

MEDINA CITY COUNCIL
REGULAR MEETING MINUTES
Medina City Hall Council Chambers
October 8, 2007; 6:00 pm

CALL TO ORDER

Miles Adam called the October 8, 2007, Medina City Council Meeting to order at 6:00 pm.

ROLL CALL

Council Members Present: Miles Adam, Lucius Biglow, Drew Blazey, Jim Lawrence, Katie Phelps, Robert Rudolph and Pete Vall-Spinosa

City Staff Present: Mark Weinberg, City Manager; Wayne Tanaka, City Attorney, Ogden Murphy Wallace; Jeff Chen, Police Chief; Joe Willis, Director of Public Works; Joseph Gellings, Director of Development Services; Jan Burdue, Finance Officer; and Rachel Baker, City Clerk

EXECUTIVE SESSION

Council recessed into Executive Session at 6:00 pm to:

1. To discuss with legal counsel two items of litigation to which the City is a party, pursuant to RCW 42.30.110(1)(i)
2. To discuss with legal counsel two items of potential litigation to which the City is likely to be a party, pursuant to RCW 42.30.110(1)(i)
3. To review the performance of a public employee, pursuant to RCW 42.30.110(1)(g)

Council Members Miles Adam, Lucius Biglow, Drew Blazey, Jim Lawrence, Katie Phelps, Robert Rudolph and Pete Vall-Spinosa; City Manager Mark Weinberg; City Attorney Wayne Tanaka; and City Clerk Rachel Baker were present. Executive Session adjourned and the regular meeting was called back into session at 7:10 pm. No action was taken.

REMARKS AND ANNOUNCEMENTS

Mayor acknowledged Joseph Gellings' resignation, recognized a number of his efforts and contributions while employed with the City of Medina and read Resolution Number 329 that honored his work, responsibilities and exemplary service to the City.

Gellings stated he regretted the timing of his departure and complimented the current talent on staff in the Development Services Department, including Building Inspector Wayne Prentice, Building Official Steve Wilcox, Development Services Coordinator Donna Goodman and City Manager Mark Weinberg.

City Manager spoke to Gellings' expertise and of his responsiveness to the community and staff and added that he would be missed. Weinberg briefly summarized Gellings' personal and work history and wished him luck in future endeavors.

Mayor recognized City Clerk for obtaining a grant award from the Washington State Archives Local Records Management Grant Program.

APPROVAL OF AGENDA

Agenda approved by Council consent.

PUBLIC COMMENT

Mayor opened floor to public comment at 7:25 pm.

Northeast 14th Street resident Heija Nunn inquired if the Mayor would reopen the historical use permit hearing if new information on the matter was presented and asked if comments would be accepted regarding lease negotiations regarding the Green Store between the City and Ms. Lee. City attorney responded.

Overlake Drive East resident Arthur Dietrich addressed the Council regarding sidewalk safety. He said safety should be the priority of the Public Works Department and beauty second. Resident said he is puzzled that the Police Department has not identified items that need to be addressed and notified the Public Works Department for correction.

Resident Henry Paulman commented on the first three items of the City Manager's report, first pertaining to the Chief's trip to Amsterdam and mentioned there have not been good internal controls in the City. Resident addressed the Clearw're antenna second stating his belief the system has not solely been used for the Police Department and suspected it has been used for commercial purposes. He suggested the Council acknowledge the antenna as a gift to the City if it is not being used for commercial purposes. Mr. Paulman said he spoke to Clearw're and was told the Medina location is a key location and used to cover Medina commercially as well as for the Police Department. Mr. Paulman then addressed emails and requests for public disclosure and admitted the volume does fall into the abusive category. He said he has read emails generated by City Council and City staff which were requested and obtained by Eric Hokanson and himself through public disclosure. He said that after reading the emails there seems to be a "them versus us" mentality in the emails and encouraged others to read the emails, as well.

Overlake Drive West resident Terry Drayton addressed letter dated April 13, 2007, from the City Manager to Mrs. Lee regarding lease of the Green Store. Resident said it has been hard to understand why the City has delayed occupancy as a bargaining chip for a preferential lease or purchase. Resident stated he is tired of explaining to his children why it has taken seven years for the Store to open and then compared the Store development to the expansion of St. Thomas, which was approved in five hours.

Overlake Drive West residents Scott and Ally Svenson expressed their level of frustration about waiting for approvals to be obtained in order for the Store to open and

about the apparent conflicts arising from lease negotiations. Residents asked Council to consider what a small community Medina is and how relatively simple the issue seems to be.

Northeast Eighth Street resident Paul Edelhertz agreed with the Svenson's and said the reasons given for denial of use during the last meeting were because the Council determined office space use was not an historical use. He said that it did seem inconsistent with the fact the City concurrently had brought the exact same issue directly to property owner.

Overlake Drive West resident Mark Mowat agreed with the Svenson's and Mr. Edelhertz and questioned how the City could consider a lease opportunity but not a third party and stated he would like to hear what those reasons would be.

PUBLIC HEARINGS

2008 Preliminary Budget (7:38 pm)

Mayor opened public hearing and called for public comment at 7:38 pm. No public testimony was presented.

City Manager summarized Council suggestions and directives provided in response to budget proposal offered to Council September 24th and conveyed new proposal was updated to reflect matters discussed. Weinberg included a draft salary ordinance for Council's consideration and a property tax table to identify levy options.

Council Members offered individual comments pertaining to budget proposal. Council majority directed Weinberg to incorporate new construction property taxes only, including banked taxes from last year, to keep salary schedule as a table in the budget ordinance, agreed to proposed salary schedule, and to retain Council communications funding as appropriated in proposed budget.

Council requested figures for converting chambers to office space and for holding public meetings off-site in order to consider including costs in 2008 budget. Weinberg conveyed he would speak to the Public Works Director and Overlake Golf and Country Club to obtain ballpark figures. Mayor suggested City Manager review real estate excise tax revenue.

Public hearing closed at 8:33 pm.

Comcast Cable Franchise Agreement (8:34 pm)

Mayor opened public hearing at 8:34 pm and called for public comment.

Resident Heija Nunn asked if a public access channel would be included as part of the agreement and requested details on how the channel would work.

Weinberg briefly explained how the public education in government channel would function.

Comment period closed at 8:38 pm.

City Council inquired about franchise fees. City Attorney answered questions and Mayor expressed further discussion on matter could take place at a later time.

MOTION BLAZEY AND SECOND VALL-SPINOSA TO APPROVE ORDINANCE REPEALING ORDINANCE NUMBER 795 AND ENACTING NEW CABLE SYSTEM REGULATIONS. MOTION CARRIED 7-0 AT 8:44 PM.

MOTION BLAZEY AND SECOND VALL-SPINOSA TO APPROVE ATTACHED ORDINANCE GRANTING A NON-EXCLUSIVE CABLE TELEVISION FRANCHISE TO COMCAST AND AUTHORIZING THE CITY MANAGER TO ENTER INTO A FIVE-YEAR FRANCHISE AGREEMENT. MOTION CARRIED 7-0 AT 8:45 PM.

CONSENT AGENDA

Phelps requested a correction to page three of the September 10, 2007 City Council Minutes, changing opposition of the motion from Vall-Spinosa to Biglow.

MOTION PHELPS AND SECOND ADAM TO APPROVE CONSENT AGENDA ITEMS AND MOTION CARRIED 7-0 AT 8:47 PM.

1. Approval of Amended September 10, 2007 City Council Minutes
2. Approval of September 24, 2007 City Council Minutes
3. Approval of September 2007 Checks/Finance Officer's Report
4. Sales/Franchise Tax/Fee Audit Agreement
5. Building Code Adoption

Historical Use Permit – Medina Store (8:48 pm)

Lawrence recused himself from the matter and left the meeting at 8:48 pm.

Mayor introduced item and read an email from City Manager to City residents summarizing current status regarding the Green Store.

Attorney Gerry Lutz, representing storeowner Mrs. Hae Lee, requested the City Council reconsider its decision. He recounted the procedural objection made via a letter dated October 8, 2007, which requested City Council Member Biglow recuse himself from the proceeding based upon new information of bias and a violation of the appearance of fairness rules. Mr. Lutz asked Council Member Vall-Spinosa to either vote on the matter based on City Council procedural rules or to state his reasons to abstain.

Tanaka read the factual basis for the challenge to Biglow from the letter referenced by Mr. Lutz. Tanaka stated he received the letter at 4:00 pm that afternoon. Tanaka questioned if additional facts were to be presented and resident Heija Nunn took the opportunity to challenge Biglow's continued participation.

Mrs. Nunn requested Biglow recuse himself from the matter. Upon Biglow's refusal, Mrs. Nunn read a transcription of her phone conversation with Biglow, which occurred Tuesday, July 24th.

Council Member Biglow stated that as a former partner with Perkins Coie, he did visit the Perkins Coie offices while amid the quasi-judicial situation and spoke to Mark Quehrn. He said the only reference made to Mrs. Lee's application was the fact the City Council was in a quasi-judicial role and that it would not be appropriate to speak to anyone about it, which was agreed to. Biglow remarked regarding Mrs. Nunn's notes saying that he has a clear recollection of never having said almost everything that was reported. Biglow stated he strongly disagreed with the statements addressed in the letter to the Council and with what Mrs. Nunn said.

Biglow said he strongly supports the opening of the Store and then recused himself from the matter to minimize the prospect of invalidating any action taken. Biglow left meeting at 9:08 pm.

Council members expressed their positions in the matter.

MOTION BLAZEY AND SECOND ADAM TO DENY HISTORICAL USE PERMIT REVISION FOR THE MEDINA GREEN STORE AND TO ADOPT FINDINGS OF FACT AND CONCLUSIONS AS DEFINED IN PROPOSED RESOLUTION. MOTION CARRIED 3-2 (RUDOLPH AND PHELPS OPPOSED, BIGLOW AND LAWRENCE RECUSED) AT 9:18 PM.

Mayor recessed meeting at 9:20 pm for a break and called the meeting back into session at 9:24 pm. Council Members Biglow and Lawrence returned to the meeting.

View & Sunlight Ordinance (continued) (9:24 pm)

Weinberg introduced item and provided a summary of its reintroduction to the City Council.

Rudolph stated his belief that the matter is a reconsideration of a failed motion from two meetings ago, was not timely brought back to the City Council, and read from the Council Guidelines.

Tanaka stated procedural matters are decided by chair and subject to appeal by the Council on a motion to overturn the chair's ruling. He added there is more than one way to bring an item back before a Council and explained.

Rudolph challenged how item was added to the agenda as it should be a reconsideration and read section 8.05 of the Council Guidelines.

Weinberg said he had two verbal requests and one email request well within the time period stipulated in the guidelines. Mayor said the suggestion to reintroduce item occurred after the vote was taken during the last meeting in order for the matter to be considered by the full Council.

MOTION RUDOLPH AND SECOND PHELPS TO CHALLENGE REINTRODUCTION OF VIEW AND SUNLIGHT ORDINANCE. MOTION FAILED 2-5 (PHELPS AND RUDOLPH IN FAVOR) AT 9:38 PM.

MOTION VALL-SPINOSA AND SECOND ADAM TO ADOPT ORDINANCE RELATING TO VIEW AND SUNLIGHT OBSTRUCTION AND PROVIDING A MECHANISM FOR THE ORDERLY RESOLUTION OF DISPUTES INVOLVING THE PRESERVING AND ENHANCING VIEWS AND ACCESS TO SUNLIGHT. MOTION CARRIED 4-3 (BIGLOW, PHELPS, AND RUDOLPH OPPOSED) AT 9:48 PM.

An amendment to the motion failed which was proposed by Biglow and seconded by Rudolph to provide that the initiator of a procedure under the ordinance shall bear the cost of the proceeding and to reimburse opposing side if initiator fails to achieve objective.

Rudolph stated for the record his belief there is no basis for the ordinance under Washington State Law and his belief the ordinance would not survive a legal challenge.

Annual Emergency Services Management Report (9:49 pm)

Weinberg summarized report and the need for policy direction on scope of program services. Council recommended City Manager adopt regional approach to program services as outlined in report and additionally suggested the need to encourage individual households to become self-sufficient and independent, to form partnerships with other agencies and communities, and for City to fill holes in program not filled by agencies and communities, especially heat, water, and shelter.

Weinberg acknowledged Emergency Services Coordinator Kris Finnigan's hard work obtaining information for reports and successful grant awards. Ms. Finnigan was present in the audience.

City Manager's Monthly Activity Report (10:06 pm)

- A. Police Department
- B. Development Services
- C. Public Works
- D. City Manager

Weinberg and Tanaka answered City Council inquiries pertaining to public records requests, permitting process for garbage enclosure at City Hall and Clearw're antenna, and staff attendance at overseas conferences.

PHELPS questioned Willis regarding extensions for Medina Beach Park project.

Reports were received and filed.

Agenda Calendar (10:31 pm)

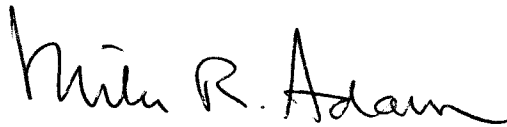
Council discussed agenda calendar.

ADJOURNMENT

MOTION VALL-SPINOSA AND SECOND BLAZEY TO ADJOURN THE OCTOBER 8, 2007 CITY COUNCIL REGULAR MEETING AND MOTION CARRIED 7-0 AT 10:34 PM.

The October 8, 2007, Regular Meeting of the Medina City Council adjourned at 10:34 pm.

The next Regular Meeting of the Medina City Council will be held Tuesday, November 13, 2007 at 7:00 pm.



Miles R. Adam, Mayor

Attest:



Rachel Baker, City Clerk