



# MEDINA, WASHINGTON

**MEDINA CITY COUNCIL  
SPECIAL MEETING MINUTES**  
Medina City Hall, Council Chambers  
501 Evergreen Point Road, Medina  
Monday, May 18, 2015  
6:30 PM

**MAYOR**  
PATRICK BOYD

**DEPUTY MAYOR**  
DAVID LEE

**COUNCIL MEMBERS**  
JAY DECKER  
MICHAEL LUIS  
JOHN MAFFEI  
ALEX MORCOS  
CURT PRYDE

**CITY MANAGER**  
MICHAEL SAUERWEIN

**CITY ATTORNEY**  
MIKE KENYON

**CITY CLERK**  
AIMEE KELLERMAN

## MINUTES

### 1. SPECIAL MEETING - CALL TO ORDER / ROLL CALL

Deputy Mayor David Lee called the special meeting to order in the Medina Council Chambers at 6:42 p.m.

Council Members Present: Decker, Luis, Morcos, Pryde, and Deputy Mayor Lee

Council Members Absent: Boyd and Maffei

Staff Present: Sauerwein, Kenyon, Grumbach, and Kellerman

**ACTION:** Motion Luis second by Pryde and carried by a 5:0 vote; Council excused the absence of Council Members Boyd and Maffei.

### 2. SPECIAL MEETING ITEM

Deputy Mayor David Lee gave a brief outline of how this special meeting will operate. Council will discuss the Independent Towers and T-Mobile lawsuit, open the floor for the interveners from Respect Medina to speak and then an opportunity for the residents to have public comment.

Deputy Mayor Lee announced at this meeting Council is unable to take final action and asked City Attorney Mike Kenyon to give a brief explanation.

Mike Kenyon explained that Council is subject to the open public meetings act, which makes a clear distinction between action, which is defined to include things like the

discussion item on the agenda and final action, which is collective decision or an actual vote. At regular meetings, Council can take action or final action on anything on the agenda. In order to take final action at a special meeting without the risk of a legal challenge, the final action should be addressed on the agenda.

## 2.1 Independent Towers and T-Mobile Lawsuit

Council Member Morcos gave a summary explanation of the vote at the May 11 City Council meeting regarding approval of the settlement. Morcos also commented that there was a conference call on Wednesday involving Council Members Maffei, Morcos, and Mayor Boyd, including City Manager Michael Sauerwein, City Attorney Kari Sand, the City's attorney in Washington D.C., the interveners and their attorney Ian Morrison to discuss the settlement agreement. He also commented that Council Members Maffei, Morcos, and Deputy Mayor Lee hosted a town hall meeting on Thursday.

Deputy Mayor David Lee opened the public comment period and allowed Respect Medina to speak on the settlement agreement first.

Council Member Morcos stated that the purpose tonight would be to come up with a secondary proposal that is agreeable with T-Mobile, Independent Towers, interveners, residents, and Council.

Respect Medina attorney Ian Morrison thanked Council for calling this special meeting. He provided a short brief on Respect Medina's efforts on the cell tower in Fairweather Park. He also commented that the coalition is committed to a pro-parks and pro-technology solution. If the Medina City Council rescinds the settlement agreement, Medina residents, a non-profit organization will commit \$140,000 to develop the drainage improvements that are currently part of the settlement agreement. The message tonight from the interveners is "Stop. Let's slow down. Let's have a deliberative process with the community at the table".

Morrison clarified that they do not agree with T-Mobile's expert on the gap coverage in Medina, but they do acknowledge that there may be a need for a permanent tower in this part of the City.

Council Member Morcos asked Morrison what action they are requesting of Council tonight.

Morrison responded that their request is an action at a properly noticed special meeting that directs the City to rescind the settlement agreement and ask the City Manager or the City Attorney to sit down with all parties to the litigation to discuss settlement options.

Council Member Pryde asked Morrison when discovery is scheduled.

Morrison responded that their discovery was scheduled for early May. T-Mobile has since asked for an extension and notified them that they would not be providing the discovery because of the settlement agreement.

Council Member Pryde commented that the settlement agreement identified a significant gap in T-Mobile's ability to provide personal wireless service and the City had a third party expert confirm the analysis. He then asked staff about the third party report.

Director of Development Services Robert Grumbach responded that the City hired Hatfield and Dawson. They were present when the original testing was done and the City had them review T-Mobile's report and concluded it was consistent and found no fault in the report.

Council Member Pryde asked Morrison if they have seen the report and if they agree with the analysis.

Morrison responded that on May 6 they had a copy of T-Mobile's gap coverage analysis which he said only goes to the purported gap in coverage, and not the second prong which is least intrusive. The Medina residents are not making any statements about the validity of the gap coverage analysis.

John Harris pointed out what he thought was a fault in the report.

In response to a question from Council Member Pryde Cynthia Adkins stated that the coalition of Medina residents will provide drainage and resurfacing improvements at Fairweather Park if Council keeps Fairweather Park a park and will continue to support a pro-technology, pro-park, and pro-community solution. She commented about looking at other options for a cell tower location including putting themselves back at the utility pole in the WSDOT right-of-way.

Morrison, Adkins, and Council continued questions and discussion for options regarding the cell tower.

Deputy Mayor Lee opened the public comment period at 7:44 p.m. The following individuals addressed the Council:

- Sheree Wen commented on the least intrusive and felt that it was not necessary to have an 80 foot tower at Fairweather Park.
- Eric Oeltjen stated that point of Council is to represent the citizens.
- Cynthia Adkins concurred with Eric Oeltjen's comments.
- Laurel Preston echoed the thanks given to the Council for listening. She commented on preserving our code and the park.
- Heija Nunn commented that T-Mobile and Independent Towers have not been reasonable and she suggested that Council move to rescind the vote on the settlement agreement to provide leverage to include the interveners.

Council moved to Executive Session for an estimated time of 30 minutes. Council reconvened at 8:30 p.m.

**ACTION:** Motion Lee to Notice a Special Meeting on Wednesday, May 20, 2015 at 6:30 PM for further action to be potentially taken; second by Pryde.

**ACTION:** Motion Decker second Pryde and carried by a 3:2 (Luis and Morcos dissented) (Boyd and Maffei absent) vote; to amend the above motion to Notice a Special Meeting on Thursday, May 21, 2015 at 6:30 PM for further action that could potentially be taken.

**ACTION:** Motion Morcos to Request that Respect Medina provide our City Attorney as soon as possible with a written list of settlement suggestions that they would consider proposing to Independent Towers and T-Mobile, which they would support; and if agreed to by both parties we can eventually use as a revised settlement; second by Decker. Carried by a 5:0 (Boyd and Maffei absent) vote.

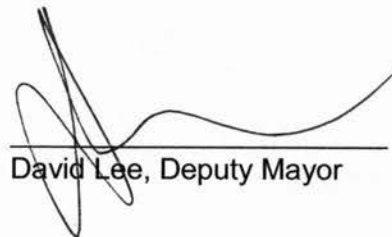
Deputy Mayor Lee opened the public comment period at 8:35 p.m. The following individuals addressed the Council:

- Cynthia Adkins thanked Council for their leadership.
- Heija Nunn concurred with Cynthia Adkins comments and expressed appreciation to staff for staying late for this meeting.
- Sheree Wen thanked Council for listening to the residents.

Deputy Mayor Lee closed the public comment period at 8:38 p.m.

### **3. ADJOURNMENT**

Council adjourned the special meeting at 8:35 p.m.

  
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David Lee, Deputy Mayor

Attest:

Aimee Kellerman  
Aimee Kellerman, City Clerk