



CITY COUNCIL MINUTES REGULAR VIDEO MEETING JULY 21, 2020

EXECUTIVE SESSION

At 4:00 pm, Mayor Wong convened an Executive Session to discuss with legal counsel pending or potential litigation pursuant to RCW 42.30.110(1)(i) for approximately 30 minutes using teleconferencing technology provided by Microsoft Teams.

At 4:24 pm, Mayor Wong adjourned the Executive Session.

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 teleconferencing technology provided by Zoom.

The Mercer Island City Leadership Team participated from remote locations.

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

PLEDGE OF ALLEGIANCE

Deputy Mayor Weiker led the Council in the Pledge of Allegiance.

AGENDA APPROVAL

It was moved by Anderl; seconded by Jacobson 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)

SPECIAL BUSINESS

On behalf of the City Council, Councilmember Salim Nice presented the 2019 Citizen of the Year Award to Dave and Kendra Uhler.

Councilmember Nice identified a long list of community contributions and volunteer service by the Uhlers, noting that they are truly committed to the Mercer Island community and their support during emergency situations on Mercer Island is commendable and deeply appreciated.

Dave and Kendra thanked the Council and community for the award and recognition.

CITY MANAGER REPORT

City Manager Jessi Bon reported on the following:

- The City launched a new website
- COVID-19 Update:

- Mask giveaway
- Call Center facts
- Parks Usage and Service Updates:
 - Athletic Field Usage Guidance
 - Parks Usage Guidance
 - Parks Maintenance Brown Out
 - Parks Service Update
 - Pack It Out
 - Water Safety
- Thrift Shop Renovation Project Update
- Fire Service Update
- Road Construction
- Sneeze Guards at City Customer Counter
- Car Parade for Fran Call

APPEARANCES

Ashley Hay, Mercer Island – Ms. Hay expressed support for Agenda Bill 5718 regarding Automated License Plate Reader Technology and encouraged Council to support the new technology for the Mercer Island Police Department. She also expressed concern for Sound Transit and its lack of transparency and response.

Dwight Schaeffer, Mercer Island – Mr. Schaeffer reported on the significant revenue reductions Sound Transit is facing due to COVID, increased remote commuters, and more.

Emily Yang, Mercer Island – Ms. Yang addressed changes she and other students would like to see on the Island related to Black Lives Matter, including a school district curriculum and recognizing black cultural month in the district.

Elsa Lanctot, Mercer Island – Ms. Lanctot encouraged the Mercer Island Police Department to improve its implicit bias training and hire candidates with higher education and degrees in psychology.

Gracie Galvin, Mercer Island – Ms. Galvin reported that she and others created a list of community demands for both the school district and City. She encouraged all Councilmembers to support the Mayor signing the Obama Pledge.

Benjamin Molina, Mercer Island – Mr. Molina spoke in opposition to installing Automated License Plate Readers and encouraged Mercer Island to use the funds to support YFS services.

Robert Klein, Mercer Island – Mr. Klein encouraged the City Council to support animal control laws, explaining that he and his dog were attacked by a mixed breed pit bull and suffered multiple wounds.

Addie Smith, Mercer Island – Ms. Smith reported that white supremacy exists on the Island, explaining that she spoke with the police department several times and requested that they write a report regarding the discrimination she and her daughter had received.

Meg Lippert, Mercer Island – Ms. Lippert's comments addressed repurposing the Recycling Center and its origin and construction. The original vision for community engagement and recycling included an intake center for the Thrift Shop, a native plants and gardening center, and a sustainability education center. She encouraged the Council and its architect will respect its original design and historical significance to the City.

Mark Hirayama, Mercer Island – Hirayama encouraged Council to support the ordinance that would end the proposed Mercer Island Commuter Parking and Mixed Use Project.

Let's Talk Council Connects Comments:

Sarah F – As a Mercer Island High School student, Sarah advocated for the same demands that the Mercer Island BLM protest has advocated for and encouraged Mayor Wong to sign Obama's Mayor's Pledge. She also expressed that Student Resource Officers mostly cause discomfort among BIPOC students. Sarah

asked MI officials to further investigate the Addie Smith case and allegations against MI prosecutors.

Mercer Island Chamber – The Chamber commented in support of Ryan Companies and the redevelopment of the former Farmers site, explaining that it would dramatically strengthen the economic vitality of Mercer Island. The Chamber believes the entire site should be exempt from the Town Center Moratorium, which would allow Ryan Companies to move forward with its development plans.

Mallory Van Abbema – Abbema commented as a representative of the Housing Development Consortium of Seattle-King County and in opposition to the Council's proposed action to repeal the City's Multi-Family Tax Exemption program. She further explained that repealing the MFTE would be in direct conflict with the City's housing goals and would lead to a more un-affordable Mercer Island.

Gina Clark – Clark commented as a representative of the Master Builders Association of King and Snohomish Counties in opposition to the proposed action by Council to cancel the City's Multifamily Tax Exemption (MFTE). She urged the City to take a different approach to potential budget constraints, to preserve staff and work with the community, affordable housing providers, and available programs like MFTE.

Peter Orser, Mercer Island – Orser spoke in support of the Multifamily Tax Exemption and urged Council not to eliminate the program.

CONSENT CALENDAR

Approve **Accounts Payable** Report for the period ending July 10, 2020 in the amount of \$865,718.75,
Recommendation: Certify that the materials or services herein before specified have been received and that all warrant numbers listed are approved for payment.

Claims Reporting for **Electronic Funds Transfers** for the month ending June 30, 2020 in the amount of \$2,297,102.01
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 July 17, 2020 in the amount of \$700,579.13
Recommendation: Certify that the materials or services specified have been received and that all fund warrants are approved for payment.

Approve **Minutes:**
A. June 16, 2020 Regular Video Meeting
B. July 7, 2020 Regular Video Meeting

AB 5725: West Mercer Way Pedestrian Crossings Bid Award
Recommended Action: Award the West Mercer Way Pedestrian Crossings project to Kamins Construction in the amount of \$190,183.50. Set the total project budget to \$385,104 and direct the City Manager to execute the construction contract.

AB 5722: Renew Interlocal Agreement with King County for the CDBG and HOME Consortiums
Recommended Action: Authorize the automatic renewal of the interlocal agreement with King County for the Community Development Block Grant consortium and the HOME Investment Partnerships Program consortium.

It was moved by Reynolds; seconded by Rosenbaum 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 5729: Town Center Moratorium (Public Hearing)

PUBLIC HEARING

Mayor Wong opened the public hearing at 6:51 pm.

Marc Gearhart, Vice President of Development for Ryan Companies, addressed the Council regarding the scope of emergency moratorium Ordinance No. 20-12, outlining the reasons why the Mercer Park property, formerly known as the Farmers Insurance Building, should not be included in the moratorium. The reasons included:

- The Mercer Park property has never been identified as a potential retail site.
- TC3 zoned property, particularly the Mercer Park Property, is intended to be a transition between residential zoned property and commercial uses in the Town Center.
- The existing zoning code provides adequate retail development capacity to preserve all existing retail south of 29th without adding a retail requirement to the Mercer Park property.
- The challenge facing existing retail businesses is not an issue with the zoning code.
- The current moratorium will significantly impact economic development in the Town Center if the Mercer Park Project is included in the moratorium.

There being no further comments by the public, Mayor Wong closed the public hearing at 6:58 pm.

Evan Maxim, Community Planning & Development Director, outlined the scope of the Moratorium explaining that Council had the option to direct staff to prepare an ordinance to amend the geographical area or the scope of development. He went on to explain that adoption of an amended moratorium would be required at a future Council meeting. Alternatively, Council could choose not to change the current moratorium scope. Maxim proceeded to outline the preliminary findings of fact supporting the moratorium and explained that staff needed Council consensus around the basis for the moratorium to inform staff in preparing the findings of fact for adoption by the City Council.

Council deliberated the scope of the moratorium at length and directed staff to prepare an amended ordinance reducing the size of the area subject to the moratorium and including additional findings of fact.

It was moved by Jacobson; seconded by Nice to:

Direct staff to return with an ordinance revising the moratorium to include south of SE 29th Street to the Town Center boundary and east of 77th Avenue SE to the west side of 80th Avenue SE.

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

Passed 5-2

FOR: 5 (Jacobson, Rosenbaum, Nice, Weiker, and Wong)

AGAINST: 2 (Anderl, Reynolds)

AB 5727: YFS Foundation Donation Acceptance and YFS Fund Update

Derek Franklin, Senior Programs Manager, and Ed Holmes, Chief of Police, explained that the Youth and Family Services Working Group focused on short-term and long-term funding options for the YFS and options for the Foundation's donation, noting that the Foundation was offering up to \$815,000 to the City. Chief Holmes explained that \$617K was offered without conditions and \$198 was offered with a condition that the City provide a match. Holmes further explained that as of July, expenses outpaced revenues by \$783,000.

It was moved by Nice; seconded by Anderl to:

Authorize the City Manager to accept \$102,600 from the YFS Foundation to restore the services as previously described for the remainder of 2020.

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 5717: CARES Act Coronavirus Relief Funds Grant Acceptance

Merrill Thomas-Schadt, EOC Grants & Time Tracking Coordinator, explained that the City of Mercer Island was awarded \$734,100 through Washington State's Coronavirus Relief Funds, made available by the Coronavirus Aid, Relief, and Economic Security Act (CARES), explaining that acceptance of the grant funding will enable the City to allocate the funds to support the City's response to the COVID-19 Pandemic, specifically Emergency

Operations Center operations. She went on to outline the eligible costs for reimbursement the Department of Commerce's written guidance and ongoing resources to local governments to assist in determining reimbursement eligibility.

It was moved by Jacobson; seconded by Anderl to:

Authorize the City Manager to accept CARES Act Coronavirus Relief Funds from Washington State in the amount of \$734,100. Appropriate the full amount to support the City's emergency operation in response to the Pandemic through December 31, 2020.

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 5732: Adoption of Resolution No. 1584 Related to Ending the Proposed Mercer Island Commuter Parking Mix Use Project.

City Manager Bon briefly outlined the history of the Proposed Mercer Island Commuter Parking Mix Use Project. She then explained that as a result of the City's ongoing fiscal distress and pandemic response efforts, and in light of the differences in the parties' vision and expectations for the Project, the Project had become impracticable and unfeasible for the City. Consequently, MainStreet was notified of the City's Manager's executive decision to halt the Project. City Council was asked to confirm that it is no longer feasible, nor in the best interests of the city or its residents to proceed with the Project proposed in the MOU.

It was moved by Anderl; seconded by Weiker to:

Adopt Resolution No. 1584 confirming the end of the proposed Mercer Island Commuter Parking and Mixed-Use Development Project and directing the City Manager to conclude the City's relationship with MainStreet under the MOU.

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 5728: Repeal of the Multifamily Housing Property Tax Exemption program (2nd Reading)

Evan Maxim, Community Planning & Development Director, briefly reviewed the MFTE program's history and explained that the elimination of the program does not require a Comprehensive Plan amendment. He also explained that following the establishment of the MFTE program, no multifamily projects participated in the program, which likely indicates that the intended financial incentive was not functioning as originally intended by the City Council.

Maxim explained that staff recommended that the City Council consider repealing the MFTE program in MICC 4.50. He further explained that as part of a future work plan, staff recommended that the City Council take up a more comprehensive discussion of the City's affordable housing goals, policies, and programs.

It was moved by Jacobson; seconded by Nice to:

Adopt Ordinance No. 20C-14

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

Passed 5-2

FOR: 5 (Anderl, Jacobson, Rosenbaum, Nice, and Wong)

AGATINST: 2 (Reynolds, Weiker)

AB 5718: Automated License Plate Readers

Police Commander Jeff Magnan explained that in response to Council direction, Police Department staff prepared a recommendation and cost estimate for an Automatic License Plate Reader (ALPR) program. In response to privacy concerns associated with ALPR systems, staff contacted the American Civil Liberties Union ("ACLU") to request their input on ALPRs. ACLU's primary concerns focused on privacy and data retention. Staff believe most of the ACLU's concerns are addressed in the City's policy, which limits the reasons the system will alert officers and limits the data retention to a maximum of 14 days. Retention for hits associated with police cases will follow the State's retention schedule. Commander Magnan went on to explain the initial cost for equipping three vehicles with the ALPR system was \$86,907, which included the hardware, software, installation, and sales tax. He further noted that the ongoing fees for the ALPRs were \$7,725 each year for the first 5 years,

which included software maintenance and the parking enforcement toolkit.

It was moved by Anderl; seconded by Nice to:

Authorize the appropriation of \$86,907 from the federal seizure funds and the Equipment & Technology Fund to purchase and install three ALPR systems in the Police Department vehicles.

It was moved by Reynolds; seconded by Weiker to:

The ALPR system shall not be installed, activated, or used except in accord with city council approved policies on data security, access, and retention.

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

Failed 6-1

AGAINST: 6 (Anderl, Jacobson, Rosenbaum, Nice, Weiker, and Wong)

FOR: 1 (Reynolds)

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 5731: Mayors Call to Action Pledge to Address Police Use of Force Policies

Mayor Wong explained that over the past month he and the City Council had received a number of requests for the Mayor to sign the "Mayors Commit to Action Pledge" for the Obama Foundation's My Brother's Keep Alliance, explain that the Pledge is aimed at addressing use of force policies in police departments across the country.

Council discussed that the Police Chief had recently reviewed the Mercer island Police Department's Use of Force policy and had made some revisions. Police Chief Holmes responded, explaining that MIPD contracts with Lexipol, a company that writes policies for police departments and currently uses and supports Lexipol's Use of Force policy, as it comports with federal and state law. Staff also explained that if the Mayor were to sign the Pledge, there would be an expectation that the community would be actively involved in reforming the Use of Force policy.

Council discussed the pledge at length, recognizing that there was not an option to revise the proclamation.

It was moved by Weiker; seconded by Rosenbaum to:

Authorize the Mayor to sign the Mayors Call to Action Pledge

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

FOR: 6 (Anderl, Reynolds, Rosenbaum, Nice, Weiker, and Wong)

ABSTAIN: 1 (Jacobson)

OTHER BUSINESS

Planning Schedule

City Manager Bon recommended adding an October 13 Special Meeting and suggested walking through the budget schedule at the August 4 meeting. The second meeting in August was canceled.

Councilmember Absences

There were no absences to report.

Councilmember Reports

Councilmember Reynolds expressed his appreciation for Evan Maxim and thanked staff the new website.

Councilmember Rosenbaum agreed with Councilmember Reynolds' comments and encouraged residents to visit the new French bakery.

Councilmembers Anderl and Nice expressed appreciation for the new website.

Councilmember Jacobson reported that he attended a meeting with the Mayor wherein the Mercer Island School

District announced that all classes would be virtual for a while.

Deputy Mayor Weiker reported that AWC held a meeting with the Governor's Office of Public Health wherein it was reported that the pandemic was getting worse and that everyone should do their part to wear masks and encourage social distancing.

Mayor Wong reported on the School Superintendents' advisory meeting on July 15, noting that the next meeting was scheduled for July 29. He also encouraged residents to attend the August 6 School Board meeting when the Board is scheduled to discuss its plan for opening schools on Mercer Island.

ADJOURNMENT

There being no additional business to come before City Council, the Special Video Meeting adjourned at 11:03 pm.

Attest:

Benson Wong, Mayor

Deborah A. Estrada, City Clerk