



CITY COUNCIL MINUTES

November 24, 2009

15728 Main Street, Mill Creek, WA 98012 425-745-1891

Terry Ryan, Mayor
Rosemary Bennetts, Mayor Pro Tem (Absent)
Donna Michelson
Mary Kay Voss
Mark Harmsworth
Mike Todd
Mark Bond (Absent. Participated by phone 6:04 p.m. to 7:25 p.m.)

November 24, 2009
Regular City Council Meeting
6:00 p.m.

CALL TO ORDER

Mayor Ryan called the meeting to order at 6:00 p.m.

ROLL CALL

Roll was called by the City Clerk with all Councilmembers present except Councilmember Bond and Mayor Pro Tem Bennetts. Mayor Ryan noted for the record that Councilmember Bond was ill and Mayor Pro Tem Bennetts had a conflict.

MOTION: Mayor Ryan made a motion to excuse Councilmember Bond and Mayor Pro Tem Bennetts, Councilmember Michelson seconded the motion. The motion passed unanimously.

AUDIENCE COMMUNICATION

There were no comments from the audience.

PUBLIC HEARING:

Setting Property Tax Levies for 2010
(Landy Manuel, Finance Director)

Mayor Ryan opened the public hearing at 6:04 p.m.

Councilmember Bond was reached by telephone and participated in the meeting via speaker phone so that he could hear the discussion and vote on the property tax levies.

Finance Director Manuel explained that since the November 10, 2009 Council meeting, staff has had a number of discussions with the county assessor's office and the Department of Revenue. These discussions have convinced staff that that the lower of the Implicit Price Deflator (IPD) or 1% applies only to the City's highest lawful levy (a maximum ceiling that includes all banked levy capacity), and not to annual increases in the amount levied. The City's highest lawful regular levy, utilizing the IPD, is \$5,486,238 and for the Emergency Medical Services (EMS) levy \$545,753. These compare to actual levy amounts for 2009 of \$4,989,397 for the regular levy and \$526,413 for EMS. The difference between these figures is "banked capacity" which may be utilized by the City at any time *without* a finding of substantial need (contrary to what was discussed at the November 10th study session). Therefore, the

Council can, by simple majority vote, levy taxes up to the highest lawful levy amount. That maximum levy amount for the regular property tax would be nearly \$500,000 more or a 10% increase.

This means in terms of the prior discussion on November 10th that the City is *not* required by law to apply the negative IPD to last year's levy. Staff has included three property tax scenarios to evaluate, one with the negative IPD (of course we can go lower if we choose), a zero percent or no increase calculation, and a 1% increase calculation.

The "negative" IPD of 0.85% results in a levy amount of \$5,508,626 for both regular and EMS levies. The combined budgeted 2010 regular and EMS property tax revenue was set at \$5,572,819. Setting property taxes at the negative IPD results in a \$64,193 revenue shortfall to the General Fund. This \$64,000 of less property tax is included in the \$250,000 budget shortfall discussed at the November 10th study session.

A zero percent (0%) "increase" results in a regular and EMS total of \$5,555,400. This is still short of what was planned in the 2009-2010 biennial budget but only by \$17,419. The estimated \$250,000 budget shortfall for the biennium discussed at the study session included the IPD property tax shortfall of \$64,000 therefore the budgeted shortfall estimate would decline to \$203,000 by passing a no increase or decrease in property taxes.

A 1% tax increase and is the same as presented on November 10th. This increase would result in \$37,739 more in tax revenue than was budgeted. And reduce the estimated budget shortfall to about \$165,000 that would have to be made up through expenditure savings, deferral of transfers or tapping into reserves.

The impact to an average residence depends on both the change in the total amount levied and the change in assessed value (AV). The assessor's Mass Appraisal Report for residential neighborhoods in the City indicates a general decline of 12.3% in AV. A negative 0.85% IPD results in a \$22 reduction in City property taxes or a 2.8% decline for an average city residence. A 0% increase results in a decline of \$16 in taxes paid, a 2% decline. A 1% increase, still shows a tax decrease of \$8. The actual increase/decrease would of course be dependent upon the change in AV for each individual property. All options result in a levy rate increase due to a decline in the total assessed value of \$300 million for the City.

At the November 10, 2009 Council meeting a study session was held. Council discussion revolved around the ability of taxpayers to pay more during difficult economic times, the potential for some recovery next year for City revenues particularly in sales tax and development fees, the deferment of transfers out of the General Fund to the 35th Avenue Reserve Fund and utilizing reserves because the City has "saved for a rainy day and it is pouring out". After much discussion Council directed staff to bring back 2010 taxes at the IPD level or 99.15% of the prior year levy for the public hearing to be held on November 24, 2009.

The staff recommendation is for a 1% levy increase in recognition of rising staff and operating costs and to build additional reserves for capital facilities projects.

Mr. Bart Masterson read a letter to the Council recommending a 1% property tax increase.

Bart Masterson

1931 Mill Pointe Drive
Mill Creek, Washington 98012

Mayor Ryan opened the public hearing for additional public comment at 6:30 p.m.

Council discussed the property tax levies and Councilmember Bond participated via speaker phone.

Councilmember Voss and Councilmember Michelson stated for the record that they were in favor of a 1% increase. Councilmember Todd stated that he was in favor of a 0% increase. Mayor Ryan, Councilmember Harmsworth and Councilmember Bond proposed and preferred a reduction in property taxes (-.85%).

After some discussion, Councilmember Voss, Councilmember Bond and Councilmember Michelson stated that they would agree to a 0% increase.

MOTION: Councilmember Voss made a motion to move Action Items A & B (Property Tax and EMS) to be voted on during or after the closure of the public hearing in order to allow Councilmember Bond to vote, Councilmember Todd seconded the motion. The motion passed unanimously.

Ordinance Setting the 2010 Property Tax Levy (If adopted, would take Ordinance #2009-707)
(Landy Manuel, Finance Director)

MOTION: Councilmember Todd made a motion to approve Ordinance #2009-707, approving a 0% increase; with a levy in the amount of \$5,025,208 on all property; real, personal and utility subject to taxation within the corporate limits of the City of Mill Creek, for the fiscal year commencing January 1, 2010, Councilmember Voss seconded the motion. The motion passed 4-2-0 with Mayor Ryan and Councilmember Harmsworth opposed.

Mayor Ryan closed the public hearing at 7:23 p.m.

Ordinance Setting the 2010 EMS Tax Levy (If adopted, would take Ordinance #2009-708)
(Landy Manuel, Finance Director)

MOTION: Councilmember Todd made a motion to approve Ordinance #2009-708, approving 0% increase, with a levy in the amount of \$530,191, on emergency medical services property taxes upon all property; real, personal and utility subject to taxation within the corporate limits of the City of Mill Creek, for the fiscal year commencing January 1, 2010, Councilmember Voss seconded the motion. The motion passed 4-2-0 with Mayor Ryan and Councilmember Harmsworth opposed.

Councilmember Bond left the meeting at 7:25 p.m.

STUDY SESSION

Public business is conducted at a study session. Citizens are welcome and encouraged to attend study sessions, but participation by citizens shall be permitted only upon the consensus of a majority of the Councilmembers present.

Ordinance to Amend 2009-2010 Biennial Budget (If adopted, would take Ordinance #2009-709)
(Landy Manuel, Finance Director)

Finance Director Manuel explained that in October, Council approved a \$1,000 contribution to the Washington Aerospace Partnership to be paid out of the Council Contingency Fund. The appropriation budget for that fund is already 100% expended thus requiring a budget amendment to accommodate the \$1,000 contribution. The fund has more than adequate reserves to accomplish this.

The Beautification Fund has an original adopted appropriation budget of \$1,000. Halfway through the biennium it has expended \$942. Stolen and lost signs for Great Garden awards necessitated the repurchase of a number of signs at a cost of \$676.05. The little budget remaining will not be adequate for next year's recognition awards. The Beautification Fund has a current cash balance of \$10,750.

Finance Director Manuel recommends increasing the Council Contingency Fund by \$1,000 and the Beautification Fund by \$500.

MOTION: Councilmember Todd made a motion to move this ordinance to the consent agenda for approval later in the evening, Councilmember Michelson seconded the motion. The motion passed unanimously.

Non-Discrimination Policy

(Pam Olson, Recreation Supervisor)

Recreation Supervisor Olson explained that during the 2009 Legislative Session, ESSB 5967 was adopted, which is intended to prohibit unfair practices in public community athletics programs by prohibiting discrimination on the basis of gender. The bill requires that by January 1, 2010, each city, town, county, or district operating a community athletics program or issuing permission to a third party for the operation of such program on its facilities shall adopt a policy that specifically prohibits discrimination against any person on the basis of gender in the operation, conduct, or administration of community athletics programs for youth or adults.

Staff has drafted a Non-Discrimination Policy (CCP 09-005) which has been reviewed and approved by the Washington Cities Insurance Authority legal department.

Once it is approved by the City Council, staff will publish and disseminate this policy in the Recreation Guide issued three times per year (Winter, Spring/Summer, and Fall) as well as any publication that includes information about Mill Creek's community athletics programs. The policy will be included in the application packet for rental of City facilities. In addition, the policy will be posted on the City's website as required by law.

This item will be voted on during the consent agenda later in the evening as scheduled.

Community Garden Program

(Camille Chriest, Senior Planner)

Senior Planner Chriest explained that in Spring 2009, staff began looking into the feasibility of starting a community garden program in Mill Creek. The Green Team, staffed by City employees, met in July 2009 to discuss the benefits that a community garden program would bring to our community and its citizens. The following are a few benefits that were discussed:

- Provide garden space for those who don't have it readily available (yard too small, not enough sunlight, etc)
- Create a sense of community and encourage social interaction
- Teach kids about healthy foods and the benefits of exercise and fresh air
- Provide an inexpensive option for people to grow their own organic produce
- Provide volunteer opportunities
- Provide learning opportunities – composting, soil amending, etc.

Staff also considered possible partnership opportunities within the business community, such as working with Lowe's, My Garden Nursery, Cedar Grove Compost, Starbucks (coffee grounds for soil amendment), and Washington State University Extension's Master Gardener Program. Some of these businesses have already been contacted and would be willing to partner with the City by donating time, materials, or both to a community garden program.

Staff has been conducting a public outreach campaign since August to gauge citizen interest in participating in a community garden. The campaign included press releases, a newspaper article in the Mill Creek Enterprise, emails sent out to homeowners associations, flyers, and a link on the City's website. The response has been enthusiastic, with approximately 40 local families interested in participating. The majority of the interested gardeners are located within the city limits, although some are in the surrounding unincorporated area. Many live in apartments or condos and do not have an opportunity to grow their own fresh vegetables.

For logistical and liability reasons the best location for a community garden would be on City-owned property. Staff is seeking Council's feedback and authorization to proceed further with developing a Community Garden Program in response to the strong community interest. If given approval to proceed, staff would evaluate potential sites, determine initial start-up costs and annual costs, set up the program's organizational structure, establish guidelines for participants to follow, then work with community partners and participants to prepare the site for a Spring 2010 opening.

Council and staff discussed this proposal. Council agreed that they would like staff to come back with an estimate of staff costs/time to a future meeting for further discussion.

Consultant Contract for the East Gateway Preliminary Engineering Design Study
(*Bill Trimm, Community Development Director*)

Mayor Ryan noted for the record that he may have a possible conflict and could be involved in attracting a developer for this area or represent a land owner. Even though this is several years out, he will recuse himself for this discussion.

Mayor Ryan exited the room at 7:50 p.m. City Attorney Scott Missall presided over the meeting.

Community Development Director Trimm explained that on March 25, 2008, the City Council approved Ordinance 2008-676 amending the Comprehensive Plan and Municipal Code to provide for a new mixed-use development plan and development regulations for the East Gateway Planned Urban Village area. The East Gateway Planned Urban Village Plan covers approximately 50 acres of underdeveloped land located south of 132nd Street SE.

The plan provides for a mix of housing, retail, office and public uses organized around a new central spine road, similar to Main Street in the Town Center. In July 2008, the City Council also approved the Capital Facilities Plan with funding programmed in 2009 for the East Gateway Urban Village Spine Road Study (CFP Project No. T-41). The purpose of the study is to define the location and design criteria of the critical public infrastructure, namely the road and drainage systems.

On July 7, 2009, the City Council authorized staff to proceed with a consultant Request for Qualifications (RFQ) for a preliminary engineering design study for the East Gateway area. This action was a result of the early interest expressed by the development community in the East Gateway Urban Village Plan and to help stimulate economic development in the City.

A consultant RFQ was sent to thirteen firms listed on the Municipal Research and Services Center Consultant Roster. Seven responses were received, and three firms were selected for interviews: KPG, KPFF, and Reid Middleton. Consultant interviews were conducted on September 22, 2009, by representatives from the City Community Development and Public Works Departments.

While all three firms were capable of doing the work, Reid Middleton was selected for the study due to their recognition of project issues and awareness of the current early status of the land development process. Reid Middleton had also already performed some preliminary layout work for the road alignment and proposed a unique approach of “parcel reallocation” which could help ensure that all property owners maintain a proportionate development share after the public infrastructure impacts are determined. In addition, Tom Gathmann, Public Works Director, and Christi Amrine, Senior Planner, had both previously worked with Reid Middleton on similar projects and provided good recommendations.

Funding for this study in the amount of \$100,000 is allocated in the 2009 – 2010 Biennial Budget. The source of these funds consists of traffic mitigation and REET monies, which can only be spent on approved capital improvement projects.

MOTION: Councilmember Voss made a motion to vote on the resolution now since Mayor Ryan has recused himself from this discussion and approve Resolution #2009-440 to award the consultant contract to Reid Middleton for the East Gateway Preliminary Engineering Study, Councilmember Harmsworth seconded the motion.

AMENDMENT TO THE MOTION: Councilmember Todd made an amendment to the motion to strike the seventh whereas clause in its entirety, Councilmember Voss seconded the motion. The motion passed unanimously.

ORIGINAL MOTION VOTE: The motion passed unanimously.

Mayor Ryan returned to the meeting at 8:12 p.m.

MOTION: Mayor Ryan made a motion to extend the meeting to 9:00 p.m., Councilmember Todd seconded the motion. The motion passed 4-0-1 with Councilmember Voss abstaining.

Future Study Session Items/Open Discussion

(Timothy W. Burns, City Manager)

CONSENT AGENDA

Items listed under the Consent Agenda are generally routine administrative actions and policy statements of a non-controversial nature. They are normally approved by a single majority vote without discussion. Items removed from the Consent Agenda, if any, are usually considered following the adoption of the remainder of the Consent Agenda.

Approval of Checks #43419 through #43518 and ACH Wire Transfer in the Amount of \$377,864.76.

(Audit Committee: Councilmember Bond and Mayor Ryan)

Approval of ACH Automatic Deposit in the Amount of \$132,746.72.

(Audit Committee: Councilmember Bond and Mayor Ryan)

City Council Meeting Minutes of November 10, 2009

Ordinance to Amend 2009-2010 Biennial Budget (If adopted, would take Ordinance #2009-709)

Community Athletic Programs Non-Discrimination Policy (If adopted, would take CCP 09-005)

MOTION: Councilmember Voss made a motion to approve the consent agenda, Councilmember Michelson seconded the motion. The motion passed unanimously.

REPORTS

Councilmember Harmsworth reported that he attended the SCC dinner. The group will be forming a committee to support Boeing.

Councilmember Todd reported that the Park Needs Open House held at the City last week went well. There were approximately 60 people in attendance. Also, the Swift Bus Rapid Transit kick-off is scheduled for Sunday, November 29th from 2:00-4:00 p.m.

City Manager Burns reminded Council that the Tree Lighting event is scheduled at City Hall on Monday, November 30th at 6:30 p.m. Also, Northshore Senior Director Lee Harper is resigning in mid-December. City Manager Burns read a thank you note to the Council from a citizen who appreciated the rapid response of our Police Department and Public Works Department. Lastly, he wished everyone a Happy Thanksgiving.

Community Development Director Trimm reported that the Park Needs Open House went well. More information on the outcome will be forwarded to the Council at a future meeting.

Public Works Director Gathmann reported that he received a letter from the Dumas Lane Homeowners Association. They are requesting permit parking. He will be responding to them and will copy the Council on his response. Lastly, he reported on the pre-construction meeting for the Dobson/Remillard demolition project.

Police Chief Crannell reported that Police Support Officer Nathan Lerma has left for the corrections academy. He will be at the academy approximately one month. Also, the passport offices will be closed on Saturday, November 28th to observe the Thanksgiving holiday. Lastly, with the two new police officer hires, the department is now fully-staffed.

AUDIENCE COMMUNICATION

There were no comments from the audience.

RECESS TO EXECUTIVE SESSION:

(Confidential Session of the Council per RCW 42.30)

At 8:32 p.m., the Council recessed to executive session to discuss potential litigation for approximately 15 minutes. No action will be taken.

ADJOURNMENT

MOTION: Mayor Ryan made a motion to adjourn the meeting, Councilmember Todd seconded the motion. The motion passed unanimously.

Meeting was adjourned at approximately 8:47 p.m.

Terry Ryan, Mayor

Kelly Chelin, Executive Assistant/City Clerk