agree on a corporate position relative to this amendment that can be shared with the SCA representatives and the PSRC Executive Board.

## **OTHER BUSINESS**

### **Planning Schedule**

City Manager Bon reminder Council that a Special Meeting was scheduled for Tuesday, September 22 and would include a preview of the biennial budget and a Thrift Shop Project update.

There will be three Council meetings in a row – October 6, October 13, and October 20.

### **Councilmember Absences**

There were no absences to report.

### **Councilmember Reports**

Councilmember Anderl:

- OSCT meeting in October
- Utility Board meeting on September 23

Councilmember Rosenbaum:

- MISD PTA is finalizing its meeting schedule.
- Expressed concern for the antisemitic comments and images on the Mercer Island School District's platform and made himself available to students that wanted to talk about it.

Councilmember Jacobson

- Commented on the late meetings notices sent out by the Eastside Transportation Partnership.
- Recognized several volunteers that have worked to eliminate ivy and blackberry bushes in Homestead Park.

Councilmember Nice – Reported that Rite Aid is interested in participating in drive-thru flu shots.

Mayor Wong:

- Attended King County Regional Water Quality Committee meeting on September 2
- SCA will be sending an email encouraging Councilmembers to sign up for regional committees
- Attended K4C Outreach Committee meeting on September 11
- K4C Meeting on October 8 open to elected officials
- Email string regarding King County Parks Levy Amendment, that was sent to Councilmembers earlier in the day, was withdrawn.

There being no additional business, the Regular Video Meeting adjourned at 8:16 pm.

## **EXECUTIVE SESSION**

At 8:20 PM, Mayor Wong convened the Executive Session to discuss with legal counsel pending or potential litigation pursuant to RCW 42.30.110(1)(i) for approximately 60 minutes. All Councilmembers, City Attorney, and

staff participated remotely using teleconferencing technology provided by Microsoft Teams.

**No action was taken, and Mayor Wong adjourned the Executive Session at 9:22 PM**

**ADJOURNMENT**

There being no additional business, the Regular Video Meeting adjourned at 9:23 pm.

Attest:

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Benson Wong, Mayor

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Deborah A. Estrada, City Clerk