



CITY COUNCIL MINUTES

January 6, 2015

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

Pam Pruitt, Mayor
Brian Holtzclaw, Mayor Pro Tem
Sean Kelly
Donna Michelson
Mike Todd
Mark Bond

January 6, 2015
Regular City Council Meeting
6:00 p.m.

CALL TO ORDER

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

FLAG SALUTE

Flag Salute was conducted.

ROLL CALL

Roll was called by the City Clerk with all Councilmembers present.

AUDIENCE COMMUNICATION

Dan Kolb
President of Mill Lane Homeowners Association

Mr. Kolb handed out a letter from his association about an issue he had with Fire Chief Meek about parking on their neighborhood streets and the emergency ingress/egress area.

PRESENTATIONS

Presentation to Outgoing Councilmember Mark Harmsworth
(Pam Pruitt, Mayor)

ELECTION OF MAYOR PRO TEM

Conduct the Election of the Mayor Pro Tem
(Pam Pruitt, Mayor and Kelly Chelin, City Clerk)

MOTION: Councilmember Bond nominated Brian Holtzclaw for the position of Mayor Pro Tem, Councilmember Kelly seconded the nomination.

After no further nominations, the nominations were closed.

Councilmember Holtzclaw's name was highlighted on the paper ballot and passed out to the Councilmembers for voting.

City Clerk Kelly Chelin counted the votes (with Police Chief Crannell as a witness) and read aloud

the votes for Councilmember Holtzclaw.

Councilmember Holtzclaw received 6 votes for the position of Mayor Pro Tem.

OATH OF OFFICE FOR MAYOR PRO TEM

City Clerk Kelly Chelin read the oath of office to newly elected Mayor Pro Tem Brian Holtzclaw.

STUDY SESSION

Resolution Ratifying the Appointment of a Hearing Examiner and Hearing Examiner Pro Tem
(Tom Rogers, Director of Community Development)

The following agenda summary information was presented:

Most cities in Washington use a hearing examiner system to process quasi-judicial land use decisions. RCW 35A.63.170 specifically authorizes cities to establish a hearing examiner system for that purpose. By the adoption of Ordinance 2010-718, the Mill Creek City Council established a Hearing Examiner system to reduce the City's liability exposure and streamline the decision process for land use permitting, land use appeals, and enforcement actions.

In January of 2011, the City entered into an Agreement with Sound Law Center, LLC to perform Hearing Examiner services for the City. The contract specified that the consultant would assign Kim Allen to serve as the regular Hearing Examiner for the City. Ms. Allen is no longer employed by Sound Law Center and as a result, staff chose not to renew the contract, which expired December 31, 2014, and issued a Request for Proposals for Hearing Examiner Services in November 2014.

Following review of the proposals submitted, interviews and reference checks, the Acting City Manager selected Olbrechts and Associates, PLLC to serve as the City's Hearing Examiner and Offices of Sharon Rice Hearing Examiner PLLC to serve as the Hearing Examiner Pro-Tem. Pursuant to MCMC Section 4.34.070, these appointments are subject to ratification by the City Council.

Mr. Olbechts has approximately 20 years of experience as a hearing examiner and currently provides services to 11 cities and counties. Ms. Rice has been providing hearing examiner services since 2003 and currently provides services for 11 cities and counties. Both applicants are well qualified and had excellent references.

Discussion.

The Council discussed the resolution. This item is scheduled for action later in the meeting.

Amendment to Business License Code
(Shane Moloney, City Attorney)

The following agenda summary information was presented:

MCMC 5.04.030.C, within the City's business license code, currently reads, "If the application is for a business located in a nonresidential zone district for which (1) a development agreement and/or operational agreement with the city is in force, and (2) the development agreement and/or operational agreement requires business owners or operators to be a member in a business or other association,

the applicant shall provide written proof of current membership in good standing with such association.”

This subsection was added to the City’s business license code in 2008 as a way to enforce the Town Center development agreements that required all business owners and tenants to be members of the Town Center Business Association (TCBA). The TCBA was created by the development agreements as a way of having a single entity responsible for carrying out many of the developers’ obligations in the development agreements. Some of those obligations include maintaining the Town Center’s open spaces, surface water facilities, and bathrooms, while also working with the City to coordinate public events within the Town Center.

The City did not start enforcing MCMC 5.04.030.C until 2012. At this time, staff recommends amending MCMC 5.04.030 to rescind MCMC 5.04.030.C, for the following reasons:

1. The Town Center development agreements contemplate a TCBA made up of all property owners and tenants/business owners. MCMC 5.04.030.C has been used to enforce membership of tenants in the TCBA, but not membership of property owners. Town Center property owners have a separate association that performs the maintenance responsibilities of the development agreements. Most property owners do not participate in the TCBA. As a result, the TCBA is limited in its ability to fully carry out the requirements of the development agreements. Instead of carrying out the maintenance duties imposed by the development agreements, the TCBA primarily acts as a Town Center marketing association that also coordinates the public events contemplated by the development agreements.
2. Despite significant use of City resources to attempt to enforce MCMC 5.04.030.C, the City has not been successful in requiring 100% Town Center tenant participation in the TCBA. As a result, some Town Center businesses have operated without a business license. The City’s enforcement mechanism for that violation is criminal prosecution. The requirement of TCBA membership within the business license code makes such prosecution complicated.
3. The City does not control or have an interest in setting TCBA dues. However, the enforcement of membership through the business license code creates the appearance that the City is directly imposing the cost of dues on business owners.
4. The terms of the Town Center development agreements are expiring, which further calls into question the City’s ability to enforce membership in the TCBA.

If the Council amends MCMC 5.04.030, as staff recommends, the development agreements that require membership in the TCBA will remain unaffected. The only change will be that the City will no longer enforce the membership requirement through the business license application process.

Discussion.

The Council discussed the code amendments. This item is scheduled for action later in the meeting.

City Manager Recruitment

(Landy Manuel, Acting City Manager)

The following agenda summary information was presented:

The City received five proposals from recruiting firms for the City Manager search. These firms have successfully filled scores, if not hundreds, of executive level government positions in this region. All the firms are capable of doing a good job with the recruitment and all have very similar processes. The recruitment process is very detailed and time intensive, and will include identifying candidate requirements, determining the salary range, pro-actively advertising, screening of applications, interviews, background checks, and more. It is best handled by a firm specializing in executive level placement with public sector entities.

The base fee varies from \$16,500 plus expenses to 33% of base starting salary (about \$45,000). The firms provide a guarantee, usually one year with no additional charge, in the event the selected person leaves. Colin Baenziger provides a two year guarantee with no charge (see attached summary). An analysis of the proposals winnowed the list down to two firms, Colin Baenziger and Prothman based upon their concentration/experience in recruitment of city managers in Washington, price and guarantee. In addition to the longer guarantee period I also like that Colin Baenziger conducts background checks at the semi-finalist stage not at the finalist stage. Note Karras and Associates that did the previous search chose not to provide a proposal saying they were too busy with other searches. Copies of all the proposals were emailed to Councilmembers last week.

Discussion.

Council discussed the process and the selection of Colin Baenziger.

Open Discussion/Future Study Session Items
(City Council)

CONSENT AGENDA

Payroll and Benefit ACH Payments in the Amount of \$354,591.58.
(Audit Committee: Councilmember Holtzclaw and Councilmember Todd)

Approval of Checks #53065 through #53141 and ACH Wire Transfers in the Amount of \$168,675.41.
(Audit Committee: Councilmember Holtzclaw and Councilmember Todd)

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

ACTION ITEMS

Resolution of the City of Mill Creek Washington Ratifying the Appointment of a Hearing Examiner (If approved, would take Resolution #2015-523)
(Tom Rogers, Director of Community Development)

MOTION: Councilmember Michelson made a motion to approve Resolution #2015-523, Resolution of the City of Mill Creek Washington Ratifying the Appointment of a Hearing Examiner, Councilmember Kelly seconded the motion. The motion passed unanimously.

Resolution of the City of Mill Creek Washington Ratifying the Appointment of a Hearing Examiner Pro Tem (If approved, would take Resolution #2015-524)
(Tom Rogers, Director of Community Development)

MOTION: Councilmember Michelson made a motion to approve Resolution #2015-524, Resolution of the City of Mill Creek Washington Ratifying the Appointment of a Hearing Examiner Pro Tem, Councilmember Kelly seconded the motion. The motion passed unanimously.

Ordinance Amending the Application Procedure for Obtaining a Business License as Set Forth in Mill Creek Municipal Code Section 5.04.030 (If adopted, would take Ordinance #2015-792)
(Shane Moloney, City Attorney)

MOTION: Councilmember Todd made a motion to approve Ordinance #2015-792, Ordinance Amending the Application Procedure for Obtaining a Business License as Set Forth in Mill Creek Municipal Code Section 5.04.030, Councilmember Michelson seconded the motion. The motion passed unanimously.

Appoint City of Brier Councilmember John Joplin as the City's 2015 Snohomish Health District Representative for the City of Mill Creek
(Landy Manuel, Acting City Manager)

MOTION: Councilmember Todd made a motion to appoint City of Brier Councilmember John Joplin as the City's 2015 Snohomish Health District Representative for the City of Mill Creek, Councilmember Michelson seconded the motion. The motion passed unanimously.

The following item was added to the action agenda:

Authorize the Acting City Manager to Enter into a Contract with Colin Baenziger & Associates for City Manager Recruitment Services as Substantially Outlined in the Firm's Proposal
(Landy Manuel, Acting City Manager)

MOTION: Mayor Pro Tem Holtzelaw made a motion to authorize the Acting City Manager to Enter into a Contract with Colin Baenziger & Associates for City Manager Recruitment Services as Substantially Outlined in the Firm's Proposal, Councilmember Todd seconded the motion. The motion passed unanimously.

REPORTS

Mayor Pro Tem Holtzelaw thanked the Council for selecting him as the Mayor Pro Tem.

Acting City Manager Manuel reported that the City received 7 applications for the City Council vacancy. The staff will schedule the interviews for the next meeting on January 13. The Council discussed starting the meeting at 5:30 p.m. in order to accommodate the interviews.

Community Development Director Rogers reported on recent development activity in the City.

Chief Crannell reported that there is a joint SNOCOM and SNOPAC meeting this Thursday at Lynnwood City Hall at 8:30 a.m. regarding the New World project if Council would like to attend.

AUDIENCE COMMUNICATION

Bill Schatz
1123 29th Avenue SE
Mill Creek, Washington 98012

Mr. Schatz addressed the Council about their goals. He stated that he believes it's good for the Council to have goals.

Chuck Wright
15907 24th Court SE
Mill Creek, Washington 98012

Mr. Wright addressed the Council about the appearance of fairness. He stated that he believes that a citizen should be able to talk to a Councilmember anytime.

Herbie Martin
14119 42nd Avenue SE
Mill Creek, Washington 98012

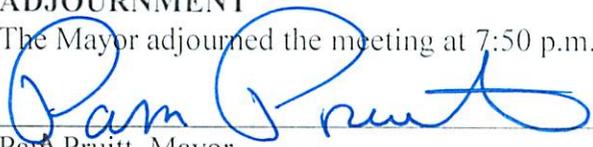
Mr. Martin spoke to the Council about getting a qualified candidate for the City Council vacancy. He stated that he believes there should be a job description for the position.

Karen Brandon
15907 24th Court SE
Mill Creek, Washington 98012

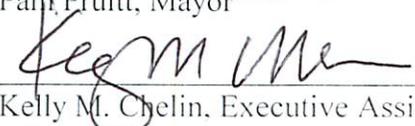
Ms. Brandon stated she is excited for the upcoming year. She urged the Council to read the strategic plan.

ADJOURNMENT

The Mayor adjourned the meeting at 7:50 p.m.



Pam Pruitt, Mayor



Kelly M. Chelin, Executive Assistant/City Clerk