

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Regular Session

June 2, 2008
8:00 p.m.

Council Chamber
Bellevue, Washington

PRESENT: Mayor Degginger, Deputy Mayor Balducci and Councilmembers Bonincontri, Chelminiak, Davidson, Lee, and Noble

ABSENT: None.

1. Call to Order

The meeting was called to order at 8:05 p.m., with Mayor Degginger presiding.

2. Roll Call, Flag Salute

Upon roll call, all Councilmembers were present. Councilmember Chelminiak led the flag salute.

3. Communications: Written and Oral

- (a) Helen O'Boyle, a resident of the Palazzo Building, expressed concern regarding construction impacts associated with downtown development including noise outside of allowed construction hours, dirt and dust, and a lack of notice to residents of special permitting when there is going to be noise outside of allowed hours. She noted four incidents of noise outside of permitted hours involving multiple sites since the previous Thursday (May 29, 30, 31, and June 1). Ms. O'Boyle requested a formal response from the City on this issue. She noted that construction activity will continue into 2009. She asked the City to proactively inform contractors about the City's regulations and to establish a notification system for downtown residents regarding work to occur outside of the permitted hours.

Mayor Degginger asked the City Manager to have staff follow up on this communication.

- (b) John Steinberg read an essay he had written about Rudy Thomas, Recreation Program Coordinator at Crossroads Community Center. He noted Mr. Thomas' background as a professional basketball player. Mr. Steinberg thanked Mr. Thomas for his inspiration and guidance as a role model, influence in encouraging an overall healthy lifestyle, and practical advice and training to help him play basketball at his best.

Councilmember Lee noted that this is one example of the positive influence Mr. Thomas has had on many youths in the community.

Mayor Degginger thanked Mr. Thomas for his work.

4. Reports of Community Council, Boards and Commissions: None.

5. Report of the City Manager

(a) 2009-2014 Transportation Improvement Program (TIP)

City Manager Steve Sarkozy asked staff to provide a brief update regarding Agenda Item 8(e).

Eric Miller, Implementation Planning Manager, said that the Transportation Commission and staff have prepared the proposed 2009-2014 Transportation Improvement Program (TIP). He explained the relationship of the plan to other City transportation-related plans. Unlike the Capital Investment Program (CIP) Plan, the TIP is not a financially constrained plan. The TIP is a six-year program of transportation improvements that is submitted to the State in order to be eligible for state and federal funding.

(b) 2009 Overlay Program

Mr. Sarkozy noted Council's request for more information regarding Agenda Item 8(f), an amendment for design services associated with the annual pavement overlay program.

Dave Berg, Deputy Director of Transportation, described staff's request for additional funding to amend the existing agreement with David Evans and Associates to finalize roadway design for the 2009 Overlay Program. The agreement was originally negotiated in 2006. The 2009 design was partially completed by this consultant during the design of the 2008 program. Two primary changes since 2006 are: 1) Significant cost increase for asphalt, and 2) Americans with Disabilities Act (ADA) requirements (curb ramp replacements and retrofits).

Responding to Mayor Degginger, Mr. Berg said there were no cost overruns for the design work completed for the 2007 and 2008 programs.

Responding to the Council, Mr. Berg explained that a portion of the design work slated for 2007 and 2008 has been delayed to 2009. In addition, there is an expanded scope of work to add ADA-related design services.

In further response to Mr. Degginger, Mr. Berg said funding for the Overlay Program is provided on an ongoing basis in the seven-year CIP Plan.

(c) Amendments to the Agenda

Mr. Sarkozy requested the addition of Agenda Items 11(a), Action on Crossroads Water Spray Playground, and 11(b), Action on ABC Legal Messenger Contract.

6. Council Business and New Initiatives

Councilmember Chelminiak reported that he made a presentation for the Puget Sound Regional Council (PSRC) staff retreat, which was held at Microsoft's offices in Lincoln Square. The presentation covered growth management and economic development issues. Mr. Chelminiak thanked Emil King, Strategic Planning Manager, for preparing the presentation and for designing a walking tour of downtown Bellevue.

Councilmember Noble attended meetings of the Bridle Trails Community Club and the Mental Health and Drug Dependency Governing Board.

Deputy Mayor Balducci attended the Youth Link Community Leadership Awards event, Bellevue Youth Theatre's production of *Oklahoma*, dedication of the 140th Avenue Season Shelters art project, and a Bellevue Jazz Festival concert (hosted by Bellevue Downtown Association). She attended meetings of the Wrap-Around Services Leadership Team and the PSRC Tolling and Pricing Task Force. As part of her job with King County, Ms. Balducci attended the Regional Law, Safety and Justice Committee meeting.

Councilmember Davidson attended meetings of the Metropolitan Water Pollution Abatement Advisory Committee (MWPAAC) and the Cascade Water Alliance Board.

Councilmember Bonincontri attended the Youth Link Community Leadership Awards, the Planning Commission's public hearing on Bel-Red Corridor planning, and a briefing on the Meydenbauer Park and Land Use planning effort.

Councilmember Lee said he regrets he was not able to attend the Youth Link awards event. He attended meetings regarding Surrey Downs Park planning and affordable housing concepts for the Bel-Red corridor and citywide.

Mayor Degginger reported that he, Deputy Mayor Balducci, and Councilmember Noble toured Surrey Downs Park with residents to solicit their input on park planning. Mr. Degginger participated in an international study mission to Finland, which was sponsored by the Trade Development Alliance and Greater Seattle Chamber of Commerce. He noted that high school graduates in Finland are able to speak three languages. Mr. Degginger feels this is a valuable asset, and he would like to see a move toward a multi-language requirement in local schools.

Mr. Degginger attended the Cascade Water Alliance Board meeting and participated in the Bellevue Chamber of Commerce leadership conference.

Deputy Mayor Balducci referred the Council to a memo in the desk packet listing recommendations for reappointments to the City's Boards and Commissions.

→ Deputy Mayor Balducci moved to approve the following reappointments:

Arts Commission – Betina Finley, Valentina Kiselev, and Bill Ptacek.

Parks and Community Services Board – Faith Roland.
Planning Commission – Vicki Orrico.
Transportation Commission – Lise Northey.

Councilmember Noble seconded the motion.

→ The motion for reappointments to the City’s Boards and Commissions carried by a vote of 7-0.

7. Approval of the Agenda

→ Deputy Mayor Balducci moved to approve the agenda, with the addition of Agenda Items 11(a) and 11(b) as described above by the City Manager. Councilmember Bonincontri seconded the motion.

→ The motion to approve the agenda, as amended, carried by a vote of 7-0.

8. Consent Calendar

→ Deputy Mayor Balducci moved to approve the Consent Calendar, and Councilmember Chelminiak seconded the motion.

→ The motion to approve the Consent Calendar carried by a vote of 7-0, and the following items were approved:

- (a) Minutes of April 28, 2008 Extended Study Session
Minutes of May 5, 2008 Study Session
Minutes of May 12, 2008 Extended Study Session
- (b) Resolution No. 7746 authorizing the execution of Fiber Optic Project Agreement #39 as an amendment to the Interlocal General Terms and Conditions for Sharing Fiber Optic Installation Projects.
- (c) Resolution No. 7747 authorizing execution of a contract with Greenshield Systems LLC, in an amount not to exceed \$64,600, for the installation of a subsurface drainage system at the Highland Middle School multi-use athletic field.
- (d) Ordinance No. 5818 authorizing the acceptance of funding from the Eastside Narcotics Task Force (ENTF) for the addition of a Police Officer FTE, and amending the 2008 General Fund budget by \$58,112.
- (e) Resolution No. 7748 adopting the City’s 2009-2014 Transportation Improvement Program (TIP).

- (f) Resolution No. 7749 authorizing execution of Amendment #2 to the Professional Services Agreement with David Evans and Associates, Inc., in the amount of \$83,378, to provide engineering services for the design of the 2009 Overlay Program. [CIP Plan No. PW-M-1]
- (g) Resolution No. 7750 authorizing execution of a Consultant Agreement with KPG, Inc., in an amount not to exceed \$203,876.66, to provide engineering services to update the contract plans, specifications, and cost estimates for the Northup Way – 120th to 124th Avenues NE project. [CIP Plan No. PW-R-133]
- (h) Resolution No. 7751 authorizing approval of a payment for final settlement of a claim filed against the City for property damage to the Foundation for the Future's commercial building caused by a wastewater system failure.

9. Public Hearings: None.

10. Land Use

- (a) Consideration of application of the Investment Group of Kirkland to rezone a 4.79 acre parcel at 12627 SE Coal Creek Parkway from R-2.5 to R-20, known as the Coal Creek Rezone. The property is located in the Newport Hills Subarea, but is immediately adjacent to and functions as part of the Factoria Subarea due to its separation from the balance of the Newport Hills Subarea by Coal Creek Natural Area. File No. 07-142729 LQ.

Ordinance No. 5819 approving the rezone application of Investment Group of Kirkland to rezone a 4.79 acre tract of land at 12627 SE Coal Creek Parkway, from R-2.5 to R-20, subject to one condition.

[Council discussed this matter on May 19, 2008. This is a Process III application, in which the Hearing Examiner provides a written recommendation to Council, which is the decision-making body. Should Council deny the application, that decision would be appealable to Superior Court. The Hearing Examiner recommends Council approval.]

Mr. Sarkozy requested Council consideration of the Coal Creek Rezone application submitted by the Investment Group of Kirkland to rezone a 4.79-acre parcel at 12627 SE Coal Creek Parkway from R-2.5 to R-20 (20 units per acre).

Land Use Director Carol Helland recalled previous Council discussion of this matter on May 19. The Hearing Examiner recommends approval of the rezone request. No comments were received by staff on the proposal, and no one attended the hearing.

Responding to Mayor Degginger, Ms. Helland explained that the rezone will provide consistency in the Comprehensive Plan in relation to previous changes within the Comprehensive Plan.

→ Deputy Mayor Balducci moved to adopt Ordinance No. 5819, and Councilmember Bonincontri seconded the motion.

→ The motion to adopt Ordinance No. 5819 carried by a vote of 7-0.

- (b) Consideration of the appeal of the application of D. R. Horton to construct a Multi-Family Planned Unit Development with 10 units on a 1.007 acre site zoned R-10 and within a Transition Area Design District, known as the Torello PUD. The site is located on the east side of Bellevue Way between SE 10th and SE 11th Streets.

Ordinance No. 5820 denying an appeal and granting a Planned Unit Development with conditions, on the Application of D. R. Horton for a 10 unit Multi-Family Planned Unit Development Preliminary Plat, on an 1.007 acre site east of Bellevue Way SE in the Southwest Bellevue Subarea, commonly known as the "Torello PUD", File Nos. 06-105832-LK and 06-120824-LD.

[Council held the limited public hearing on May 5, 2008 and continued discussion to May 27, 2008. This is a Process I application under the City's Land Use Code. Under Process I, the Hearing Examiner is the final decision maker for the City unless the decision is appealed to City Council. The City Council's decision is appealable to Superior Court.]

City Attorney Lori Riordan recalled previous Council discussion on the appeal of the application of D.R. Horton for a planned unit development (PUD) with conditions. She noted previous discussion of ex parte communications involving Councilmembers, parties to the appeal, and citizens. The parties to the appeal have been given the opportunity to rebut the substance of those contacts, which have been placed on the record before the Council. Ms. Riordan questioned whether any additional ex parte contacts had occurred since May 27, 2008. No additional ex parte contacts were reported.

Ms. Riordan reviewed that the applicant is seeking to develop a multifamily PUD on the east side of Bellevue Way between SE 10th and 11th Streets, on a site zoned as R-10. A series of public hearings have been held, and staff recommended approval of the PUD with conditions. That recommendation was appealed, along with the State Environmental Policy Act (SEPA) determination and design review approval. The Hearing Examiner held a combined hearing on the appeal over six sessions between November 2007 and February 2008.

The appellants timely filed an appeal of the PUD decision of the Hearing Examiner, and the City Council heard the appeal on May 5, 2008. On May 27, Council deliberated the matter and concluded that the appellants had failed to carry their burden of proof that the Hearing Examiner's decision was not supported by substantial evidence. Pursuant to the standards set forth in the Land Use Code, the City Council voted to deny the appeal; adopt the findings, conclusions and decision of the Hearing Examiner; and to grant the PUD with conditions. Ordinance No. 5820 includes these provisions and sets forth the conditions approved by the Hearing Examiner in the granting of the PUD.

→ Deputy Mayor Balducci moved to adopt Ordinance No. 5820, and Councilmember Davidson seconded the motion.

→ The motion to adopt Ordinance No. 5820 carried by a vote of 7-0.

11. Other Ordinances, Resolutions and Motions

(a) Motion regarding Water Spray Playground

Parks and Community Services Director Patrick Foran requested Council approval of a motion to increase the construction contract with Premier Field Development, in the amount of \$111,172.37, to furnish and install safety surfacing at the Crossroads Water Spray Playground. The water park is scheduled to open to the public on June 7. The overall project was being completed by two contractors. The City was informed last Thursday that the contractor slated to install the safety surface would not be able to perform the work. The City then negotiated with the other contractor, Premier Field Development, to complete the work before the scheduled opening.

Responding to Deputy Mayor Balducci, Mr. Foran said the recommended motion increases the contract with Premier Field Development by \$111,172.37. The increased cost of the overall project is \$21,247.37. Mr. Foran said it is important to move forward so that other aspects of the project are not delayed any further.

Dr. Davidson wants to ensure that there is sufficient time for the surface to be properly installed.

→ Deputy Mayor Balducci moved to approve an increase to the construction contract with Premier Field Development (Bid No. 0739) by an amount not to exceed \$111,172.37, to the original contract amount of \$595,602.91, to furnish and install safety surfacing for the Crossroads Water Spray Playground. Mayor Degginger seconded the motion.

→ The motion to approve an increase to the construction contract with Premier Field Development regarding the Crossroads Water Spray Playground (Bid No. 0739) carried by a vote of 7-0.

(b) Resolution No. 7752 – Legal Messenger Services

Resolution No. 7752 authorizing the City Manager or his designee to execute, on behalf of the City, an agreement for Non-Professional Services in an amount not to exceed \$175,000 over a three-year period, between the City of Bellevue and ABC Legal Services for legal delivery services.

Mr. Sarkozy requested Council consideration of Resolution No. 7752 authorizing the execution of a non-professional services agreement, in an amount not to exceed \$175,000 over a three-year period, between the City of Bellevue and ABC Legal Services for legal delivery services.

Ms. Riordan noted there is sufficient funding in the budget of the City Attorney's Office to cover this expenditure. Bids were received from two vendors, and it was determined that ABC Legal Services was the most responsive to the request for proposals. The contract amount represents an increase of approximately \$25,000 over the previous three-year contract with ABC. However, it remains below the cost charged to private law firms. One function of ABC Legal Services is to serve subpoenas for the City's criminal cases. This involves a good deal of driving and the cost increase in part reflects the increase in gas prices.

→ Deputy Mayor Balducci moved to approve Resolution No. 7752, and Councilmember Bonincontri seconded the motion.

→ The motion to approve Resolution No. 7752 carried by a vote of 7-0.

12. Unfinished Business: None.

13. Continued Oral Communications: None.

14. New Business: None.

15. Executive Session: None.

16. Adjournment

At 9:11 p.m., Deputy Mayor Balducci declared the meeting adjourned.

Myrna L. Basich
City Clerk

/kaw