



# CITY COUNCIL MINUTES

September 22, 2009

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

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Terry Ryan, Mayor  
Rosemary Bennetts, Mayor Pro Tem  
Donna Michelson  
Mary Kay Voss  
Mark Harmsworth  
Mike Todd  
Mark Bond

**September 22, 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.

## **AUDIENCE COMMUNICATION**

Ron Cuddy  
19309 2<sup>nd</sup> Avenue SE  
Bothell, Washington 98012

Mr. Cuddy introduced himself as the President of the Board of Directors for the Northshore Senior Center. He thanked the City for the space at the City Hall Annex building for the seniors. He invited the Council and staff to the Senior Center Open House at the Annex building on September 30, 2009 from 1:00-4:00 p.m.

Randolf Cherewick  
17333 15<sup>th</sup> Drive SE  
Bothell, Washington 98012

Mr. Cherewick spoke about one of the comprehensive plan amendments concerning the proposal to rezone the Everett School District property. He relayed that he was not advised or notified about the possible rezone. He entered into the record a letter to the Council about his concerns. He asked that he be notified of these kinds of amendments in the future.

Camie Anderson  
Senior Associate  
Shockey/Brent, Inc.  
2716 Colby Avenue  
Everett, Washington 98201

Ms. Anderson introduced herself as the representative for the Everett School District. She asked to be included in the record on this matter.

## **PRESENTATIONS**

### Introduction of New Employees/New Position:

Tyler Kidwell, Police Officer

Rory Mundwiler, Police Officer

Nathan Lerma, Police Support Officer

*(Bob Crannell, Police Chief)*

## **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.*

### Proposed Amendments to the Comprehensive Plan

*(Camille Chriest, Senior Planner)*

Senior Planner Chriest explained that these amendments are part of the City's annual Comprehensive Plan update. The proposed amendments were prepared in accordance with the Growth Management Act (GMA), specifically RCW 36.70A.040 and 36.70A.120, which requires the City to adopt development regulations, including zoning regulations, to implement the City's Comprehensive Plan.

The City began its process to review the Comprehensive Plan in late 2008. Staff identified possible amendments needed to ensure consistency between the City's Comprehensive Plan and the County's General Policy Plan (GPP) as required by the Growth Management Act. Thus, the proposed City-initiated changes to the Comprehensive Plan primarily focus on "housekeeping" amendments, which are outlined below:

### City-Initiated Amendments

- a) Approval of amendments to the Land Use Plan to adjust the Municipal Urban Growth Area (MUGA) for property located on the east side of 43<sup>rd</sup> Avenue S.E. between 180<sup>th</sup> Street S.E. (on the north) and 188<sup>th</sup> Street S.E. (on the south). This area includes what is commonly known as the Sturgell property. The net result would be an increase of 36.6 acres to the City's MUGA. In addition, the land use designations within the City's MUGA will be revised to Low Density Residential (LDR).
- b) Approval of amendments to the Land Use Plan to change the underlying land use designation from Low Density Residential (LDR) to Neighborhood Business (NB) on 2.2 acres located on the northeast corner of Seattle Hill Road and 35<sup>th</sup> Avenue S.E.
- c) Approval of a minor amendment to the City of Mill Creek/Bothell common MUGA boundary. The proposed amendment is to adjust the southern boundary of the City's MUGA, generally located along the 196<sup>th</sup> Street S.E. right-of-way to be consistent with the City of Bothell's adopted MUGA boundary.

### Property-Owner Initiated Amendments

In addition, the Everett School District applied for a Comprehensive Plan Amendment to the Land Use Plan to change the underlying land use designation for a 17.44 acre property located at the southeast

corner of SR 527 (Bothell-Everett Highway) and Seattle Hill Road, between Seattle Hill Road and 173<sup>rd</sup> Street S.E. The request is to amend the City's Comprehensive Plan Land Use Plan designation on the subject property from Medium Density Residential to Mixed Use/High Density Residential, including text amendments to the Comprehensive Plan and Mill Creek Municipal Code to support the change. The site is outside of the City of Mill Creek city limits, but within the City's MUGA.

Redesignating the site to Mixed Use/High Density Residential, and eventual annexation to the City, would ensure that the site is designed consistent with the City's standards to enhance the community and allow for multifamily residential uses, mixed with retail and office uses, along with transit and pedestrian accessibility and the opportunity to create a visual "gateway" to the City. Staff envisions the site as an activity center for the existing and future single family and multifamily neighborhoods surrounding it, as well as for the future Business Park-zone uses to the west. Redesignating the site to include a greater mix of uses and a higher density provides an incentive to future developers of the site to seek annexation to the City, followed by development and design review under the City of Mill Creek's requirements, so that the City has greater control over the ultimate build out and design of the site. Staff believes that the revisions proposed by the Planning Commission (please see "a" and "b" below) would prevent the property from providing the density necessary to meet the purpose of the MU/HDR zone district. This would be a disincentive to developers, who would most likely develop the site under the current County multifamily zoning, resulting in two to three story walk-up style multifamily apartments or condominiums with no opportunity to mix land uses.

Based on review and discussion, the Planning Commission voted to recommend approval of the three City-initiated amendments. The Planning Commission voted to recommend approval of the Everett School District amendment as proposed, with the following modifications:

- a) Amend the proposed zone text (Chapter 17.15) amendment to limit the building height to 50 feet and a maximum of three stories.
- b) Amend the proposed zone text (Chapter 17.15) amendment to require a minimum of 18% commercial on the ground floor.

For the Everett School District site, staff recommends approval of the proposed amendments as originally proposed. If Council chooses to adopt the Planning Commission recommendation or has additional edits, a revised Chapter 17.15 will be prepared.

After some discussion, the Council asked staff to bring back a topography map showing the elevation for the school district property.

Camie Anderson  
Senior Associate  
Shockey/Brent, Inc.  
2716 Colby Avenue  
Everett, Washington 98201

Ms. Anderson spoke about the Everett School District property. She said that a rezone of the property would be more attractive to developers.

These amendments will come back to a future study session for further discussion.

Ordinance to Amend the 2009-2010 Budget

*(Landy Manuel, Finance Director)*

Finance Director Manuel explained that Council has previously approved and given direction to staff and other city boards to move forward with the design and location of a Veterans Memorial. Over the course of this year, plans have been refined and contributions made such that expenditures are now necessary to bring the memorial to fruition. Funding for the project will come from the Municipal Arts Fund that had an original appropriation total of \$25,000 for "Flow". Therefore the budget needs to be amended for any additional expenditures related to the Veterans Memorial project. Public Works Director Gathmann has estimated that it will cost \$30,000 for the basalt columns to be cut and polished and for the pavers, planting beds, irrigation, etc. An additional unknown amount at this time is necessary for engraving names and a bit for contingency. Therefore a budget amendment of \$40,000 to cover the entire cost is proposed. The Municipal Arts Fund currently has an uncommitted cash balance of \$76,700. Amending the budget at this time will allow the City to have a legal appropriation prior to expending any funds.

After discussion, Council agreed to move this ordinance to the consent agenda for approval later in the evening.

Initiative 1033 Limiting the Growth of General Fund Revenues

*(Landy Manuel, Finance Director)*

On July 2, 2009, Tim Eyman submitted Initiative 1033 (I-1033) to the Secretary of State and it has since been qualified for the November general election. I-1033 is intended to limit the growth rate of state, county and city general fund revenues (not including new voter approved revenue) to inflation and population growth. Excess revenues above these limits would be used to reduce property taxes. This limit would apply to revenues in 2010 utilizing 2009 revenues adjusted for inflation and population growth.

As a means for voicing the Council's official position in opposition to this measure a resolution has been drafted if Council wishes to express such opposition. While state law prohibits the use of public facilities to support or oppose a ballot measure there are several exceptions to this prohibition. One of the exceptions allows a local government's legislative body to vote on a resolution expressing support or opposition to a ballot proposition if the following procedural steps are taken.

1. The notice for the meeting must include the title of the ballot proposition.
2. Members of the legislative body or members of the public must be allowed an approximately equal opportunity to express an opposing view.

Following such Council and public comment, the Council would be able to legally pass a resolution in opposition or support of the ballot measure.

Council engaged in a discussion of the initiative. Finance Director Manuel explained that this item will be placed on the next Council agenda. At the next meeting, Council will need to allow equal time to express both views on the initiative.

*Due to time restraints, the following item was not discussed and will be postponed to a future meeting:*

Boeing Support Resolution

*(Timothy W. Burns, City Manager)*

*Council took a break from 7:58 p.m. to 8:03 p.m.*

**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 #43058 through #43138 and ACH Wire Transfer in the Amount of \$357,085.56.

*(Audit Committee: Mayor Pro Tem Bennetts and Councilmember Michelson)*

Approval of ACH Automatic Deposit in the Amount of \$127,961.81.

*(Audit Committee: Mayor Pro Tem Bennetts and Councilmember Michelson)*

City Council Meeting Minutes of August 31, 2009

City Council Meeting Minutes of September 8, 2009

*The following item was added to the consent agenda from the earlier study session:*

Ordinance to Amend the 2009-2010 Budget (If adopted, would take Ordinance #2009-701)

**MOTION: Mayor Pro Tem Bennetts made a motion to approve the consent agenda, Councilmember Michelson seconded the motion. The motion passed unanimously.**

**PUBLIC HEARING**

North King and South Snohomish Counties Regional Mitigation Plan

*(Tom Gathmann, Public Works Director/Jamie Gravelle, Emergency Coordinator, ESCA)*

Mayor Ryan opened the public hearing at 8:04 p.m.

On September 8, 2009, the City Council reviewed and discussed the five-year update of the North King and South Snohomish Counties Regional Mitigation Plan for Natural Disasters (Mitigation Plan).

Based on that discussion a paragraph on the first page of the breakout for Mill Creek (III-199) referencing future annexations was revised and a row was added to the table on page III-205 to include bridge inspections. In addition, staff contacted the utility agencies serving Mill Creek requesting copies of their disaster mitigation plans relevant to the City. Staff is also working with ESCA to create or update a database for citizens within the City that have Citizen Emergency Response Team (CERT) training. The Mitigation Plan approved by City Council will be forwarded by ESCA to the State and FEMA for review. After review by those agencies, the final Mitigation Plan will be brought back to the Council for adoption. That is anticipated to occur in mid-winter of 2010.

Public input on the Mitigation Plan has been solicited through a series of open house events, meetings, and media releases. The Mitigation Plan has been available in print at ESCA and portions of the document on their website with a link on the City's website. At the time of preparation of this summary, comments were received concerning a lack of information in the Regional Plan on health endemics and the vulnerability of cedar shake roofs to fire. Both issues were briefly discussed at the September 8, 2009, study session.

Mayor Ryan opened up the hearing for public comment at 8:10 p.m. There were no comments from the public.

Mayor Ryan closed the public hearing at 8:10 p.m.

### **ACTION ITEMS**

Resolution Approving the North King and South Snohomish Counties Regional Mitigation Plan (If adopted, would take Resolution #2009-435)

*(Tom Gathmann, Public Works Director/Jamie Gravelle, Emergency Coordinator, ESCA)*

Mayor Ryan stated for the record that this plan was discussed in detail at the September 8, 2009 meeting.

**MOTION: Mayor Ryan made a motion to approve Resolution #2009-435, Approving the North King and South Snohomish Counties Regional Mitigation Plan, Councilmember Michelson seconded the motion. The motion passed unanimously.**

Ordinance to Approve Amendments to Mill Creek Municipal Code, Titles 3, 8, 14, 15, 16, 17, and 18 (If adopted, would take Ordinance #2009-701)

*(Note: Follow-up from September 9, 2009 Meeting)*

*(Camille Chriest, Senior Planner)*

At the study session on September 8, 2009, the City Council reviewed proposed amendments to the Mill Creek Municipal Code (MCMC). The proposed amendments are relatively minor in nature and are intended to clarify code language or provide additional information to address an identified issue. Two substantive changes are also proposed. Substantive amendments include revisions to the limitations for posting temporary off-premises real estate signs and incorporating low impact development (LID) methods to manage stormwater. Additional amendments were proposed by the City Attorney to make the City's existing mitigation policies and procedures more explicit and clear. Based on review of the materials provided, the staff presentation, and subsequent discussion, Council directed staff to prepare the following revisions:

1. Proposed definition of "Kitchen:" Council directed staff to provide a more specific definition for review.
2. Proposed performance standards for institutional use reader boards: Council requested that staff remove the limitation that reader boards not move, blink or flash. Council requested that staff revise the definition to allow movement.

3. Proposed amendments to require Low Impact Development (LID) methods, when site and soil conditions make it feasible: Council requested that the code language amendments encourage LID, not require it.

Council engaged in a discussion of the revisions.

**MOTION: At 8:30 p.m, Mayor Ryan made a motion to extend the meeting to 9:15 p.m., Councilmember Voss seconded the motion. The motion passed unanimously.**

Discussion took place about the revisions related to reader boards and the definition of kitchens.

**MOTION: Mayor Ryan made a motion to Approve Ordinance #2009-701, Amending the Mill Creek Municipal Code, Titles 3, 8, 14, 15, 16, 17, and 18 as presented with a revision to the definition of kitchen to read “a stove or range utilizing gas or a 220 volt outlet” and a revision to the regulations applicable to freestanding signs to read “Permanent reader board signs are allowed for institutional uses, with the intent of providing a space for community messages. Electronic reader boards are prohibited”, Mayor Pro Tem Bennetts seconded the motion.**

Appoint City’s Representative to the Community Transit Board Meeting

*(Timothy W. Burns, City Manager)*

City Manager Burns explained that the Community Transit Board Meeting is scheduled for Thursday, October 1, 2009. Four Community Transit Board members have recently resigned before the expiration of their position term; therefore it is necessary to select new Board members. Community Transit has requested that each jurisdiction appoint one elected official to represent their City at a special meeting called for this purpose. Councilmember Todd has expressed interest in serving as the City of Mill Creek’s representative at the Board meeting.

**MOTION: Mayor Ryan made a motion to appoint Councilmember Todd to serve as the City’s Representative at the Community Transit Board Meeting, Councilmember Voss seconded the motion. The motion passed unanimously.**

**REPORTS**

Mayor Ryan reported that he will be attending the Snohomish County Tomorrow meeting on September 23, 2009 and the South County Cities Legislative Dinner on September 24, 2009. He also reported that he met with a member of the North Creek Presbyterian Church who relayed a need for more opportunities to use banners for the church’s special events. He will work with the staff on this.

Councilmember Harmsworth reported that he will be attending the South County Cities Legislative Dinner on September 24, 2009 and asked the Council for a discussion on the City’s top legislative priorities which will be discussed at the dinner.

The Council discussed the City’s priorities and decided that supporting Boeing and the use of the REET dollars were the top two priorities.

Councilmember Todd gave a report on WRIA 8.

Councilmember Voss reported that she will relay to the Arts and Beautification Board at their next meeting about the funding that was approved tonight for the Veteran's Memorial. She also reported that she will be absent for the October 6, 2009 Council meeting.

Councilmember Michelson reported that she interviewed four applicants for the Library Board vacancy this evening, along with Councilmember Voss, and they will be interviewing one more applicant on October 13, 2009. She also stated that one of the applicants asked the question about why the Library Board was called the Library Board "of Trustees".

Staff will look into this and report back to the Council.

Lastly, Councilmember Michelson reported that the third annual Shred-It event was a success last Saturday. The event filled up four Shred-It trucks.

City Manager Burns reviewed the agenda items for the October 6, 2009 Council meeting. He also reported that the WCIA audit is completed and the results were favorable to the City. He thanked the Public Works and Planning Departments for their work on the audit. Also, the next Cities and Towns Dinner will be hosted by the City of Mill Creek on October 15, 2009 at the Mill Creek Country Club.

Planning Manager Rogers reported that he will be attending the next Snohomish County Tomorrow meeting. He also reported that Community Development Director Trimm is out of the office at a Planning Director Conference in Lake Chelan this week.

#### **AUDIENCE COMMUNICATION**

There were no comments from the audience.

#### **RECESS TO EXECUTIVE SESSION:**

*(Confidential Session of the Council per RCW 42.30)*

At 9:03 p.m., the Council recessed to executive session to discuss the performance of a public employee for approximately 10 minutes. No action will be taken.

**MOTION: At 9:14 p.m., Mayor Ryan made a motion to extend the executive session to 9:30 p.m., Councilmember Voss seconded the motion. The motion passed unanimously.**

#### **ADJOURNMENT**

**MOTION: Councilmember Voss made a motion to adjourn the meeting, Councilmember Bond seconded the motion. The motion passed unanimously.**

Meeting was adjourned at approximately 9:21 p.m.

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Terry Ryan, Mayor

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Kelly Chelin, Executive Assistant/City Clerk