

CITY OF MEDICAL LAKE
City Council Regular Meeting

6:30 PM
January 17, 2023

MINUTES

Council Chambers
124 S. Lefevre Street

NOTE: This is not a verbatim transcript. Minutes contain only a summary of the discussion. A recording of the meeting is on file and available from City Hall.

COUNCIL AND ADMINISTRATIVE PERSONNEL PRESENT

Councilmembers

Don Kennedy
Chad Pritchard
Art Kulibert (via Zoom)
Heather Starr
Tony Harbolt
Bob Maxwell

Administration/Staff

Terri Cooper, Mayor
Sonny Weathers, City Administrator
Koss Ronholt, Finance Director/City Clerk
Sean King, City Attorney
Scott Duncan, Public Works Director
Roxanne Wright, Admin. Assistant

1. CALL TO ORDER, PLEDGE OF ALLEGIANCE, ROLL CALL

- A. Mayor Cooper called the meeting to order at 6:30 pm, led the pledge of allegiance, and conducted roll call. Position #2 is vacant, councilmember Kulibert was present on Zoom, and all others were present in person.
- B. Absences - none

2. AGENDA APPROVAL

- A. Councilmember Kennedy submitted a request for absence from the February 7, 2023 council meeting. Motion to approve absence made by councilmember Harbolt, seconded by councilmember Maxwell, motion carried 5-0, with councilmember Kennedy abstaining.
- B. Mayor Cooper requested a motion to add to the agenda, under section 7 Action Items, subsection C Approval of City Council Internal Committee assignments. Motion made by councilmember Kennedy, seconded by councilmember Maxwell, motion carried 6-0.
- C. Motion to accept agenda as amended made by councilmember Starr, seconded by councilmember Maxwell, motion carried 6-0.

3. INTERESTED CITIZENS: AUDIENCE REQUESTS AND COMMENTS

- A. none

4. ANNOUNCEMENTS / PROCLAMATIONS / SPECIAL PRESENTATIONS – No items listed

5. REPORTS

- A. City Council & Council Committee Reports

- i. Finance Committee – Councilmember Starr shared that the committee reviewed claims and warrants. A lengthy conversation was had regarding the city’s garbage funds and an additional \$7000 needed due to projected cost increases. The committee discussed various ways to avoid passing on the additional cost to customers. Also discussed how to minimize customer service calls regarding garbage service to city hall. Requested to add this topic to a future agenda.
- ii. Public Safety Committee – Councilmember Kennedy shared that the committee discussed the city’s receipt of the notice of termination from the Spokane County Sheriff which begins the two-year transition period. The committee discussed the transition and how to move forward.
- iii. Public Safety Update (FD3/Sheriff) –
 - 1. Lt. Gladden from the Sheriff’s department reported that there had been a break in at the Pioneer Park bathroom but there was no major damage.
 - 2. Chief Rohrbach with Fire District 3 gave an update on year-end statistics. Should finish district wide very close to last year. Medical Lake ended the year with 680 calls, which is very close to historical average. The month of December was the busiest month of the year in Medical Lake as well as district wide. Most of the December calls were weather related due to the frigid temperatures. Shared that he will bring in data on response times at a future meeting.
- iv. Public Works Committee – Councilmember Maxwell shared that both city wells are doing very well with adequate water and recovery. Shared that public works will make two major purchases, a vactor truck and multi-hog snow blower. Gave update that the city has a new company that will offer the same services for the drug testing program.

B. Council Comments

- i. Councilmember Pritchard – no report
- ii. Councilmember Starr – asked Lt. Gladden from the Sheriff’s Department about getting packets with city reports. Lt. Gladden stated that he will look into it and hopes to provide more information in coming meetings.
- iii. Councilmember Kulibert – no report
- iv. Councilmember Kennedy – Reported that he will be attending the STA board meeting on Thursday.
- v. Councilmember Maxwell – no report
- vi. Councilmember Harbolt – no report

C. Mayor Cooper – shared that the part-time Code Enforcement Officer position is open and posted on the city’s website.

D. City Administrator & City Staff

- i. Sonny Weathers, City Administrator
 - 1. Shared that the Washington State Legislative session has begun. Shared that the topic of the appropriation of funds for police services at Eastern State Hospital and Lakeland Village is a priority for the city.
 - a. Mayor Cooper shared that she had received an e-mail from Senator Holy that he has taken on this topic and drafted a proposal for the state budget.
 - 2. Mr. Weathers gave a presentation on Legislative Affairs Strategy

- a. Mayor shared that she will be testifying at legislature re: police reforms and therapeutic court model.
- ii. 2022 Budget Update – Koss Ronholt, Finance Director
 1. Shared that revenues are in for the year and all looks positive. More expenditures have been received that are attached to the 2022 budget. Shared that he is working on final numbers to present to council.

6. WORKSHOP DISCUSSION

A. Critical Areas Ordinance Update

- i. Elisa Rodriguez, City Planner gave presentation on the Planning Commission's process. Reminded that the next council meeting on February 7, 2023, will be a public hearing and the first read of the Ordinance.
- ii. Commissioner Munson shared on his experience with the process.

B. Credit/Fuel Card Policy and Procedure Update

- i. Koss Ronholt, Finance Director shared a presentation reviewing the new policy and procedure for credit/fuel cards.
 1. Mayor Cooper suggested adding some language as to when receipts are required to be returned to finance.

C. City Council Internal Committee Assignments

- i. Mr. Weathers discussed assignments, both current and proposed. Gave a handout with current assignments.
- ii. Mayor shared that she would like to change the Public Works Committee to a General Government committee which will encompass public works among other city-related topics. Asked council members if they wanted to continue their current committee assignments or change to new ones. Councilmember Kennedy would like to change from Public Safety Committee and Parks and Recreation Committee to General Government Committee and Finance Committee. Councilmember Harbolt would like to be added to the Parks and Recreation Committee and be removed from Public Works Committee. Councilmember Pritchard would like to be added to Parks and Recreation Committee and remain with General Government Committee.
 1. Final committee assignments:
 - a. Finance – Councilmembers Starr, Kulibert, and Kennedy
 - b. Parks and Recreation – Councilmembers Starr, Harbolt, and Pritchard
 - c. Public Safety – Councilmembers Kulibert and Maxwell. This leaves one vacancy for the open council position.
 - d. General Government – Councilmembers Maxwell, Prichard, and Kennedy

D. Maintenance Journeyman and Lead Requirements

- i. Mr. Weathers gave an overview of the requirements.
 1. Mayor Cooper shared the reason behind developing the requirements; to provide clarity and give the ability to measure skills.

7. ACTION ITEMS

A. Consent Agenda

- i. Approve **January 3, 2023**, minutes
 1. Motion to approve made by councilmember Kennedy, seconded by councilmember Pritchard, carried 6-0.

- ii. Approve **January 17, 2023**, Payroll Claim Warrants **42050** through **42057** and Payroll Payable Warrants **20181** through **20185** in the amount of **\$126,245.44**, Claim Warrants **42081** through **42099** in the amount of **\$247,738.86**, and 13th Month Claim Warrants **42058** through **42080** in the amount of **\$87,251.19**.
 1. Finance committee reviewed and recommended approval.
 2. Motion to approve made by councilmember Starr, seconded by councilmember Kennedy, carried 6-0.

B. Approval of City Council Vacancy Appointment Procedures

- i. Mr. Weathers explained that this process is one of many that will be included in the update of the complete City Council Policies and Procedures Manual. Also shared that a clarification was made regarding the sequestering of candidates during the interviews. Wording has been added to reflect that the city will request that candidates sequester but will not mandate. Reviewed proposed application and questions to candidates and asked council for input/approval on those.
 1. Councilmember Pritchard suggested a question for inclusion on the form. Mayor Cooper explained that each council member will have the opportunity to send in their own personal questions for the interviews.
- ii. Motion to approve process made by councilmember Pritchard, seconded by councilmember Kennedy, carried 6-0.

C. Approval of City Council Internal Committee Assignments and External Appointments

- i. Internal committee assignments were made as provided in the workshop discussion. External appointments include Mayor Cooper to SRTC, councilmember Kennedy to STA, and councilmember Pritchard to HCDAC.
- ii. Motion to approve made by councilmember Maxwell, seconded by councilmember Kennedy, carried 6-0.

8. RESOLUTIONS

A. 23-566 DSHS Land Lease Amendment #2

- i. Mayor Cooper explained the amendment.
- ii. Motion to approve the resolution made by councilmember Kennedy, seconded by councilmember Maxwell, carried 6-0.

B. 23-567 Parks and Recreation Director Job Description

- i. Mr. Weathers reviewed the job description, shared feedback received after the first draft was presented, and the changes that were made to the description as a result.
- ii. Motion to approve resolution made by councilmember Pritchard, seconded by councilmember Kennedy, carried 6-0.

9. PUBLIC HEARING / APPEALS – No items listed

10. ORDINANCES – No items listed

11. EMERGENCY ORDINANCES – No items listed

12. UPCOMING AGENDA ITEMS

- A. CAO Update
- B. Credit Card Policy
- C. Maintenance and Journeyman Lead Requirements Resolution
- D. Garbage Fund
- E. Need for Cameras in some key locations (workshop)
- F. Resolutions for Sole Source Procurement for Public Works vehicle purchases

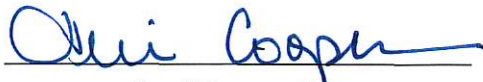
13. INTERESTED CITIZENS: AUDIENCE REQUESTS AND COMMENTS

- A. Tammy Roberson 424 W Brooks – shared comments regarding the CAO process. Gave handouts. See attachment “A”.

14. EXECUTIVE SESSION – None

15. CONCLUSION

- A. Motion to conclude meeting made by councilmember Pritchard, seconded by councilmember Kennedy. Motion carried 6-0 and meeting concluded at 8:22 pm.



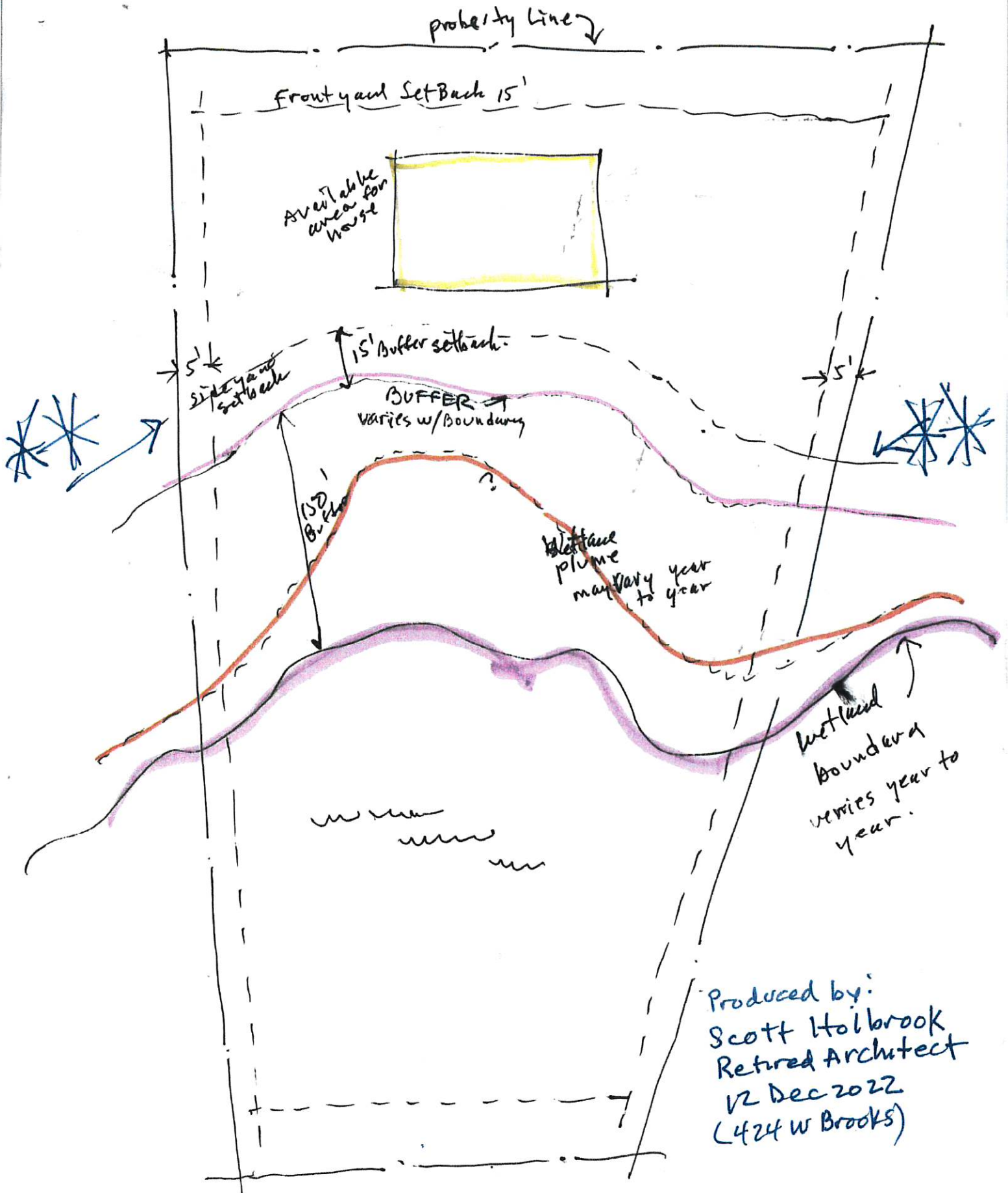
Terri Cooper, Mayor



Koss Ronholt, Finance Director/City Clerk

ATTACHMENT "A"
JANUARY 17, 2023, CITY COUNCIL MINUTES
TAMMY ROBERSON COMMENTS AND HANDOUTS

Example: 17 Dec 2022 Planning Commission



Produced by:
Scott Holbrook
Retired Architect
12 Dec 2022
(424 W Brooks)

Subject: Re: Modifications to Medical Lake CAO
From: "Tammy Roberson" <tmrober61@gmail.com>
Sent: 10/22/2022 17:11:59
To: "Carl Munson" <cmunson@medical-lake.org>;

Good evening Commissioner Munson,

Thank you again for assisting and taking me seriously and for the wonderful comments you made below! I truly appreciate your hard work and dedication to our City. Maybe you will wake up some of the Commissioners and City officials to actually listen to concerned citizens and then hopefully take some kind of action!

Have a wonderful night.

Take care,
Tammy

----- Original Message -----

From "Carl Munson" <cmunson@medical-lake.org>
To "Mark Hudson" <mhudson@medical-lake.org>; "Marye Jorgenson" <mjorgenson@medical-lake.org>; "Andie Mark" <amark@medical-lake.org>; "Judy Mayulianos" <jmayulianos@medical-lake.org>
Cc "Elisa Rodriguez" <ERodriguez@medical-lake.org>; "tmrober61@gmail.com" <tmrober61@gmail.com>; "Mayor Terri Cooper" <tcooper@medical-lake.org>; "Roxanne Wright" <rwright@medical-lake.org>
Date 10/22/2022 13:16:34
Subject Modifications to Medical Lake CAO

To: Medical Lake Planning Commissioners Mark Hudson, Marye Jorgenson, Andie Mark and Judy Mayulianos
Attn: Mayor Terri Cooper, City Planner Elisa Rodriguez, Administrative Assistant Roxanne Wright
Fm: Medical Lake Planning Commissioner Carl Munson
Re: Critical Area Ordinance revisions
Date: October 22, 2022

During the last Planning Commission meeting, as before, Tammy Roberson again spoke about the Critical Area Ordinance, specifically stating what she believed were weaknesses needing attention. At previous meetings, Ms. Roberson had stated her concerns and given each Board member pages stating those concerns together with the applicable regulations.

Her comments were always reasonable, deserving our attention. During the last meeting she stated that the Board members appeared uninterested in her prior suggestions (because, while we listened, we

undertook no responsive action). This reaction is not as it should be. When a concerned citizen works to the extent Ms. Roberson did in an attempt to improve city regulations, her concerns should be treated seriously.

After the meeting, I approached Ms. Roberson and asked her to email those Ordinance items with which she had the greatest concern (no others) and I would study them, comparing her suggestions with existing wording the Medical Lake Critical Areas Ordinance, and get back to her.

Between September 27th, when Ms. Roberson sent the regulations she believed most needed attention together with her recommendations, and last night, October 21st, when I summarized the results of our ongoing joint effort, we corresponded back and forth. Our correspondence took the form of my suggesting changes to, and sometimes elimination of, recommended changes Ms. Roberson sent me, whereupon she would correspond as to whether my suggestions were acceptable.

The back-and-forth was a bit of an ordeal, the attached recommended amendments not reflecting the time involved concluding them. The consequence, however, should be cleaner, more logical, but reasonably unburdensome Critical Areas Ordinance language in several places.

On the subject of time, I realize the timing is awkward, and ask your forgiveness in this regard. The time required, however, was productive.

I have attached our finished regulations recommendations for the Board's inspection and subsequent revision. While I doubt you'll find anything unreasonable (the intent was to make things more reasonable), I appreciate you giving the attached your critical attention.

Carl Munson
Commissioner

Summaries of CAO Handouts Provided to PC/City Officials

(Dated: 13 Apr 2022, 23 May 2022, 25 Aug 2022, 8 Sep 2022, 22 Sep 2022, 21 Oct 2022 (Coauthored Suggested Modifications), 27 Oct 2022, 17 Nov 2022, and 15 Dec 2022)

City Council Meeting – 17 Jan 2023

Note: All page numbers at the end of the sentences correspond to the Handouts (located on the City's website).

1. **13 Apr 2022 Letter, Subj: Improvements in City Procedures in light of the Park at Medical Lake/N. Stanley Wetland (5 pages).** Some major highlights included:
 - ◇ City of Medical Lake failed to require the developers to undergo a bunch of environmental review processes based on my investigation (included a large number of public information requests to the City of Medical Lake and the Department of Ecology).
 - SEPA Regulations: The project apparently did not undergo SEPA review until Dec 2021, long after the developer had broken ground – a stop work order was posted at the site.
 - ❖ The biggest problem with this is that interested citizens only know what the City publishes.
 - ❖ By failing to do public SEPA notices, the City prevented the citizens from voicing their opinions on the project until shovels were in the ground.
 - Critical Areas Permitting Rules: The stop work order indicated the City failed to make and report critical areas findings about the project.
 - ❖ The December 2021 stop work order stated that the project did not have a “critical areas” permit as required by MLMC 17.10.
 - ❖ The Critical Areas Ordinance should require any project near a critical area to be publicly noticed.
 - ❖ City officials should not be able to unilaterally waive public notice or environmental review on large projects.
 - ❖ It is scary that projects might get approval from the City with no written records left behind supporting the decisionmaking process.
 - Misc Environmental Compliance: Investigation indicated that the City failed to require the developers to record a “notice of presence of the critical area” with the Spokane County Auditor. This may be a small thing, but it is emblematic of the small ways that corners might be getting cut regarding the environment in our town.
 - Best Available Science Review: The City had failed to require the developer to update its stale wetland delineation report before granting permits.
 - ❖ Ecology states that wetland delineations should be updated every five years.
 - ❖ In the City's best interest, the City should be required to make written findings that state the basis for decision and identify the evidence relied on in making the decision.
 - Misc Concerns: City was obstructive and hostile towards my requests for information – resisted providing documents and generally refused to communicate with me about my concerns. The City was less interested in “participatory government” and more interested in evading scrutiny.
 - ◇ Conclusions (lessons learned) regarding the Stanley Wetland fiasco:
 - Ensure any permit that requires findings by the City be published as public records. Findings should directly state what information the City is relying on in making a decision.
 - Ensure future City officials are not making decisions without secondary oversight and accountability. Any development project in the City should be reviewed by at least one other person in addition to the City Administrator/City Planner.

- Put in place any other reasonable procedures that will help reduce the ability of unelected officials to conceal governmental decisions from public notice. I want to be sure that one person does not have the power to “hide the ball” from citizens who want to participate in local government.

2. **23 May 2022 Letter with 2 attachments, Subj: Comments and Proposed Changes to the Medical Lake Draft Critical Areas Ordinance (9 pages) and “Findings” Proposed Text (3 pages).** Some major highlights included:

- ◇ When I had stated that I wanted our CAO to be more restrictive than state law, what I meant was that I wanted to be sure that the City of Medical Lake was not relying on the State of Washington to protect our critical areas. (page 1)
- ◇ The following goals are needed to be enshrined in the CAO: (page 2)
 - City Planner/City Administrator can no longer unilaterally waive public notice of critical areas permits or excuse applicants from other ecological protection requirements.
 - Where unelected officials are granted significant discretion, environmental rules should require direct oversight by elected officials.
 - City Planner/City Administrator should be required to make meaningful written findings in support of decisions connected with environmental rules. Those findings should be included in public notices about permitting decisions.
 - Ensure that the public has a meaningful opportunity to review and challenge decisions made by unelected officials.
- ◇ Some major proposed changes and recommendations requested included the following (which were NOT recommended/approved by the Planning Commission):
 - Add a “*Written Findings Required*” paragraph. When a City official makes a decision, there should be a clear record of the decision and the rationale that supports it. Those findings should be included in public notices about public hearings or permitting decisions and be made immediately available to the public as an addendum to the City Council Agenda so that citizens are made aware of environmental decisions as they occur. (page 1)
 - Add a minimum building setback of 15’ requirement from the edge of a wetland buffer para. (pg 8)
 - Add a yard reduction para (“In order to accommodate for the required buffer zone the City may reduce the front yard setback requirements on individual lots on a case-by-case basis. The front or rear yard shall not be reduced by more than fifty percent.”) The purpose of this provision is to reduce yard setback requirements in order to protect a wetland buffer. (page 8)
 - Add an extra buffer width for isolated wetlands paragraph. Isolated wetlands are more sensitive to degradation and/or accumulation of sediment and/or contaminants. (page 8)
 - ❖ Isolated wetlands benefit from larger buffers.
 - ❖ If a wetland is isolated (meaning it lacks an outlet), its buffer width shall be increased by 25 ft.
 - ❖ Recommendation came from *The Planner’s Guide to Wetland Buffers for Local Governments.*
 - Para regarding access roads/utilities may be permitted within the wetland - NOT factual (pg 7).
 - ❖ Dept of Ecology directly regulates wetlands, the City does not have the power to permit roads to run directly through wetlands.
 - ❖ Any takings claim against the government for a road by necessity should have long since expired by the effect of state law.
 - Add new clause (para D, subpara 16, d): “A decrease in the mitigation ration will require an independent wetland biologist to concur in the report prepared by the applicant...” (page 7)

- Add para (in section 17.10.140 somewhere): “No part of a wetland may be counted as part of a lot’s square footage for purposes of minimum lot area requirements imposed elsewhere in the Code.” (page 9)
 - ◇ Add proposed text that the City of Medical Lake makes the following “Findings”: (pages 1-3)
 - Wetland Buffers Are Essential to Long Term Ecological and Human Health.
 - Wetland Buffers Protect Water Quality of Wetlands.
 - Wetland Buffers Protect Wildlife.
 - Wetland Buffers Trap Pollutants Before They Reach a Wetland.
 - Wetland Buffers Have Other Values.
 - Certain Wetland Traits Increase their Ecological Value.
 - Wider Buffers are Generally Superior to Narrower Buffers.
 - Pollution and Disturbance May Reduce the Effectiveness of Buffers.
 - Buffer Width Affects Sediment Filtration.
 - Wetlands and Their Buffers Represent Critical Habitats for Most Washington Wildlife.
 - Human Activity Can Negatively Affect Buffers.
 - Higher Intensity Human Activity Near a Buffer May Require a Larger Buffer.
 - Buffer Widths are Determined from Four Basic Criteria.
 - Buffer Widths Depend on the Resource Being Protected.
 - Ranges of Effective Buffer Widths.
 - Buffers Are Only One Element of Effective Environmental Policy.
 - Medical Lake Lies Within the Boundaries of State Water Quality Improvement Projects.
3. **Handout dated 25 Aug 2022, Subj: Comments to Draft Medical Lake CAO Sections 7-13 (7 pages).**
- ◇ Some overall comments included (pages 1-2):
 - Require notice to the public when environmental rules are waived.
 - Increase the evidentiary burden on applicants seeking to avoid environment requirements.
 - Require elected officials to directly oversee environmental permitting decisions.
 - Require decision makers to create written findings that become part of the public record when any environmental decision gets made.
 - ◇ Para regarding access roads/utilities may be permitted within the wetland - **NOT** factual (page 4).
 - Presents significant cross regulation problems for the City by purporting to allow activities that state law would forbid.
 - Entire section should be deleted and replaced with the model section from “Wetland Guidance for CAO Updates Eastern Washington Version (page 24)”.
 - It is totally unacceptable for Medical Lake to purport to allow roads, sewer lines, etc. through existing high-value wetlands.
 - ◇ Some proposed changes and recommendations requested included the following (which were NOT recommended/approved by the Planning Commission):
 - Add para to “*Wetland buffer width averaging*”: “Requires the applicant to prove that buffer averaging will “improve wetland protection.” (page 5)
 - The four goals stated above (in #2) were repeated in this handout.
4. **Handout dated 8 Sep 2022 (8 pages).**
- ◇ The following proposed changes and recommendations were repeated once again to the Planning Commission/City Planner:

- Add a “Written Findings Required” paragraph. One of the most important things a government can do for the citizens it governs is to leave a clear record of what it has done and why it has done it. (page 2)
- Add “Buffer Setback” paragraph. “This building setback from the buffer shall be identified on the site plan.” (page 5)
- Add “Extra Buffer Width for Isolated Wetlands” paragraph. (pages 5-6)
- Add new clause (17.10.090 (F) (2) (h)), “A decrease in the mitigation ration will require an independent wetland biologist to concur in the report prepared by the applicant...”. (page 6)
- ◇ Some (new) proposed changes/recommendations included the following:
 - Delete all references to “less information.” (page 4)
 - ❖ The City should never sign off on being *less* informed about a project before approving it.
 - ❖ In the alternative, this section should expressly state that the decision to require less information must be supported by written findings and the decision to require less information is subject to appellate review.
 - Add subparagraph (17.10.090 E (1)): “For critical areas off site of the project site, estimate conditions within 300 ft of the project boundaries using the best available information.” Note: 250’ was updated to 300’ in Dept of Ecology’s Wetland Guidance for Critical Area Ordinance (CAO) Updates: Western and Eastern Washington, dated Oct 2022. (page 5)

5. Handout dated 22 Sep 2022, Subj: Public Hearing Comments on Draft Critical Areas Ordinance (CAO) (only 1 page).

- ◇ The following comments had not been addressed yet:
 - Typos identified in draft ordinance – not corrected!
 - Comments (since May 2022) proposed a variety of reasonable changes to the draft that would improve citizen involvement, clarify ambiguities and help ensure that future development applications leave a suitable written record to citizens to review – not addressed.
- ◇ Referencing Dept of Commerce Critical Areas Handbook dated June 2018:
 - “...Once adopted, the critical areas regulations should contain a “Findings of Fact” or other statement that documents this process...”. (taken from Chapter 1, page 5)
 - “While development regulations typically apply to new construction activities, the code language for critical areas needs to be broad enough that it protects critical areas from all development activities, including those that do not involve new structures, such as roads.” (taken from Chapter 3, page 2)
- ◇ **WAC 365-190-090 (2) requires that the Planning Commission consider up-to-date guidance from governmental agencies. – NOT complied with.**

6. Handout for 27 Oct 2022 Planning Commission Meeting (1 page) – three reasons why I had proposed these recommendations be added to the CAO:

- ◇ To ensure City decisions leave a written record that citizens can actually review. Government accountability requires government transparency.
- ◇ To ensure that exceptions don’t “swallow the rule.” Every exception is a vulnerability. I do not want City government to be inflexible, but I also do not want City government to abdicate its environmental responsibilities by granting easy exceptions instead of doing the hard work of careful evaluation.
- ◇ To ensure our CAO follows guidance of state agencies. The Department of Ecology and the Department of Commerce have written excellent guidance manuals for cities like ours. These are valuable resources to be used.

7. **Email (2 pages) dated 22 Oct 2022 from Commissioner Munson with Suggested Modifications to the Medical Lake Critical Areas Ordinance (dated 21 Oct 2022) (coauthored) (4 pages).** Attachment #1 is the email from Commissioner Munson to the Planning Commission/City Planner.

- ◇ The following 12 proposed recommendations/changes were finally agreed upon by Commissioner Munson and myself:
 - “*Written Findings Required*” paragraph. (17.10.020 (H)) (page 1)
 - Add “*Permitting Decision*” definition. (17.10.130) (page 1)
 - Add to the end of 17.10.030 (B): “The exemptions provided herein should be construed narrowly, and the enforcement mechanisms contained in this Code, including the power to issue fines, shall apply to wrongfully claimed exemptions.” (page 1)
 - Alter the parenthetical of 17.10.030 (A) (3) so it will be more consistent with existing guidance: “(including removal of downed woody vegetation, application of chemicals harmful to fish and wildlife, or soil excavation, grading, and removal of native vegetation).” (page 1)
 - Alter 17.10.040 (A)15) to make appeal rights clearer. (page 2)
 - Modify the final sentence of 17.10.050 (E): “The planning official may also initiate a modification to the required report contents by requiring additional information when determined to be necessary to the review of the proposed activity in accordance with this chapter.” (page 2)
 - Add paras f and g to 17.10.050 (F) (1): “f. Assessment of existing conditions” and “g. Surface and subsurface hydrological conditions.” (page 2)
 - New proposed text to replace 17.10.090(F) (1) (a) which dealt with building a road through a wetland. Text came from Dept of Ecology CAO Updates regulations. (pages 2-4)
 - Add paragraph “*Buffer Setback*” to 17.10.090 (F) (2): “A minimum building setback of fifteen (15) feet is required from the edge of a wetland buffer. The City Planner may allow intrusions into this setback on a case-by-case basis if it can be demonstrated by clear and convincing evidence that impacts will be satisfactorily mitigated. This building setback from the buffer shall be identified on the site plan.” (page 4)
 - Alter 17.10.090 (C) dealt with delineation and also that the qualified professional must determine and inform the City on the applicant’s behalf (in writing) whether a revision or additional assessment is necessary. (page 4)
 - Add subsection to 17.10.100 (D) dealt with reasonable use exceptions. (page 4)
 - Append “Burden of Proof” under 17.10.110: “Where the applicant seeks an exception to any requirement imposed by this Code, or believes said requirement denies “all reasonable economic use of the subject property,“ justification in support of an exception must be clear and convincing. Grant of an exception, on the other hand, must not be unreasonably withheld.” (page 3)
- ◇ Note: During the Planning Commission on 15 Dec 2022, Commissioner Munson voted “**NO**” to most of his suggested modifications which we had worked on together for almost a month... Do not understand this at all in light of his email which was sent out with these proposed changes. (see Attachment #1).

8. **Handout for 17 Nov 2022. (7 pages)**

- ◇ Comments made by City Planner suggested that some of the text changes proposed by Commissioner Munson and myself were redundant or unnecessary in light of the latest draft ordinance.
- ◇ With a few exceptions, I had strongly disagreed with that assessment.
- ◇ Where the newest draft had obviated the need for certain proposed changes, I had eliminated those proposals in this particular handout.
- ◇ The following proposals are **NOT** considered redundant:

- **Proposed Change #1:** “*Written Findings Required*” paragraph (17.10.020 (H)) and “*Permitting Decision*” new definition (17.10.130). I am proposing something better, a notice of the decision **and the information it is based on**. Government is not accountable without records. (page 2)
- **Proposed Change #2:** Alter 17.10.120 F “*Penalties*.” The City needs to speak clearly about its ability to enforce the critical areas ordinance. Right now the proposed text makes reference to enforcement for unauthorized alternations (in 17.10.120), but it does not attach any enforcement authority to the exceptions and exemptions in the Code. (page 3)
- **Proposed Change #3:** Modify the final sentence 17.10.050(E): “The planning official may also initiate a modification to the required report contents by requiring additional information when determined to be necessary to the review of the proposed activity in accordance with this Chapter.” **I continue to believe the City should not have the power to require less information from applicants before an application is ever submitted.** This just risks regulatory capture. (page 3)
- **Proposed Change #4:** Alter 17.10.050 (F)(1). Add: Assessment of existing conditions. (pg 4)
 - ❖ A mitigation plan should include baseline information to help the reviewing official evaluate what that mitigation plan is designed to preserve or restore.
 - ❖ These requirements are logical because they help the City get a “before and after” view of the proposal.
 - ❖ This also brings the text into closer alignment with the Dept of Ecology’s guidance.
- **Proposed Change #5:** Replace 17.10.090 (F) (1) with new text from Dept of Ecology’s Wetland Guidance for CAO Updates: Eastern WA version, dated Jun 2016. (pages 5-6)
 - ❖ The way that the City has designed this section of the Code is misguided because of State Agencies’ regulatory authority, the City will never have authority to authorized a road to run through a Category I wetland.
 - ❖ Nevertheless, this is precisely what the current draft proposes that the City can do.
 - ❖ **The City should not approve a law that is “dead on arrival” because it conflicts with state regulatory authority.**
 - ❖ The City’s plan to use this text is especially misguided when there is already a model statute written by the Dept of Ecology (dated either Jun 2016 or Oct 2022).
- **Proposed Change #6:** Add “*Buffer Setback*” para to 17.10.090 (F) (2). (page 6)
 - ❖ There is no reason to remove that protection (small buffer setback of 15’) from the Code.
 - ❖ If the Code passes as written, we will end up with a less protection in our CAO than we had in the previous version. This would be a tragedy.
- **Proposed Change #7:** Alter 17.10.090 (C) (2) “*Delineation*.” The present text fails to require the applicant to inform the City if a new delineation or additional assessment is needed. This is a small change, but would add helpful clarity to the text. (page 6)
- **Proposed Change #8:** Alter 17.10.110. This change makes the relative evidentiary burdens on the applicants and the City clear. (page 7)
- ◇ NOTE: Comments made by City Planner dated 6 Dec 2022 regarding redundancies to Commissioner Munson’s Suggested Modifications to the ML CAO (dated 21 Oct 2022) did not take into consideration the Handout given to the City Planner/Planning Commission on 17 Nov 22. In other words, the most current information was not used.

9. **Handout for 15 Dec 2022, Subj: CAO Summary Handout (3 pages).**

- ◇ My comments to the City Planner’s comments about “redundancy” dated 6 Dec 2022:
 - **#1 Proposed Change** (“*Written Findings Required*”): The Planner’s fails to deal with the essential criticism. (page 1)

- ❖ The fact that some of these requirements are partially stated in 17.10.040 is not enough. My goal is to have the requirements to be stated directly in a single location. **This is a very important aspect of citizen oversight.**
- ❖ City Planner's allegation of redundancy is incorrect.
- ❖ The quoted portions of the Code neglects to include two important requirements:
 - The reporting official states what the "information relied on" is.
 - Nothing in the current Code directly specifies that such a written document will be a public record or that those documents will become part of the next agenda.
- **#2 Proposed Change** adding new sentence to Chapter 17.10.030 (B): (page 1)
 - ❖ No portion of the proposed CAO requires narrow construction of exemptions.
 - ❖ No portion of the proposed CAO explicitly confers the power to levy fines.
- **#3 Proposed Change** regarding Chapter 17.10.030 (A) (3): No objection. (page 1)
- **#4 Proposed Change** to alter Chapter 17.10.040 (A) (15) to make appeal rights clearer. (page 1)
 - ❖ The City would be served to consider edge cases when drafting Code. Just because meetings are ordinarily held on week days does not mean that the Code cannot be written to be as clear as possible.
 - ❖ The important issue being covered by language regarding commencement of an appeal is that an appeal window should not open until the decision is sent out. As written, the appeal window opens when the decision is *made* which creates traps for underinformed citizens.
- **#5 Proposed Change** to modify final sentence in Chapter 17.10.050 (E) "more or less information is required." (page 2)
 - ❖ The City should not have discretion to require less information from an applicant during a phase where there is no citizen oversight.
 - ❖ Such discretion is vulnerable to abuse and is not subject to meaningful review because the decision is made before citizens ever have a chance to be involved.
 - ❖ Planning Commission voted previously in favor of never having less but the same or more in protections. (source: recording from 31 Mar 2022 Planning Commission Meeting)
- **#6 Proposed Change** to adding subparagraphs to Chapter 17.10.050 (F) (1). (page 2) was added.
- **"#7 Propose Change** to the never-ending saga "allowed activities" paragraph (Chapter 17.10.090 (F) (1) (a)). (page 2)
 - ❖ The comments from the City Planner largely ignore the reasons that this comment has been provided - the problem is not the text of 17.10.030.
 - ❖ The problem is that the proposed text of this particular subparagraph (17.10.090(F)(1)(A)) is problematic.
 - ❖ Using my proposed text (from DOE's Wetland Guidance for CAO Update Eastern Washington version dated Jun 2016) does not drastically change the rules, but it does make for a clear, better code.
 - ❖ According to the Wetland Policy Director at the Dept of Ecology: **The City does not have unilateral authority to approve a road through the middle of a Category I wetland.**
- **#8 Propose Change** dealing with the 15' building setback from the edge of a wetland buffer (Chapter 17.10.090 (f) (2)). (pages 2-3)
 - ❖ **The previous version of the Code had a building setback from the edge of a buffer and this version should too.**
 - Confusing answer given by City Planner to Commissioners – "A buffer is a setback from a wetland. This proposal is to have a setback from a setback. All other setbacks from property lines still apply." (see Attachment #2 drawing handout example)

- This buffer setback is actually a building setback which has a very specific purpose – to limit the potential degradation that results to a buffer when someone undertakes construction activities nearby.
- As one knows, each property building lot whatever its shape has set backs from the property. In ML, it is 15 feet from front yard, 15 feet from back yard and 5 feet from side yard. (MLMC 17.16.060) - the building can sit anywhere within these new boundary lines.
- When a wetland boundary is on that property, the house cannot sit any closer to the wetland than the wetland buffer (i.e., 150' setback which is based on a combination of wetland category ratings, land use intensities, and/or habitat scores).
- In this proposed statement, “a minimum building setback of 15’ is required from the edge of the wetland buffer” means the buffer has its own additional setback. If the wetland has a 150’ buffer, then the house must be 165’ away from the wetland boundary as shown in the retired architect’s drawing example (Attachment #2).
- This shows that the author does not understand or is awkward in her wording.
- ❖ The City should not decrease the protection afforded to critical areas when it writes a new ordinance - it is a specific and limited protection which the City already had and should leave in place.
- ❖ Once again, if the Code passes as is written, we will end up with less protection in our CAO than we had in the previous version. NOT GOOD (especially if one remembers the Stanley Wetland fiasco).
- ❖ Again, the Planning Commission voted previously in favor of never having less but the same or more in protections. (Source: recording from 31 Mar 2022 Planning Commission Meeting)
- **#9 Proposed Change** dealing with Burden of Proof (Chapter 17.10.110). (page 3)
 - ❖ City Planner’s comment is well taken.
 - ❖ Propose that the burden of proof section be included as part of Chapter 17.10.020 – General Provisions – it makes more sense there.

Thank you so much for your time and attention to this extremely important matter.

Very Respectfully,



Tammy M. Roberson, MBA
 SMSgt USAF Retired/Disabled Veteran
 Concerned City of Medical Lake Resident
 424 W Brooks Rd

2 Enclosures/Attachments

Attachment #1: Emails dated 22 Oct 2022 at 17:11:59/13:16:34, Subj: Modifications to Medical Lake CAO. (2 pages)

Attachment #2: Drawing Example of An Additional 15’ (Building) Wetland Buffer Setback. (1 page)