

CITY OF BELLEVUE  
CITY COUNCIL

Summary Minutes of Extended Study Session

February 25, 2013  
6:00 p.m.

Council Chambers  
Bellevue, Washington

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

ABSENT: None.

1. Executive Session

The meeting was called to order at 6:09 p.m., with Mayor Lee presiding. There was no Executive Session.

2. Oral Communications

Mayor Lee thanked the public for the extensive input, both written and oral, on the East Link light rail project. As a general rule, he noted that citizens should not use this public comment time as a platform for political campaigning. He encouraged all speakers to be civil and to not engage in personal attacks.

- (a) Susan Ilvanakis said her property is adjacent to the planned light rail alignment. She thanked the Leadership Group for additional revisions to the draft Light Rail Overlay Land Use Code Amendment (LUCA). However, she observed that there is no language to prevent partial property acquisitions, which is a priority for the community.
- (b) Joe Rosmann, Building a Better Bellevue, commented on the importance of adequate setbacks for yards and homes adjacent to light rail. He said it is important that the City protect the value of homes and properties. He expressed concerns regarding noise and vibration impacts, noting that Sound Transit has been required to retrofit hundreds of homes and businesses along Seattle's rail line to meet minimum noise exposure standards, at a reported cost of more than \$12 million for construction and an additional \$4 million for property management tasks related to this work. Homes up to 200 feet to 300 feet from the rail line are being renovated to address excessive noise. Mr. Rosmann noted that he provided this information to the Council the previous week. He said that vibration impacts and exterior noise exposure levels have not been addressed in Seattle. He said the Federal Transit Administration's vibration avoidance setback standard is 150

feet. Building a Better Bellevue is requesting a minimum setback of 100 feet. He submitted his comments in writing.

- (c) Scott Lampe, representing the Surrey Downs community, thanked the City for the extensive effort that has gone into the draft Light Rail Overlay. He said information from Sound Transit's own independent peer-reviewed study indicates that property lines at 75 feet or closer to at-grade or retained fill railroad locations are likely to have vibration levels above the 75 decibel criteria. Mr. Lampe asked that the 60-foot separation under consideration by the Council be measured from the edge of the 30-foot setback. He requested that the Overlay include language to prevent any property from becoming non-conforming due to the placement of light rail tracks or structures, and that this not be subject to any waivers.
- (d) Alex Zimmerman, StandUP-America, said he has lived in Bellevue for 25 years. He spoke against fluctuations in the speed limit along certain roads. He questioned what is spent on law enforcement and what police officers do all day. He expressed opposition to drones and freeway tolling. He accused the government of being made up of crooks.
- (e) Brock Howell, King County Program Director for Futurewise, spoke on behalf of Futurewise and the Transportation Choices Coalition. He expressed support for regional light rail as a commitment to future generations.
- (f) Brooks Beaupain, Vice President of the Enatai Neighborhood Association, said he has heard that the Council is potentially backing away from the permitting language in the draft Light Rail Overlay, which he finds distressing. He said residents are continuing to hear that they are obstructionists to light rail. He said this is not true. Residents want to be treated in a way that is fair and reasonable. Mr. Beaupain expressed support for the 60-foot setback. He said areas in Seattle continue to have problems with impacts to properties 100 feet or more from the light rail line.

Mayor Lee said the Council has heard the public's concerns related to the light rail project over the past couple of years. He asked for the public's trust that the Council is interested in protecting the community's interests.

- (g) John Davis, Chairman of the Board of Directors for the Coalition of Cannabis Standards and Ethics, said he is also a Board Member of the National Cannabis Industry Association. He works closely with the City of Seattle and statewide elected officials on issues related to medical marijuana, and he is working with the State Liquor Control Board in its effort to implement Initiative 502. He encouraged the Council to move forward with regulations and to not avoid this issue. He said this is an opportunity to potentially consider appropriate taxes to implement a program. He noted that a majority of Bellevue voters voted in favor of Initiative 502. He said that access to cannabis is not appropriate in residential areas, and he encouraged regulations to control access.

- (h) Kurt Boehl, an attorney, said he represents a number of medical and recreational cannabis businesses. He has worked with the cities of Seattle, Issaquah, Shoreline and Lacey on marijuana regulation. He observed that the passage of Initiative 502 will involve municipal regulation of cannabis medical and recreational uses. Mr. Boehl said a number of businesses are interested in regulating this industry. Two of his clients have paid roughly \$500,000 in sales tax over the past two years, which is representative of the potential revenue. He believes that a medical cannabis business that is aesthetically pleasing, legitimate, and paying its taxes fits within the definition of the Downtown mixed use zone.

### 3. Study Session

- (a) Council Business and New Initiatives

No discussion.

- (b) Continued Discussion on the Light Rail Overlay Land Use Code Amendment (LUCA) to Establish a Consolidated Land Use Permitting Process for Regional Light Rail Transit

Ordinance No. 6101 amending the Bellevue Land Use Code to allow for the permitting and review of Light Rail Facilities and Systems; creating a new Part 20.25M of the Bellevue Land Use Code; and establishing an effective date.

Ordinance No. 6102 amending the Bellevue Land Use Code for consistency with the new Light Rail Overlay; amending Sections 20.10.440 (Transportation and Utilities Use Chart), 20.25A.020.D, 20.25D.080.D, 20.25H.055.B, 20.35.015, 20.35.020, 20.35.030.A, 20.40.500, and 20.50.036; and establishing an effective date.

City Manager Steve Sarkozy said the purpose of tonight's discussion is to take final action on the Light Rail Overlay Land Use Code Amendment (LUCA). Ordinance No. 6101 adopts the amendment, and Ordinance No. 6102 adopts conformance amendments throughout the Land Use Code to be consistent with the Overlay. The Overlay discussions represent a considerable amount of work, and an updated draft Overlay produced over the weekend is provided as the basis of this evening's discussion.

Mike Brennan, Director of Development Services, recalled that conversations with Council on the Light Rail Overlay began in July 2012. The Overlay describes the purpose of the amendment and addresses relevant definitions, requirements regarding light rail permitting, Citizen Advisory Committee involvement in permitting, development standards, design guidelines, and the administrative modification process.

Mr. Brennan said the Leadership Group draft Overlay discussed on February 19 was established as the baseline for final discussion. Staff's revised version of the Overlay is provided as

Attachment A in the meeting packet and incorporates clarifications on who may apply for permits, the treatment of the transition area, eligibility for Citizen Advisory Committee membership, and measurement of the required setback and separation.

Kate Berens, Deputy City Attorney, said the following documents are provided for the Council's discussion: 1) Leadership Group Draft (Baseline) in meeting packet, 2) Leadership Group Draft (Alternative), provided in desk packet on blue paper, 3) Attachments C through G in meeting packet (Alternative Approaches), 4) Alternatives in desk packet, and 5) Updated Ordinance No. 6102 regarding Conformance Amendments, provided in desk packet on pink paper. Ms. Berens noted that the pink version of Ordinance No. 6102 includes a revision to Section 8 that is not in the meeting packet version.

Ms. Berens briefly described the proposed alternatives and suggested the Council discuss any of interest. Alternative 1 in the desk packet (gray paper), Who May Apply for Permits, includes revisions regarding advance notice by the transit authority Board and the appraisal process. Alternative 2 (goldenrod paper) is a separate proposed modification to Who May Apply. Alternative language regarding the Citizen Advisory Committee is proposed in Attachment D in the meeting packet. Ms. Berens noted minor revisions in the blue version of the Overlay (Resolution No. 6101) related to CAC recommendations and clarifying the Director's ability to depart from the CAC's recommendations.

Moving to the topic of the setback, Ms. Berens said this is the area between the light rail facility and a property line, which is also the area in which certain landscape screening would be placed. The light blue version of Overlay/Ordinance No. 6101 revises how the setback is measured and allows for the setback area to be an easement, if approved by the property owner, as opposed to being a fee acquisition by Sound Transit. An alternative in the desk packet (peach paper) proposes adding station platforms less than 30 inches above grade and station area shelters to the list of structures to be allowed within the landscape buffer and screening area.

With regard to structure separation, Attachment A in the meeting packet includes a minor revision to Ordinance No. 6101 (Overlay). The desk packet alternative (blue paper) maintains a 60-foot structure setback for primary residential structures, and the alternative on orange paper in the desk packet allows a reduction of the separation to 30 feet with the property owner's consent.

With regard to landscape maintenance, the desk packet (blue paper) version of the Overlay/Ordinance No. 6101 requires that the regional transit authority maintain landscaping within the landscape setback and allows the transit agency to enter into maintenance agreements with private property owners.

Mayor Lee welcomed guests from Sound Transit for comments to the Council.

Ron Lewis, East Link Deputy Project Director, briefly described Sound Transit's right-of-way acquisition process and parallel permitting approach. The permitting timeline typically overlaps with the right-of-way acquisition line because Sound Transit wants to get the permitting process started with the local jurisdictions so that any feedback can be incorporated into the design as it

progresses. The goal is to address all comments received during the permitting process by the time the design advances to the 100 percent (Issue for Construction) point. Construction will not be authorized by the City for any contract package in which property acquisition is not complete.

Mr. Lewis described the major steps of property acquisition. Sound Transit is required under state law to notify all property owners for whom the agency will be seeking a property interest. A property owner must be notified in advance of consideration of the acquisition by the Sound Transit Board. The appraisal process starts immediately after the acquisition is approved, ultimately leading to an offer to the property owner. Sound Transit's acquisition handbook and individual appraisals are provided to the property owner. The property owner has the right to seek an independent appraisal and to be reimbursed for that. If a purchase agreement is not reached, Sound Transit will move toward condemnation.

Joni Earl, CEO, Sound Transit, acknowledged the City's and community's interest in expediting property acquisitions related to the East Link project. She explained that, after the City and Sound Transit agree on the alignment and the Sound Transit Board takes action approving the alignment, Ms. Earl is committed to bringing a resolution to the Board within 60 days to authorize moving forward with residential acquisitions, in advance of completing 60-percent design. Next steps are to finalize the cost savings work and to try to reach agreement on the final project description in April. She thanked the Bellevue City Council and staff, noting that this is Sound Transit's first collaborative design process with a local jurisdiction.

Fred Butler, Sound Transit Board Member, said he is Chair of Sound Transit's Capital Committee and a member of the East Link Leadership Group that has been working collaboratively through the Land Use Code amendment and design process. He noted the complexity of the project and acknowledged Bellevue's interest in expediting property acquisitions.

Responding to Councilmember Wallace, Mr. Lewis said Sound Transit intends to apply for its first East Link permits in late summer or early fall, which will allow the permit process to work concurrently with the acquisition process. No construction would occur until all property interests are secured for each construction package. He noted that Sound Transit will have to seek a shorelines permit as well. In further response, Mr. Lewis said the first 60-percent design submittal is the Bel-Red corridor in July. In the fall, Sound Transit anticipates reaching 60-percent design for the South Bellevue package.

Responding to Mr. Wallace, Ms. Earl said the Sound Transit Board's decision is anticipated to occur by June. Mr. Lewis said it would then be June 2014 at the earliest before reaching the point of compliance with the notice of use and possession requirement in the Land Use Code. Mr. Lewis said that assumes all acquisitions are able to reach voluntary resolution. Condemnations could take up to two years.

Responding to Mr. Wallace, Mr. Lewis said the environmental work for the cost savings alternatives will be wrapped up in March, which would put the Council and Sound Transit Board in a position to make final decisions on the alignment in April. If this occurs, staff will issue the

State-required public notifications before Sound Transit Board action in June to authorize acquisitions. The appraisal process is initiated by the Board's decision. It will take approximately two months to complete all of the appraisals, and they will be sent out as they are completed.

Responding to Mr. Wallace, Mr. Lewis said Sound Transit will apply for the shoreline permit in June/July and the Bel-Red corridor permit in July. Mr. Lewis confirmed that staff will move forward expeditiously with the acquisition process immediately following a decision by the Sound Transit Board.

Deputy Mayor Robertson thanked Sound Transit representatives for joining the meeting. She asked staff to post Ms. Earl's letter of commitment on the City's web site for the East Link project and Light Rail Overlay.

Ms. Robertson thanked Councilmembers and City staff for their time and efforts on the Land Use Code amendment.

Responding to Councilmember Chelminiak, Mr. Lewis reiterated that an acquisition would take approximately 12 months if there is a voluntary agreement with the property owner. If not, Sound Transit would pursue condemnation, which could take an additional 12 months. He confirmed that the appraisal process is expected to commence in June following Sound Transit Board action and direction. Mr. Chelminiak noted that the alternative provided in the desk packet on gray paper (Who May Apply section) expedites the process reflected in the draft Overlay.

Responding to Councilmember Davidson, Mr. Lewis said that environmental review of the cost savings options identified by the City and Sound Transit will be completed in March. The City Council will be asked to review this information and identify any cost savings options it supports in April. The Sound Transit Board will adopt any final changes to the alignment.

Responding to Dr. Davidson, Ms. Berens said that final determination of the City's contingency contribution to the East Link Downtown Tunnel will be made at the 60-percent design point. Dr. Davidson said he would like to know the actual costs before making a decision in April. In further response, Ms. Berens said that very little of the East Link project falls within the State shorelines permit jurisdiction.

Councilmember Stokes stated that the objective of the Light Rail Overlay is to provide certainty for property owners and the overall community, and to facilitate moving the project forward without further delay. He is pleased to have arrived at the point in which everything is coming together to make the process run more smoothly.

Responding to Councilmember Wallace, Mr. Lewis confirmed that, if the Council passes Alternative 1 with the standard that Sound Transit can apply for a permit after formally initiating the appraisal process, the Land Use Code amendments will not cause any delay to the East Link schedule.

→ Deputy Mayor Robertson moved to adopt the Leadership Group Alternative desk packet version of Ordinance No. 6101, the Light Rail Overlay (blue paper), as amended by Alternative 1 (grey paper), which allows a transit authority to apply for permits upon initiation of the appraisal process. Councilmember Stokes seconded the motion.

Deputy Mayor Robertson noted there can be up to two amendments on the floor at a time.

Ms. Robertson commented on the extensive work by many individuals, including the public, in developing and reviewing the Light Rail Overlay Land Use Code Amendment. She believes her motion, without further amendments, represents a balance between creating a high quality environment and enabling light rail to serve the community. It provides predictability for residents and Sound Transit. She strongly supports the 60-foot separation and the highly vegetated buffer, which will benefit property owners, transit riders, and the general public.

Ms. Robertson supports the Citizen Advisory Committee (CAC) provisions as drafted because they allow transparency and public engagement in the permit process. She supports the revisions to the Who May Apply section of the Overlay and is satisfied that Sound Transit intends to complete acquisitions as soon as possible. She thanked staff, citizens, Mayor Lee and the Council, and noted that Councilmembers Stokes and Wallace served on the Leadership Group.

Responding to the Council, Ms. Berens reviewed the major topical areas with proposed alternatives. There was no further discussion regarding the Who May Apply section. The next topic is the CAC. She noted language regarding the circumstances and the ability of the Director to depart from the CAC's recommendations. Attachment D in the meeting packet [Page 3-61] proposes alternative language regarding the CAC.

Councilmember Balducci questioned when the Director is allowed to depart from a CAC recommendation, according to the Overlay version reflected in the motion. She questioned whether the CAC recommendation would have to be that, if it were adopted, it would make the light rail system violate the City's Land Use Code and/or state and federal law.

Ms. Berens said the CAC's scope of authority is determining compliance with Land Use Code sections .040 and .050 of the Overlay, and it would not be allowed to change the alignment because that is outside the scope of the CAC's authority. If a recommendation is within the scope, the Director is limited in deviations to those that are necessary to make sure that the project complies with a host of other codes outside the scope of the CAC's work.

Ms. Berens moved to the next topic, setbacks, noting that the Overlay version reflected in the motion includes a clarification regarding how the setback is measured. An alternative provided in the desk packet adds station platforms less than 30 inches above grade and station area shelters to the list of allowed structures within the landscape buffer and screening areas.

Ms. Balducci questioned whether this requires additional property acquisitions/condemnations and, if so, are those property owners aware of this possibility.

Ms. Berens said the provision could require certain additional sliver property takings.

Councilmember Balducci expressed concern that the section on structures allowed within the landscape buffer and screening areas affects new property owners who are unaware of this potential.

Mayor Lee questioned whether an affected property owner has options. Ms. Berens said the Overlay reflected in the motion provides an owner's option to designate the buffer as an easement. However, there is not an option to eliminate or reduce the buffer to less than 30 feet.

Councilmember Chelminiak said he is concerned about this issue as well. He noted these are properties with fairly steep slopes or retaining walls, and most of them already have vegetation above that. Within the 30-foot buffer, there can be a sound wall. He observed that the back of a station would act as a sound wall. In these situations, he questioned the need for additional sliver takings. He said the last thing he would want is for Sound Transit to decide to place a slab station in those locations, with no roof or back wall. Mr. Chelminiak said he is interested in preventing takings that might not be necessary.

→ Councilmember Chelminiak moved to amend the Overlay version reflected in the motion as stated by Development Allowed within Landscape Screening Alternative 2 (peach paper in desk packet). Councilmember Balducci seconded the motion.

Councilmember Wallace noted that the 30-foot buffer was determined to be the appropriate minimum standard based on the rest of the Land Use Code. He observed that there is not currently sufficient information to determine the implications of sliver property takings. He prefers the main motion without the proposed amendment.

Councilmember Balducci questioned what the path would be if a property owner comes to the City in the future and objects to the sliver taking. City Manager Sarkozy said the cleanest path would be to address and refine this in a development agreement, or to come back and modify this section after better information on the alignment and impacts is available.

Ms. Balducci observed that the motion might be going farther than her intent, which is to provide some flexibility to the property owner regarding the buffer, but not to prohibit sliver takings altogether.

Mayor Lee concurred with Ms. Balducci's perspective.

Councilmember Stokes observed that more than one property owner would be affected, which complicates the issue.

Councilmember Chelminiak said his intent is to protect private property rights. He does not want to be pushed into taking property unnecessarily at one particular location.

Deputy Mayor Robertson observed that the purpose of the Light Rail Overlay is to create a floor. She believes that anything to diminish that floor in terms of reducing the 30-foot minimum standard is not a step in the right direction. She said it would be possible to amend the Code later if needed.

→ The motion to amend failed by a vote of 2-5, with Councilmembers Balducci and Chelminiak in favor.

Ms. Berens moved to the Structure Separation Requirements Alternative 1 (orange paper in desk packet), which allows the separation to be reduced to 30 feet with the property owner's written consent.

Councilmember Chelminiak questioned why the Overlay is not specifying full takes of all of the properties.

Deputy Mayor Robertson stated her understanding that the City cannot legally direct how Sound Transit takes property in the Land Use Code. Ms. Berens confirmed that she would not want to say how Sound Transit accomplishes the result, which is the Land Use Code mitigation being put in place.

Councilmember Chelminiak questioned when structures are likely to be demolished if properties are taken and how the vacant lots will be handled during construction.

Councilmember Balducci said the proposed amendment on the orange paper (Structure Separation Requirements Alternative 1) states a minimum separation of 60 feet between the edge of the track-way and the existing residential primary structure, provided that, with the property owner's written consent, the separation may be reduced to a minimum of 30 feet. She observed that this preserves the owner's choice to some extent.

Councilmember Wallace observed that the question is not which houses are condemned but that the issue is the appropriate buffer and setback for the Light Rail Overlay. He presented a PowerPoint slide show he prepared showing examples of structure setbacks from roads and rail corridors in Bellevue and along Seattle's Central Link line. He believes these demonstrate that 60 feet is an appropriate standard for setbacks along the East Link rail corridor in Bellevue.

Councilmember Chelminiak said his understanding is that new construction could be within the 60-foot buffer.

Ms. Berens said the Council had a question the previous week about the impact of the 60-foot structure separation on redevelopment or new development. The Light Rail Overlay regulates light rail development. However, an adjacent property owner who might want to expand within the 60-foot separation could do so.

Councilmember Chelminiak said he is willing to leave the Overlay as it is. However, he thinks the practical application will be that there will be some vacant lots on condemned properties for some period of time.

Mr. Wallace said the structure separation standard is about providing the appropriate buffer and setback and not about condemnation and which properties are taken.

Mr. Chelminiak said he wanted to understand the issue better, but he will not make a motion to amend.

Referring to the light rail line along Martin Luther King, Jr. Way in Seattle, Councilmember Davidson said he wonders about the liability that a jurisdiction takes on from zoning, which could require the need to retrofit in the future. He believes that a 60-foot separation is reasonable.

Deputy Mayor Robertson noted that there will not be any construction staging in residential areas.

Moving on, Ms. Berens noted references regarding the maintenance of landscaping on pages 22 and 23 of Ordinance No. 6101 (Overlay). Sound Transit is responsible for the landscape maintenance unless a property owner wants to take responsibility.

Councilmember Stokes expressed support for the motion.

Councilmember Balducci said she will support the motion. She said the Council received hundreds of emails from individuals throughout the community and most were in favor of advancing light rail despite their concerns. She said the Overlay addresses residents' concerns, accelerates the acquisition of residential properties, and allows Sound Transit to move forward to finalize its design. She thanked Ms. Berens, Mike Brennan (Director of Development Services), and Carol Helland (Land Use Director) for the extensive hours they have spent on the Overlay. She thanked Sound Transit staff and said she looks forward to continued progress.

Councilmember Chelminiak said the current Overlay is significantly improved over previous versions, and he is pleased to be able to accelerate property acquisitions. He said the Leadership Group did a very good job of working through some difficult issues, and he observed that all Councilmembers made positive contributions in shaping the Overlay Land Use Code Amendment. He thanked staff for what he considers monumental work.

Councilmember Stokes concurred with the appreciation of staff's dedication and responsive teamwork. He observed that this has been a valuable learning experience for everyone involved.

Councilmember Wallace said he is proud of what has been achieved. The Overlay provides the certainty sought for this project including the application of the Noise Code, landscaping and setback standards, the involvement of a Citizen Advisory Committee, and a number of other standards. Mr. Wallace said this has been a great example of collaboration with Sound Transit, and he believes the effort has achieved the best possible outcome for the community.

Councilmember Davidson expressed support for the motion, noting his continued interest in protecting the environment and the overall community.

Deputy Mayor Robertson reiterated that the Overlay strikes a fair balance between a number of interests, and she thanked everyone again for their hard work.

Mayor Lee said this has been a difficult process but a good collaborative effort to work with Sound Transit and to represent the community. He thanked staff and the Council for their time and good work. He noted the importance of protecting property owners while not delaying Sound Transit's project. He said the effort has required trust and working in good faith on the part of the City, Sound Transit, and residents.

- The motion to approve Ordinance No. 6101, as described in the main motion, carried by a vote of 7-0.
- Deputy Mayor Robertson moved to adopt the desk packet version of Ordinance No. 6102 (pink paper), Light Rail Conformance Amendments, amended to delete Section 11. Councilmember Stokes seconded the motion.

Ms. Robertson said Section 11 [Page 21 of Ordinance No. 6102] addresses nonconforming uses and the Council has not had the opportunity for an adequate discussion of that issue.

Responding to Councilmember Chelminiak, Ms. Berens said she cannot say with certainty at this point whether the Land Use Code regulations will result in nonconforming lots. However, the intent is that they will not.

Responding to Councilmember Balducci, Ms. Berens said that properties left nonconforming due to public projects are generally deemed legal nonconforming and compliant with the Land Use Code.

Councilmember Wallace expressed support for the motion, including deleting Section 11 and deferring any action regarding nonconforming uses and structures.

Councilmember Stokes concurred.

- The motion carried by a vote of 7-0.

Deputy Mayor Robertson thanked City Manager Steve Sarkozy and Transportation Director Dave Berg for their involvement in developing the Light Rail Overlay.

At 8:58 p.m., Mayor Lee declared a short break. The meeting resumed at 9:05 p.m.

Councilmember Balducci said it is unclear to her whether deleting Section 11 has an impact on the project schedule or cost. She asked staff to follow up with a discussion at the steering

committee level to make sure the ramifications are understood, and to bring the information back to the Council.

- (c) Resolution No. 8519 authorizing execution of an Agreed Order for Immediate Possession and Use with King County for acquisition of property rights necessary for the NE 4th Street Extension Project, Phase 1, extending NE 4th Street from 116th Avenue NE to the eastern boundary of the Burlington Northern Santa Fe (BNSF) Railway Corridor.

City Manager Sarkozy provided introductory comments regarding Resolution No. 8519 authorizing the execution of an Agreed Order for Immediate Possession and Use with King County for the acquisition of property rights necessary for the NE 4<sup>th</sup> Street Extension Project.

Deputy City Attorney Kate Berens explained that Resolution No. 8519 authorizes the City to enter into an Agreed Order for Immediate Possession and Use with King County for the property rights necessary to construct the NE 4<sup>th</sup> Street Extension Project. The Council previously approved acquisition of the properties, and the City filed a condemnation petition earlier this year. She requested approval of the substitute version of the Agreed Order provided in the Council's desk packet. The size of the acquisition was reduced somewhat, which lowered the cost by approximately \$110,000.

Ms. Berens noted that King County recently closed on its purchase of the BNSF corridor from the Port of Seattle. The County has an existing sewer trunkline in the corridor and plans a regional trail facility for the future. Part of the agreement recognizes that the City's crossing of the railroad corridor might impose costs on a future regional trail project, and indemnifies the County from costs that would not have existed if not for the NE 4<sup>th</sup> Street Extension project.

- Deputy Mayor Robertson moved to approve Resolution No. 8519 and the Agreed Order for Immediate Possession and Use, as amended in the desk packet. Councilmember Stokes seconded the motion.
- The motion carried by a vote of 7-0.

- (d) Information and discussion regarding project principles for the Planning Commission to use in preparing recommendations to the Council to implement permanent regulations for medical cannabis collective gardens.

Mr. Sarkozy noted previous discussions with the Council regarding medical cannabis collective gardens and asked staff to provide an update.

City Attorney Lori Riordan recalled that the Council passed interim zoning controls regulating medical cannabis collective gardens on May 7, 2012, and extended that action for an additional six month period on October 22. Initiative 502 in November legalized the possession of limited amounts of marijuana.

Ms. Riordan said that, following previous Council direction, staff drafted Project Principles for the Regulation of Medical Cannabis Collective Gardens, which are provided in Attachment C of the meeting packet [Page 3-101]. Ms. Riordan said the current interim zoning regulations will expire in April, and it is not certain whether the Planning Commission will be able to conduct a public hearing and provide proposed regulations for the Council's consideration before April. Therefore, it is possible that an additional extension of the interim zoning control will be required.

Ms. Riordan said Initiative 502 includes some restrictions on zoning, which is typically the responsibility of local government. However, since I-502 requires the separation of 1,000 feet between recreational marijuana outlets and certain protected uses, staff believes it is a good idea to have the Planning Commission look at that issue as well.

Catherine Drews, Legal Planner, described the nine draft Project Principles for medical cannabis collective gardens: 1) Bellevue appropriate; 2) Collective gardens are gardens; 3) Neighborhood character is protected; 4) Regulations are specific and understandable; 5) Administration and enforcement is straightforward; 6) Security measures are required; 7) Processing of the Amendment should be inclusive of community input; 8) The outcome must conform with applicable laws; and 9) The Amendment will be narrowly tailored to regulate collective gardens only.

Deputy Mayor Robertson expressed general support for staff's work. Under principle 2, she suggested adding a reference about keeping crime rates low and protecting children from being exposed to drugs. Noting specific uses listed under principle 3, Ms. Robertson said she would like the Planning Commission to consider other sensitive uses (e.g., parks, churches, synagogues). She suggested adding language about appropriate signage, perhaps as part of principle 6.

Councilmember Balducci questioned the reason for focusing on medical marijuana given the legalization of recreational marijuana.

Ms. Riordan said the current effort will help the City when it needs to address overall marijuana regulations in December as the State Liquor Control Board starts issuing licensing for all of the marijuana-related activities.

Councilmember Davidson said he will continue to vote against any marijuana-related regulations due to his ongoing concerns. He has been licensed to prescribe mind-altering drugs for 40 years and opposes the legalization of medical and recreational marijuana. He believes that medical marijuana is not appropriately regulated, and adequate safeguards are not in place. He expressed concern about the current problems that already exist related to prescription medicine abuse.

Responding to Deputy Mayor Robertson, Ms. Riordan said that the items noted earlier by Ms. Robertson are already addressed in the interim zoning control regulations.

- Deputy Mayor Robertson moved to approve the Draft Project Principles for the Regulation of Medical Cannabis Collective Gardens as reflected in Attachment C [Pages 3-101 and 3-102 of meeting packet]. Councilmember Chelminiak seconded the motion.
- The motion carried by a vote of 6-1, with Councilmember Davidson opposed.

(e) Regional Issues

- (1) 2014-2019 King County Medic One Emergency Medical Services (EMS) Levy Update and Resolution Authorizing Placing Levy on Countywide Ballot in 2013.

Resolution No. 8520 supporting the countywide 2014-2019 Medic One/Emergency Medical Services (EMS) Levy.

City Manager Sarkozy requested Council consideration of Resolution No. 8520 supporting the placement of a countywide ballot measure for the 2014-2019 Medic One/Emergency Medical Services (EMS) Levy.

Joyce Nichols, Interim Director of Intergovernmental Relations, noted a correction to Ordinance No. 8520 [Page 3-111 of meeting packet], which is that Bellevue's population is 130,200. Staff proposes an additional Whereas statement (immediately before the Whereas statement referring to the population): Whereas cities in King County with a population over 50,000 are required to adopt a resolution approving placing the EMS levy on the ballot. Councilmember Balducci noted that countrywide should be changed to countywide.

Ms. Nichols provided additional details on the EMS program. She said the King County Council will decide this spring about whether to place the levy on the ballot. The proposal is to change the levy amount from 30 cents per \$1,000 of assessed value to 33.5 cents per \$1,000 AV. She noted that Councilmember Davidson represented Bellevue on the EMS Levy Task Force.

Responding to Councilmember Balducci, Fire Chief Mike Eisner confirmed that Bellevue receives more dollars in return from the levy than its taxpayers' contribution. Ms. Nichols noted that the money funds the ALS (Advanced Life Support) units, which are provided through the Bellevue Fire Department.

Responding to Dr. Davidson, Chief Eisner recalled that the Task Force, with the exception of the City of Kirkland, approved a set of recommendations. Ms. Nichols said her understanding is that Kirkland and the County continue to work through the issues (i.e., finances and the deployment of ALS units). She believes it will be amicably resolved.

- Deputy Mayor Robertson moved to approve Resolution No. 8520, with the typographical corrections. Councilmember Stokes seconded the motion.
- The motion carried by a vote of 7-0.

- (2) Update and Action on Amended and Restated Eastside Public Safety Communications Agency (EPSCA) Interlocal Agreement and Related Articles of Incorporation

Resolution No. 8521 authorizing execution of an amended and restated Eastside Public Safety Communications Agency Interlocal Agreement between the cities of Bellevue, Issaquah, Kirkland, Mercer Island, and Redmond and the execution of the related Articles of Incorporation.

Ms. Nichols explained that the Eastside Public Safety Communications Agency (EPSCA) was established in 1992 to coordinate the radio communications infrastructure serving East King County. EPSCA has five member cities: Bellevue, Issaquah, Kirkland, Mercer Island, and Redmond. A regional communications board oversees EPSCA and other members of the broader 800 MHz radio network which includes the City of Seattle, King County, Port of Seattle, and Valley Com.

Staff is requesting approval of the new EPSCA Interlocal Agreement and the execution of related Articles of Incorporation, and proposes bringing the item back for Council action on the next Consent Calendar.

Responding to Mayor Lee, Chief Eisner noted the Mayor's earlier request regarding EPSCA's annual budget, which is approximately \$1 million per year. Bellevue's portion is \$339,000 and represents 51 percent of the principal cities.

→ Councilmember Wallace moved to approve Resolution No. 8521, and Councilmember Stokes seconded the motion.

Responding to the Mayor, there was Council consensus to defer action to the following week.

Councilmember Wallace withdrew his motion.

Responding to Dr. Davidson, Chief Eisner said EPSCA is separate and distinct from NORCOM, the 911 communications center. However, the two functions are combined in South King County. Ms. Robertson noted that the two functions are separate in Pierce County.

Councilmember Balducci suggested a discussion in the future about the issues related to combining the two functions.

Chief Eisner noted that the current Interlocal Agreement expired at the end of 2012. Bellevue is the last of the five principal cities to take action on it.

Mr. Sarkozy said efforts have been made to consolidate EPSCA and NORCOM. One of the issues is that cities can have a veto over the actions of EPSCA, and this precludes its consolidation with NORCOM. There are additional technical and equipment issues as well.

### (3) Legislative Updates

Ms. Nichols noted the state legislative update beginning on page 3-153 of the meeting packet. The previous Friday was the cutoff for bills to move out of the policy committees, and March 1 is the deadline for bills to move out of the finance committee. March 13 is the cutoff for bills to leave their house of origin.

Ms. Nichols said staff is working to oppose the B&O Tax-related bills.

- Deputy Mayor Robertson moved to extend the meeting to 10:10 p.m., and Councilmember Stokes seconded the motion.
- The motion carried by a vote of 6-1, with Councilmember Wallace opposed.

Ms. Nichols noted a bill that would help Bellevue recover some of the liquor revenue that it lost last year.

Referring to the bill regarding hospital districts, Deputy Mayor Robertson said the Council has wanted for some time to remove Bellevue citizens from King County Hospital District 1. However, the Council's State Legislative Agenda did not specify the mechanism for dissolving the district and, therefore, staff could not testify or support the bill.

Ms. Nichols said the bill provides a mechanism for dissolving a hospital district through either a motion submitted by the Board of Directors of the Hospital District or a petition signed by 10 percent of the eligible citizens within the District. If dissolved by a vote of the people following the petition, the County Council becomes the administrator of closing down the District's functions.

Responding to Mayor Lee, Ms. Nichols said she will provide more information for the Council on this legislation.

Ms. Nichols provided an update on the State transportation revenue package and the bill proposed by Representative Judy Clibborn. House Bill 1954 includes an annual two-cent per gallon increase in the State gas tax for five years, a 0.7 percent statewide Motor Vehicle Excise Tax (MVET), an increase in the Hazardous Substance Tax, an Auditor Licensing Fee, an increase in the Commercial Gross Weight fee, and a bicycle sales fee on bicycles over \$500.

The State transportation package project list proposes \$675 million for the I-405 widening, express toll lanes, and SR 167 project. This project scored well statewide and nationally, and an important criteria is the public benefit relative to the cost.

Deputy Mayor Robertson said she is pleased with the high priority of the I-405/SR 167 project. She said it would be appropriate for the Mayor to send a letter to thank Representative Clibborn for her work on behalf of Bellevue's interests.

Mayor Lee expressed appreciation for Representative Clibborn's efforts.

Ms. Balducci concurred and suggested that staff draft a letter for Council consideration in the near future.

Ms. Balducci requested additional information on the local options bill, HB 1959. Ms. Nichols said she had planned to present more details on that bill tonight had more time been available.

Councilmember Chelminiak requested information on SB 5598 and HB 1563, which deal with the surplusing of property for low-income and very low-income housing.

At 10:14 p.m., Mayor Lee declared the meeting adjourned.

Myrna L. Basich, MMC  
City Clerk

/kaw