

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Extended Study Session

February 24, 2014
6:00 p.m.

Council Chambers
Bellevue, Washington

PRESENT: Mayor Balducci, Deputy Mayor Wallace, and Councilmembers Chelminiak, Lee, Robertson, and Robinson

ABSENT: Councilmember Stokes

1. Executive Session

Deputy Mayor Wallace called the meeting to order at 6:01 p.m., and declared recess to Executive Session for approximately 30 minutes to discuss one item of property acquisition.

The meeting resumed at approximately 6:45 p.m., with Mayor Balducci presiding.

2. Oral Communications

- (a) Paula Harmes spoke to the Council about violent incidents at Bellevue Square and Munchbar. She believes this is an enforcement issue and an integrity issue with the Police Department. She said that people cannot be allowed to urinate on the walls and assault people, and then be escorted to their vehicles, appearing to be drunk, and be allowed to drive away. She applauded the Council for its willingness to consider a chronic nuisance ordinance but said this is too late for her son Jacob.
- (b) Ian Pedersen spoke regarding the proposed chronic nuisance ordinance. He said he was assaulted in March 2013 in front of Paddy Coyne's in Bellevue, and required surgery as a result of this crime. He called 911 and Bellevue Police Department officers responded. They indicated they would contact him regarding the case because he told them he wanted to press charges for felony assault. He was never contacted. There are witness statements, police reports, and photographic evidence taken by the Bellevue Police Department. Mr. Pedersen said the City is responsible for allowing a violent criminal with a record of violations to remain free. He believes the City is more concerned about negative publicity than protecting the public. He said the chronic nuisance ordinance is too little, too late. Mr. Pedersen said the assault has resulted in more than \$15,000 in costs as well as permanent nerve damage.

- (c) Queen Pearl spoke to the Council regarding Black History Month, noting that she celebrates the legacy of Rosa Parks. Ms. Pearl expressed concern about problems in Seattle, including with the Police Department. She said she is an advocate for justice. She was responsible for Resolution 4999 which banned smoking in public housing. She said she has been harassed in retaliation for her activism. She feels there is more of a relaxed atmosphere here in Bellevue, where citizens are allowed to speak on any topic. She feels that the City of Seattle and the King County Council are abusive to the public. She asked the Bellevue City Council to advocate for everyone's civil rights.
- (d) Sam Bellomio, representing StandUP-America, asked Councilmember No. 2 to stop writing and to listen to the speakers. He expressed concerns including Police Department accountability, general discrimination, and the use of red light cameras. He said the red light camera vendor has been accused of bribing elected officials (outside of Bellevue). He noted his ongoing request that the City Council review and discuss the use of red light cameras. He questioned whether the use has reduced accidents. Mr. Bellomio expressed concern about the Police Department's tracking of hours worked. He spoke in favor of a two-term limit for elected officials and requested that the City hold regular public forums. Mr. Bellomio said the Mayor has told him he cannot refer to Councilmembers by name so he instead referred to him by position.

Mayor Balducci reiterated that what she asked Alex Zimmerman the previous week is that he not use derogatory terms directed at specific Councilmembers.

- (e) Alex Zimmerman, President of StandUP-America, said Councilmembers should be limited to two terms. He said someone came to his house asking his opinion about the City. He questioned why this is not done in a public meeting. He said he is involved in a criminal case with the Bellevue Police Department that is on appeal. He expressed concern about the cost of this prosecution for the City.
- (f) Lincoln Vander Veen, representing the Bellevue Chamber of Commerce, spoke about the King County Council's proposed transportation revenue measure, which will appear on the April ballot. The Chamber's Board of Directors has not taken a formal position but has identified a number of concerns, including that the measure will jeopardize the need for the State Legislature to provide transportation funding. King County has not identified transit service increases, if any, for Bellevue. The Chamber is interested in exploring whether Bellevue would be better served by the creation of a Transportation Benefit District. Mr. Vander Veen submitted his comments in writing.

3. Study Session

- (a) Council Business and New Initiatives

[There was no discussion.]

(b) East Link Project Update

Acting City Manager Brad Miyake introduced staff's update on the East Link light rail project.

Transportation Director Dave Berg noted the updated project schedule provided in the presentation and as a separate 11" x 17" handout.

Maher Welaye, Transportation Capital Projects Manager, highlighted design, cost estimating, and permitting milestones in the project schedule. Sound Transit is moving into the 90-percent design phase which is to be completed by the end of 2014. The 100-percent design and bid documents will be completed in 2015, with a target of beginning construction later that year.

Mr. Welaye said Sound Transit submitted its first permit package for the Bel-Red segment earlier this year, and additional packages (South Bellevue, Tunnel, Downtown) will be submitted through 2014. The shoreline permit was submitted in late 2013. The Light Rail Permitting Citizens Advisory Committee will continue its work throughout the permitting process. More information on the operations and maintenance facility will be available later this year.

Glenn Kost, Parks Planning Manager, described the Surrey Downs Park Master Plan and the integration of the East Link light rail project along the edge of the park on 112th Avenue SE. He described alternatives currently being analyzed to mitigate noise and visual impacts of the light rail system.

Councilmember Robertson expressed support for working to ensure that the park is enjoyed by users within the park as well as by those passing along the edge of the park. She believes that park development provides an opportunity to incorporate the mitigation of light rail impacts.

Responding to Councilmember Robinson, Mr. Kost confirmed that the City is seeking to go beyond federal requirements regarding noise impacts. He said that federal guidelines do not require noise walls in the park.

Councilmember Robertson stated her understanding that the park was identified as a receptor in Sound Transit's light rail analysis. Mr. Kost said Transportation staff would be able to comment on that.

Mayor Balducci said the Council is interested in minimizing noise impacts for park users.

Mr. Kost said the sound consultant's work continues, and the Council will be updated about alternatives when more information is available.

Deputy Mayor Wallace questioned whether the park project will go through its own permit process or be incorporated in the East Link permit process.

Mr. Kost said the portion along 112th Avenue SE will be addressed with the light rail project. The remainder of the park to the west will be handled within the park's permitting process.

Deputy Mayor Wallace said he would like to understand how the light rail and park permitting processes are working together to make sure there is compliance in mitigating all of the impacts, as opposed to leaving a gap if one side complies and the other does not.

Mr. Kost said the division between the two projects will be clarified as each plan becomes finalized.

Mr. Wallace noted that Bellevue's noise standards are to be used for mitigation. With regard to mitigation costs, he wants to ensure that Bellevue taxpayers are not charged for light rail mitigation as part of the park project. Mr. Kost said more details will be presented as the park master planning process moves forward.

Councilmember Lee concurred with Mr. Wallace's concern about who is responsible for certain costs for the park and for light rail. He said the City should be careful to not give up its responsibility or interests. The City's standards and commitment to residents are paramount.

Mayor Balducci recalled visiting with the Surrey Downs neighborhood a few years ago, when residents shared their vision for the park. She is pleased with the evolution of the park Master Plan. She observed that the ambient noise from the parking lot of the courts is relatively loud coming from both 112th Avenue SE and I-405. She is looking forward to this opportunity to enhance the sound buffering.

Mr. Berg noted two upcoming open house events co-sponsored by Sound Transit and the City. The February 25 open house will discuss the East Main Segment, and the public meeting on March 25 (5:00-7:00 PM) will address the Downtown Segment.

Chris Salomone, Director of Planning and Community Development, spoke about the Urban Land Institute (ULI) technical panel that would be in Bellevue the following week to tour the potential sites for the Sound Transit light rail operations and maintenance satellite facility (OMSF). The independent review report will follow approximately six weeks later. The OMSF draft environmental impact statement (DEIS) will be published in May, and the preferred site alternative will be selected by the Sound Transit Board in August.

Deputy Mayor Wallace observed that the project schedule is focused on Sound Transit's activities as opposed to the City's obligations. He would like to see more information on the City's activities related to the light rail project.

Don Billen, Sound Transit, and Victor Obeso, King County Metro, presented information on the I-90 transit system integration.

Mr. Billen said the light rail system funded through ST2 (Phase 2) will have approximately 50 miles of light rail. This creates opportunities for light rail and bus service to connect to improve the rider experience and to achieve operational efficiencies. He described transit stops along I-90 and the D2 transitway in Seattle. Based on experience in Seattle, Sound Transit and Metro agree that it is too complicated to use the D2 transitway for both buses and light rail. An alternate operating scheme would place a reversible bus lane parallel to the light rail tracks. Under a

second alternative, I-90 buses would be principally turned around at the Mercer Island Station, and Seattle-bound passengers would transfer at Mercer Island. The transfer scenario results in a slightly shorter travel time and provides the opportunity for operational efficiencies as well as slightly lower capital costs for the D2 tunnel.

Mr. Obeso described the regional connections for Metro bus service. The integration of bus and light rail services is intended to maximize opportunities for mobility for Eastside commuters and to not duplicate services between Metro and Sound Transit. Mr. Obeso said approximately 30 Metro bus routes were reorganized in 2009 and 2010 as the Central Link light rail segment in Seattle was implemented. Metro provides more local connections and Sound Transit provides key regional connections. Mr. Obeso described the layouts of the South Bellevue and Mercer Island stations.

Councilmember Robertson said she hopes there will be a net increase in both bus and light rail transit capacity over the next few years, and that light rail will not simply be replacing bus service for the same ridership. She hopes to see a significant increase in the overall number of transit riders.

Ms. Robertson said it is important to have adequate parking at the Mercer Island station. She said park and rides are essential to providing access to transit, especially on the Eastside. She said all of the current park and ride lots are regularly full. She would like to see a substantial expansion of the Mercer Island station, especially if it is to be a major transfer hub.

With regard to the D2 alternatives, Ms. Robertson noted that the one minute savings in travel time is not likely to be considered worthwhile to passengers who have to change from a bus to light rail, especially in inclement weather. She questioned whether Sound Transit and Metro are analyzing the rider experience.

Mr. Billen said the City of Mercer Island is interested in exploring ways to partner with transit agencies to provide additional parking capacity. With regard to the D2 rider transfer experience, Mr. Billen acknowledged the challenge of designing it to make it as convenient as possible. He said a positive tradeoff is the reliability of light rail on the Seattle side versus surface street buses.

Mr. Obeso noted that approximately 40 percent of Metro riders today transfer between at least two buses.

Ms. Robertson acknowledged that transfers have become more prevalent as bus transit service has been reduced. However, she reiterated her concern that the rider experience is an important consideration when analyzing travel times. She would like the transit system to retain buses for those who prefer them.

Responding to Mayor Balducci, Mr. Billen said that adding a bus lane parallel to the light rail line would cost approximately \$15 million. He confirmed that would avoid the scenario in which riders would be required to transfer between buses and light rail at Mercer Island.

Responding to Deputy Mayor Wallace, Mr. Billen said carpools will no longer be able to use the D2 facility upon the implementation of East Link light rail. Cars will be exiting at either Rainier Avenue or Fourth Avenue.

Responding to Mr. Wallace, Mr. Obeso confirmed that all bus service from the Eastside into Seattle would transfer at Mercer Island under the alternate scenario.

Councilmember Robinson concurred with Councilmember Robertson's concerns about the rider experience. Dr. Robinson said it will be important to have good bus service and a comfortable transfer experience to ensure that people see the value in taking the bus versus driving to Mercer Island to catch light rail.

Councilmember Lee said he is concerned about the transfer scenario as well. He noted the need to maintain the sense of hassle-free convenience in taking transit. He said accessibility to park and ride lots and light rail stations is important, and he questioned the walkability of the Mercer Island station.

Mr. Billen said the Mercer Island park and ride lot is within easy walking distance of that city's center.

Mr. Obeso said Sound Transit and Metro understand that the rider experience is important in attracting riders to the system. Experience shows that people are willing to make transfers when it is convenient, when there is a relatively short wait, and when the overall trip is reliable in terms of total travel time.

Mayor Balducci said the region is making a huge investment in light rail, and it is important that it provide the maximum benefit. She observed that if the alternative requiring transfers allows the expansion of bus service on the Eastside, that would be a desirable outcome. She said the change will not happen for a decade but it is good to be thinking about it now. She said the capital needs in the future will influence decisions as well.

As a transit commuter, Ms. Balducci said she feels that transit is less of a hassle than driving and parking, even though she could afford to pay for parking. With regard to the potential for having to change from bus to light rail on Mercer Island, she said it would be tolerable to her if she could rely on a short connection time and frequent service.

Mayor Balducci said the Eastgate Park and Ride is so close to the next stop at Mercer Island, which could encourage her and others to drive directly to Mercer Island. This presents a capacity issue with the Mercer Island park and ride, however.

Councilmember Robinson believes that underscores the need for ensuring that buses will travel faster than cars.

Ms. Balducci encouraged the transit agencies to consider riders who must ride the bus and do not have another option. She wants to ensure that the transfer is as minimally intrusive as possible. She said there are many aspects of the transit system that are very high quality. However, the

elevators are a mess, and those who rely on the elevators should have clean, functional elevators to use.

(c) Consideration of Ordinances for Police Work Program Items

- (1) Proposed Chronic Nuisance Ordinance to provide the Police Department with an additional tool to prevent and/or reduce crimes associated with certain business establishments and residences.

Acting City Manager Miyake introduced discussion of the proposed chronic nuisance ordinance. The purpose of the ordinance is to prevent and/or reduce crimes associated with certain business establishments and residences. Staff is seeking Council direction on whether to schedule this ordinance for consideration at a future Council meeting.

Police Chief Linda Pillo introduced Lt. Andrew Popochock to provide information on nuisance situations within the community.

Chief Pillo said that, for many years, there have been businesses and residences that have required repeated calls for service. However, the City does not have an ordinance for dealing with these properties as a chronic nuisance. In 2011, a business opened and almost immediately became a nuisance property. In less than two years, the Police Department received 377 calls for service at that night club. Lt. Popochock was a downtown Police Officer at that time and worked closely to attempt to mitigate these calls for service.

Lt. Popochock said Bellevue has a growing downtown with an increasing number of businesses and night clubs. He noted that the 377 calls mentioned above refer to incidents at the club itself. He said there are probably additional calls related to incidents that occurred after individuals left that club as well. Lt. Popochock said the Police often see security issues with clubs including those refusing to screen for weapons and patrons leaving the club who are found to be in possession of drugs. Another club always leaves its back door open, which provides the opportunity for anyone to walk through.

Lt. Popochock said the chronic nuisance ordinance gives the Police Department the ability to impose security measures on certain clubs to increase public safety and reduce calls for service. The ordinance provides a mechanism for creating a partnership between the club and the Police Department. The club with all of the calls was eventually voluntarily closed. However, Vertigo and the Sky Ultra Lounge were not cooperative with Police to address security concerns. Lt. Popochock said the chronic nuisance properties threaten the safety of both the public and Police Officers.

Lt. Popochock said there is an apartment complex with chronic problems whose management will not cooperate with the Police Department. He has responded to assaults, drive-by shootings, and multiple stolen property and drug incidents, which is a drain on Police resources. The proposed ordinance is similar to one in effect in Seattle. The Bellevue Police Departments wants to proactively address this issue as Bellevue continues to grow in order to continue to attract

people to the community for entertainment. The ordinance will also help Police address security issues with the new marijuana-related businesses.

Chief Pillo said Seattle's ordinance has been in effect since 2011. All businesses/residences except one have complied without taking the matter to the courts. The City of Seattle said the threat of declaring a property a chronic nuisance has abated a great deal of the City's public safety concerns.

Chief Pillo said examples of chronic nuisances in Seattle are a private residence associated with repeated complaints of drug dealing and a motel with complaints of prostitution and drug dealing. She said the complaints are not strictly associated with larger venues such as night clubs.

Chief Pillo highlighted aspects of the proposed ordinance provided in the meeting packet. The ordinance targets properties with three or more defined nuisance activities that have occurred on the property within 60 days or seven nuisance activities that have occurred within a 12-month period. Examples include assault, extortion, kidnapping, rape, robbery, vehicular assault, stalking, harassment, prostitution, weapons violations, liquor-related offenses, and others. The ordinance also applies to properties that have been the subject of a court determination two or more times within a 12-month period that probable cause exists regarding the illegal possession, manufacture or delivery of a controlled substance or other offenses under the Uniform Controlled Substance Act.

Responding to Mayor Balducci, Chief Pillo said the latter would mean that someone obtained a warrant regarding this activity.

Continuing, Chief Pillo said the Police Chief will be required to follow specific procedures for giving notice to property owners that the property is a chronic nuisance. The subsequent corrective agreement advises the property owner on how to remedy the nuisance determination and outlines the consequences for failing to do so. It also lists the reasons for declaring the property a chronic nuisance.

Chief Pillo said the agreements could include provisions for additional security guards, enhanced control of access to the property, additional lighting, eviction of tenants who are committing criminal activity, entering into the City's trespass program to address individuals committing criminal acts on an owner's property, and training employees on security measures (e.g., screening for weapons and the refusal to serve obviously intoxicated patrons). If the property owner refuses or is unsuccessful in abating the nuisance, the ordinance allows progressive fines after a hearing in which the property owner has full due process rights to counter the declaration of chronic nuisance.

If the ordinance is adopted, Chief Pillo said the Police Department and City Attorney's Office will work together to create templates for declaring a chronic nuisance and establishing corrective agreements. The Police Department also anticipates developing checklists for the information needed to track nuisance properties.

Mayor Balducci recalled that the two proposed ordinances on the evening's agenda were raised in the past, and the Council asked staff to conduct additional analysis and review. Ms. Balducci observed that a great deal of thought has gone into developing the ordinances, and the City has had more experience with chronic nuisances as well.

Councilmember Robinson questioned whether the ordinance needs to address businesses that recruit customers from outside of the area and bus them in, in order to appear busy. Her understanding is that was a contributing factor with the Munchbar situation. She questioned whether this practice could be addressed in a correction agreement.

Chief Pillo said Seattle has had problems with a large venue that was catering to raves and electronic music. She said it is possible such issues could be addressed with the correction agreements because some of the promoters do not have the credentials required to be a business in Bellevue.

Ms. Robinson said she would be interested in including that practice as a potential chronic nuisance element.

Lt. Popochock said Bellevue has experienced problems with promoters who have also caused problems in Seattle. He said the Police Departments attempt to influence property owners to work with other promoters, but the same promoters seem to move around the area. He wondered whether the agreements could prohibit working with specific promoters.

Siona Windsor, Assistant City Attorney, said if there is criminal activity associated with events sponsored by a particular promoter, that provides leverage for addressing the problems.

Responding to Deputy Mayor Wallace, Chief Pillo said the Police Department is seeking approval of the ordinance as a consent calendar item, with or without additional Council discussion. The Police Department would then work with the City Attorney's Office to implement the program.

Ms. Windsor said the ordinance would take effect 30 days following adoption by the City Council.

Mr. Wallace observed that no one on the Council is a fan of the Munchbar, and the proposed ordinance appears favorable based on the City's experience with that property. However, certain provisions are vague, and he cautioned against unintended consequences due to the latitude allowed for the Police Department.

Deputy Mayor Wallace suggested meeting with Chris Benis, the lawyer for the Rental Housing Association, to obtain input on what this means for a landlord. It might not be possible to evict a tenant because someone does not like their music or because Police are being called. He said there often is not a lot a landlord can do unless a tenant violates a lease provision.

Ms. Windsor said the ordinance itself will be the last step of an intensive discussion between the Police Department and the property owners. If a property owner has done everything possible to

correct a violation and it still cannot be abated, there is not a violation for the landlord because they do not have control over the situation. Ms. Windsor said she understands that Mr. Benis owns nine properties in Bellevue, and he is someone who would work closely with the Police Department to find ways to ensure that his properties are not being negatively impacted by criminal activity.

Deputy Mayor Wallace said Mr. Benis is a real estate lawyer and an expert in landlord-tenant issues. He was not aware of his rental properties in Bellevue. Mr. Wallace suggested that perhaps other experts could be helpful in identifying potential implications of adopting the ordinance.

Mr. Wallace said he is not sure whether marijuana falls under drugs or liquor, or neither, but he observed it is not listed in the ordinance. He said there have been conversations about human trafficking and enforcing the law with regard to massage parlors, and those issues also are not included in the ordinance. He suggested the proposed ordinance could provide an opportunity to better address those situations.

Chief Pillo concurred with the comment on massage parlors and similar businesses. She said the Police Department reached out to the Bellevue Chamber of Commerce, Bellevue Downtown Association, and Kemper Development Company. One individual's feedback was that the ordinance appears to be a balanced and fair tool to deal with the problems identified in the ordinance. Another individual questioned the experience of similar ordinances in other jurisdictions.

Chief Pillo said the Bellevue Police Department feels comfortable recommending the Seattle ordinance based on its experience since 2009. She said she owns a rental property and the lease includes a provision against criminal activity on her property. She said the ordinance is intended to be used as a last resort in dealing with chronic nuisances that jeopardize public safety and are not willing to cooperate with jurisdictions. All properties except one have cooperated with the City of Seattle.

Mayor Balducci noted her concern with residential property owners/landlords who might be renting to and/or living with family members. She wants to ensure that there are measured steps and an opportunity for the property owner to manage the situation before enforcement measures and/or fines. She shares Mr. Wallace's concerns regarding landlords who might have limited ability to control tenant behavior. However, the fact that Seattle's ordinance has been in place and not experienced that type of problem makes her more comfortable with regard to that issue.

Ms. Balducci observed that there is an element of trust involved with the ordinance. If a Police Department is using the ordinance in good faith and as intended, it can be an effective tool. However, she said there is the potential for the abuse of the discretion allowed by the ordinance. Mayor Balducci said she will support the ordinance with trust that the Bellevue Police Department will use it as intended. However, she acknowledged that abuse could occur anywhere.

Mayor Balducci suggested that the item come back for consideration but not as a consent calendar item. She requested that the Police Department conduct follow-up with someone in the landlord-tenant role.

Councilmember Robinson said that, as a home care worker and case manager, she has seen many atrocities in homes in which an individual is essentially powerless under the law to deal with a situation until a crisis or tragedy occurs. She understands the Mayor's important concerns. However, she views this as a significant incentive program that will address the situations she has observed.

Councilmember Robertson said she spoke with Assistant City Attorney Windsor earlier in the day with some technical questions. Ms. Robertson said she supports the proposed ordinance as another tool in the toolbox. She is comfortable with allowing the discretion because, should it be abused, the Council could modify its approach in the future. She believes the chance of abuse is limited by the due process protections in the ordinance, especially placing the burden of proof on the City to establish that a property is a chronic nuisance and that the corrective action is reasonably calculated to abate the nuisance.

Responding to Ms. Robertson, Ms. Windsor said the City has the ability to enforce violations of the Liquor Control Board's provisions.

With regard to marijuana processing, Ms. Robertson expressed concern regarding the use of butane in that process. Ms. Windsor said the Residential Landlord-Tenant Act does prohibit illegal drug activity. However, she would need to review it again to check whether it mentions the specific practice described by Councilmember Robertson. Ms. Robertson said she wants to ensure that it is covered by the chronic nuisance ordinance.

Councilmember Robertson supports applying the ordinance to all classes of real estate because both businesses and residences should be safe places. She questioned the process for the commencement of action, noting that the ordinance indicates that the Police Chief may initiate an administrative proceeding through the Hearing Examiner, or the City Attorney may initiate an action through the court. Ms. Windsor said Seattle uses only the court option.

Ms. Robertson expressed concern that Bellevue's proposed approach could be confusing. She said it would be helpful to know the cost and the ability to move quickly to deal with a crisis situation under each approach.

Ms. Windsor said staff included both options because, in some circumstances, the hearing examiner process would be quicker and more efficient. That process is less formal and could be beneficial in certain situations. It is more costly for the City because hearing examiners are paid for their services. The court process is less expensive but the technical rules of evidence apply and the process can take longer. However, this would likely be a good avenue if the case is expected to escalate through the courts. Ms. Windsor said staff believes it would be helpful to make both options available, and it is not anticipated that many cases would get to this point.

Ms. Robertson reiterated that she would like to see an analysis comparing the two approaches.

Councilmember Robertson questioned whether more Police Officers are needed in the downtown. Chief Pillo said the Police Department is developing a budget proposal to restore the downtown bike patrol and additional investigators.

Councilmember Lee thanked staff for preparing the proposed ordinance. He said he shared Councilmember Wallace's concerns about unintended consequences, but he would support the ordinance as a tool for the Police Department in maintaining public safety. He said he would be interested in more information about the possible implications for landlords and property owners.

Mayor Balducci summarized the Council's interest in additional information and general support for moving forward with the ordinance following additional discussion. Mayor Balducci requested information from staff on the incidents described earlier by citizens during oral communications.

- (2) Proposed Ordinance Creating a New Gross Misdemeanor of Loitering with the Intent of Engaging in Drug-Related Activity by adding a section to Chapter 10.06 of the Bellevue City Code

Mr. Miyake opened discussion of the proposed ordinance creating a new gross misdemeanor of loitering with the intent of engaging in drug-related activity.

Deputy Police Chief Jim Jolliffe recalled previous discussion with the Council in 2011 regarding the proposed ordinance. The initial draft ordinance was based on the Tacoma Drug Loitering ordinance that the Washington Supreme Court upheld in 1992. At that time, the Council felt it was too ambiguous. The Bellevue Police Department has revised its proposed ordinance using Seattle's ordinance as a model. The Supreme Court favorably referred to the Seattle ordinance in upholding the constitutionality of the Tacoma ordinance.

Deputy Chief Jolliffe referred the Council to the second page of the ordinance for a list of prohibited conduct that could lead a Police Officer to engage with an individual.

Police Officer Jim Keene said he initially came before the Council in 2011 when he was working as a patrol officer in the Crossroads area. He said there was a great deal of frustration from business owners who would call 911 because they were observing drug dealing. Yet when Police Officers arrived, there was little they could do because the drug dealers were knowledgeable enough to avoid certain behavior that would get them arrested.

Officer Keene said he spent time in apartment complexes in the area, talking to younger children who would let the Police know about what was happening and the most likely times that drug dealing was occurring. This led the Police to look for more creative ways to combat the problem.

Deputy Mayor Wallace observed that the ordinance has been greatly improved since the initial draft. He believes it is more specific and better directed at the core issues to avoid unintended consequences. He supports the ordinance.

Councilmember Robertson expressed support for the ordinance and suggested it return as a consent calendar item if supported by the Council.

Noting general support for proceeding as suggested, Mayor Balducci thanked staff for their work on the ordinance. She stated her understanding the officers will be required to include the basis for any arrests under this ordinance in their written reports.

Deputy Mayor Wallace said he was searching online and it looked like the City of Seattle produces an annual report on chronic nuisance properties and related enforcement actions. He suggested that Bellevue implement a similar monitoring and reporting tool.

Councilmember Robertson said that, if the chronic nuisance ordinance is passed, it would be helpful to initiate outreach to landlords to educate them about the ordinance and what they can do to avoid becoming a chronic nuisance.

(d) Regional Issues

Joyce Nichols, Director of Intergovernmental Relations, noted that staff has been providing weekly updates to the Council on the state legislative session. February 18 was the cutoff for bills to be passed out of the house or origin to remain viable. The Economic and Revenue Forecast Council released the State revenue forecast on February 19, which shows minimal changes to the economic outlook. The net gain for the General Fund is \$2 million.

The forecast included estimated revenue from recreational marijuana beginning with \$51.2 million for the 2015-2017 biennium and \$138.5 million for the 2017-2019 biennium. Although it was not included in the 2013-2015 biennium forecast, the State will begin collecting marijuana-related taxes this summer.

Ms. Nichols said nothing significant is expected with regard to a transportation package. The Washington State Department of Transportation (WSDOT) announced that its SR 520 project office will close in June if no additional funding is provided.

Ms. Nichols noted that Senate Bill 5887 reconciles the medical marijuana and recreational marijuana systems and distributes a portion of recreational marijuana revenues to cities and counties. The feedback from the state legislature is a reluctance to designate revenue sharing for local law enforcement when data is not available to estimate those costs. In the past, the sharing of State liquor store revenues was shared with local governments on a 50-50 basis.

With regard to the federal legislative session, Ms. Nichols said the U.S. Congress raised the debt ceiling.

She recalled that the Marketplace Fairness Act was passed in the Senate last year. However, there has been no action in the House. The bill would allow state governments to collect sales and use taxes from Internet retailers who do not have a physical presence in the state. This would be beneficial for this state which heavily relies on sales tax revenues.

Deputy Mayor Wallace noted that Amazon supports the bills. However, most smaller out-of-state businesses do not. The bill would provide a level playing field for large and small Internet retailers as well as local retail stores.

Councilmember Lee said he is attending the National League of Cities conference in March.

At 9:31 p.m., Mayor Balducci declared the meeting adjourned.

Myrna L. Basich, MMC
City Clerk

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