

CITY OF BELLEVUE  
CITY COUNCIL

Summary Minutes of Extended Study Session

April 28, 2014  
6:00 p.m.

Council Chambers  
Bellevue, Washington

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

ABSENT: None.

1. Executive Session

Deputy Mayor Wallace called the meeting to order at 6:03 p.m., and declared recess to Executive Session for approximately 35 minutes to discuss one item of potential litigation and two items of property acquisition.

The meeting resumed at 6:42 p.m., with Mayor Balducci presiding.

2. Oral Communications

(a) Proclamation Designating Days of Remembrance

Mayor Balducci read a proclamation in recognition of the Days of Remembrance honoring the victims, survivors, and rescuers of the Holocaust, and reminding us of the need to respect all people.

(b) Marty Nizlek, Washington Sensible Shorelines Association, provided a short presentation to highlight issues related to the Shoreline Master Program Update. [He submitted copies of his presentation.]

(c) Joanna Buehler, representing Save Lake Sammamish, expressed concerns related to the draft Shoreline Master Program Update regarding the reduced setback requirement, failure to demonstrate no net loss of ecological function, noise and light pollution, the lack of a vegetative buffer along the shoreline, and adverse impacts to Lake Sammamish water quality. She said Lake Sammamish is different from Lake Washington in that it is fed by groundwater only and there is no flushing action to help wash out the pollutants.

- (d) Charlie Klinge, land use counsel for the Washington Sensible Shorelines Association, referred the Council to the binder he provided to them a couple of weeks earlier. He said that information was relied upon by the Planning Commission. He highlighted specific topics of interest. Mr. Klinge said that much of the past analysis and early recommendations for lake shorelines were improperly based on stream science. He said the SMP Update provides no net loss of ecological function.
- (e) Scott Lampe, Surrey Downs East Link Committee, thanked the Council for its work approximately one year ago to provide neighborhood protections related to the light rail project. He ask that Sound Transit provide adequate security and maintenance of the acquired properties along 112<sup>th</sup> Avenue SE before and during construction.
- (f) Carole McKinstry, Surrey Downs Park Committee, thanked City staff, especially Glenn Kost and Scott Vander Hyden, for their work with the community in developing the park Master Plan. The current park design addresses residents' concerns and they look forward to using the park.
- (g) Aaron Laing commented on the Surrey Downs Park Master Plan and light rail project. He recalled that he previously proposed a grade-separated bike and pedestrian path along the light rail alignment. He would like to see this incorporated into the park and light rail plans.
- (h) Margot Blacker, representing the Northtowne Neighborhoods Association, provided a short PowerPoint presentation depicting residential redevelopment. She expressed concerns regarding massive houses that are not in keeping with the character of neighborhoods. Ms. Blacker said homes are being bought by and sold to foreign investors who are operating businesses in the structures, leaving them empty or, it appears, renting individual rooms. Some new structures are as large as 10,000 square feet. Residents are requesting an emergency ordinance to consider appropriate regulations.
- (i) Micki Larimer requested that the Council designate the Newport Way sidewalks project as a high priority. She described her involvement in gaining citizen support for the area's annexation, in part based on her interest in roadway and safety improvements. She noted that the sidewalks project is consistent with four Budget Outcome areas – Safe Community, Improved Mobility, Healthy and Sustainable Environment, and Quality Neighborhoods.
- (j) Queen Pearl, a Seattle resident, commented on LA Clippers owner Don Sterling's recent comments and expressed concern about ongoing racism and inequality.

### 3. Study Session

- (a) Council Business and New Initiatives

There was no discussion.

(b) Mini-Consent Calendar

→ Deputy Mayor Wallace moved to approve the Consent Calendar, and Councilmember Robertson seconded the motion.

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

1. Resolution No. 8731 authorizing the Finance Director to write off fifteen uncollectible accounts totaling \$37,603.25.
2. Resolution No. 8732 authorizing execution of a three-year Microsoft Enterprise Agreement for required Microsoft software licenses, in an amount not to exceed \$1,175,067, plus anticipated annual true-ups which are necessary for the continued and future utilization of Microsoft software products by the City.
3. Resolution No. 8733 authorizing execution of an amendment to the existing Professional Services Agreement with MacLeod Reckord Landscape Architects, in an amount not to exceed \$50,458, to complete additional engineering services required for a Department of Ecology stormwater treatment grant.
4. Resolution No. 8734 authorizing execution of a four-year general services contract with the Natural Start Preschool, in an amount not to exceed \$671,600, for the operation and management of a preschool program at South Bellevue Community Center.
5. Motion to award Bid No. 14015 for SE 60th Street Roadway Embankment Stabilization to Weber Construction, Inc., as the lowest responsible and responsive bidder in the amount of \$116,020.73 (CIP Plan No. W-16).

(c) Shoreline Master Program (SMP) Update Study Session 3 – Review of Draft Cumulative Impact Analysis and review of Light Rail Use and Development Regulations

Acting City Manager Brad Miyake introduced staff's presentation of the Shoreline Master Program (SMP) Update.

Carol Helland, Land Use Director, commented on the project timeline and highlighted the completion plan. She said the purpose of the briefing was to review the working draft Cumulative Impact Analysis (CIA) prepared by The Watershed Company. Ms. Helland said there will be public hearings on May 5 and in late June/early July.

Lacey Hatch, Assistant City Attorney, introduced Sarah Sandstrom, Fisheries Biologist with The Watershed Company, to present the Working Draft Cumulative Impact Analysis (CIA). Ms. Hatch said this is a starting point to initiate discussion with the Council and identify key issues.

Ms. Sandstrom said her firm has been working with the City on the SMP Update since 2007. They have worked on more than 45 Shoreline Master Program Updates throughout the state, and more than 20 of those have been approved by the Washington State Department of Ecology. The others are still being processed.

Ms. Sandstrom said the purpose of the CIA is to focus primarily on how the draft SMP impacts ecological functions and shorelines values. The approach to this work was to review existing conditions, assess reasonably foreseeable development, account for existing regulations and programs, review SMP provisions, and identify potential gaps in the draft SMP. The Shoreline Management Act is meant to balance access, preferred uses (i.e., water-dependent uses and shoreline residential), and the maintenance of ecological function.

Ms. Sandstrom said The Watershed Company relied on existing documents, previous summary documents, and the body of literature on Lake Washington as the scientific basis of the CIA. She said ecological tradeoffs are not directly comparable, which make them difficult to quantify. The Watershed Company used a qualitative approach for its analysis.

Responding to Deputy Mayor Wallace regarding the meaning of “qualitative approach,” Ms. Sandstrom said the general approach is not to assign a number to the loss/gain of a function but to make a more overall assessment of the value of a tradeoff.

Continuing, Ms. Sandstrom said the Shoreline Analysis Report provides an evaluation of tree and shrub impacts in 25-foot and 50-foot setbacks. She said the most likely change along the shoreline is the redevelopment of existing single-family residential uses and related modifications (piers, boatlifts, and stabilization).

Ms. Sandstrom said the consultants looked at existing regulations and programs in the City’s Land Use Code for critical areas, utilities, and parks, and in the Capital Investment Program. State and federal environmental regulations were reviewed as well. The draft SMP includes general requirements to minimize the effects of development and vegetation conservation standards.

Responding to Mayor Balducci, Ms. Sandstrom said the demonstration of no net loss is required only for a conditional use permit, variance, or Shoreline Special Report.

Councilmember Robertson noted her understanding that shoreline substantial development would need to demonstrate no net loss. Ms. Sandstrom said it would not on an individual project basis. However, the SMP needs to provide that the city as a whole will meet no net loss.

Ms. Helland said there is a presumption of validity that, to the extent that shoreline substantial development permits and shoreline exemptions meet the safe harbor regulations, there is no requirement for demonstrating no net loss. However departures from the Code and safe harbor

regulations (e.g. conditional use permit) require an individualized demonstration of no net loss. Ms. Helland said this raises the issue for Council consideration and a determination about whether the regulations in place adequately allow for that presumption to exist.

Responding to Councilmember Robertson, Ms. Helland said most shoreline substantial development permits and shoreline exemptions do not require SEPA (State Environmental Policy Act) review, with the exception of over-water structures.

Responding to Deputy Mayor Wallace, Ms. Sandstrom said the Shoreline Management Act provides flexibility in terms of how provisions are allowed (e.g., residential, multifamily, etc.).

Dick Settle, consulting attorney, said there is a requirement of the shoreline guidelines that the SMP regulation of development achieve the no net loss standard. However, that does not mean there needs to be a no net loss check-off provision in the SMP. That would be one way to do it, but the expectation is that the SMP regulations are designed to, and will in fact, accomplish no net loss. Mr. Settle distinguished between no net loss as a requirement that local government SMPs must meet in their regulations versus the incorporation of an individual no net loss review, as part of those regulations, for certain development permits.

Councilmember Robertson said it sounds like the safe harbor approach, under SMP regulations that meet no net loss, makes a great deal of sense. Mr. Settle said both options he just described are logical ways to proceed.

Ms. Robertson questioned how much it would cost individual property owners to hire the necessary experts/consultants if the City decided to require a demonstration of no net loss for every project. Ms. Helland said staff will research the range of that cost. She said that type of information is available in the City's permit records. For more information, Ms. Helland referenced Section 20.25E.060.B.

Councilmember Chelminiak stated his understanding from the discussion that shoreline residential redevelopment can go under the shoreline exemption, and that can be used as a safe harbor to achieve no net loss if the regulations are crafted in a way to make that possible. He suggested that means the City would need to pay attention to restrictions on individual lots, even though each lot might not be required to meet a test of no net loss. Ms. Sandstrom confirmed that understanding.

Councilmember Robertson said the broader demonstration of no net loss includes the SMP and its regulations as well as other City programs and regulations that protect and improve the environment.

Continuing, Ms. Sandstrom said the draft SMP prohibits shoreline uses that are incompatible with existing conditions. One issue for Council consideration is the application of the mitigation standard under LUC 20.25E.060.C for new and expanded utilities. This requires the demonstration that there is no other technically feasible alternative outside of the shoreline jurisdiction. Responding to Councilmember Robinson, Ms. Helland said this applies to City utilities and is not an additional cost for property owners.

Responding to Councilmember Stokes, Ms. Sandstrom said it is unclear whether lakeline projects would fall under replacement or new expanded utilities. The current draft SMP requires mitigation with the replacement of utilities but is not explicit for newly expanded utilities. Ms. Helland said this could be an inadvertent drafting loop, which can be fixed.

Moving on to shoreline modifications, Ms. Sandstrom highlighted dimensional and material standards, standards for new and enlarged stabilization, and standards for replacement stabilization (e.g., reduction in vertical bulkheads). Ms. Helland said bulkheads will be addressed further in a future discussion.

Ms. Sandstrom described the differences in wave reflection with vertical bulkheads versus those that slope. However, even the latter allow the continued degradation of ecological functions over time. The SMP avoids a disincentive for soft shoreline stabilization. Ms. Sandstrom said concrete vertical bulkheads could not be replaced with another concrete vertical structure. Overall, the State DOE wants the SMP to demonstrate that standards for no net loss are met without relying on federal government regulations.

Councilmember Robertson said her understanding with regard to demonstrated need is that the DOE has approved hard stabilization for Kirkland due to the wave action on Lake Washington. She assumes that would apply to Bellevue's shoreline on Lake Washington. She noted that Bellevue's side of Lake Sammamish tends to take the brunt of the winds, and it would be good to have an understanding about hard stabilization along that shoreline.

Moving on, Ms. Sandstrom said residential shorelines make up the majority of Bellevue's shorelines. The proposed setbacks in the draft SMP Update are smaller than the existing median setbacks, which has potential impacts on water quality, vegetation, and views. The draft residential greenscape standards do not differentiate between lawn areas, ornamental plantings, and native shrubs and trees.

Ms. Sandstrom said The Watershed Company prepared a separate memorandum of its recommendations and options for Council consideration. Topics include: 1) alternative setback options (examples include City of Kirkland and City of Lake Forest Park); 2) vegetation conservation; 3) mitigation sequencing, and 4) shoreline stabilization.

Mr. Settle said he has been asked to comment on the concept of no net loss and the Cumulative Impact Analysis. He recalled that regulations adopted in 2003 as the shoreline guidelines were a response to the invalidation of the 2000 regulations and the product of compromise among varied interests.

Mr. Settle said the governing principles of the guidelines require that SMP regulations address no net loss and cumulative impacts. He said there is confusion about the concept of no net loss, which can be interjected into the SMP as a case-by-case review process for individual development projects or could be considered as an overall cumulative impact.

He said the provisions of no net loss are first oriented toward achieving no net loss in development projects, although not necessarily permitted projects. Permit-exempt projects are subject to SMP regulations too, however.

Mr. Settle said a major question to consider in this presentation is: Does the SMP, as it applies to development projects through permits or through the regulation of exempt development, achieve no net loss as a result of those development projects? The presentation will also address no net loss in the context of cumulative impacts. He said there is a big difference between the two. Cumulative impacts involve factors other than the development projects themselves, and the no net loss requirement can be achieved by a broader range of means when it comes to cumulative impacts as opposed to an individual project.

Mr. Settle said no net loss is a relatively new concept in Washington shorelines law. The courts have not yet interpreted or defined this concept. No net loss refers to shoreline ecological and other functions, and three categories must be addressed: 1) habitat, 2) water quality, and 3) water quantity. Mr. Settle said the word “net” implies there can be tradeoffs, but the guidelines do not address specific tradeoffs. There is a reference to on-site versus off-site mitigation, but the application of that is unclear.

Mr. Settle said the SMP has a planning component and a regulatory component. The former requires that the City plan for the restoration of degraded areas. This does not mean the City must complete the restoration but that it plan for how restoration might occur.

Mr. Settle said the next issue is: No net loss as a result of what? Could it be the continuation of loss as a result of past development that has occurred? Can the continuation of prior development be something that we have to regulate to achieve no net loss? Mr. Settle opined that the answer to that is no. He said the regulations apply to no net loss as the result of future development in the shoreline area.

Continuing, Mr. Settle said that “development” is a term of art in the Shoreline Management Act that is specifically defined. The no net loss standard applies only to future development, with or without a permit. The guidelines refer to no net loss over time, which generally refers to 20 years, but the requirement is unclear. Mr. Settle said other federal, state and local regulatory systems can be taken into account when determining how to achieve no net loss.

Mr. Settle raised the question of what happens if the Shoreline Master Program falls short. He reiterated that the SMP has a planning component and a regulatory component, and it must include a restoration plan. Could you rely on that restoration plan (publicly funded or privately funded) to offset any shortfall in the regulatory program? Mr. Settle said the guidelines are not clear on this question. There are indications that a restoration plan would be acceptable, but there are other indications that the regulatory program must achieve the desired outcome of no net loss. The guidelines state that cumulative impacts must be addressed.

Mr. Settle said cumulative impacts refer to reasonably foreseeable future shoreline development. However, confusion is generated by language that no net loss with regard to the cumulative impacts analysis must look at “current circumstances affecting shorelines and natural processes.”

Wrapping up the presentation, Ms. Helland reiterated that the Cumulative Impacts Analysis is a working draft and the Council will be making policy decisions as discussions continue to move forward through the substantive topic areas. She referred to page 3-151 of the meeting packet and noted that regional light rail transit has been added to the land use chart for shorelines. She noted additional light rail references on pages 3-154 and 3-158 of the meeting packet.

Ms. Helland said the public hearing has been noticed for the May 5 Regular Session.

Councilmember Robertson said the Cumulative Impacts Analysis bases the science on the Shorelines Inventory Analysis dated January 2009. She said she sat through all of the science panels regarding the critical areas ordinance when she was on the Planning Commission, as well as the science panels on shorelines, before joining the City Council. Since January 2009, there has been a great deal of science added to the record that is more complete and more applicable than the science before that time. She said that much of what was presented in 2009 is no longer considered accurate.

Ms. Robertson noted the absence of information from Dr. Daniel Pauly, a leading expert on fish in the Pacific Northwest. Much of the science in the record before 2009 was stream science, which is not applicable to lakes. Ms. Robertson said the science panels before the Planning Commission presented conflicting information. For example, some scientists said that adding shoreline vegetation and native growth does not matter. Another scientist suggested that debris in the lake, including residents' Christmas trees, would be good for the fish.

Councilmember Robertson noted the basic assumption that doing nothing will result in the worsening of lake conditions. She said the quality of the lake has actually been improving over the past several decades and she therefore believes that is a false assumption.

Ms. Robertson said that, because this is a watershed issue, it is important to look at restoration within that broader context. She suggested looking at what the City does in connection with transportation projects because much is done to improve water quality and storm runoff. She suggested that improvements in other cities have a positive cumulative impact as well.

Councilmember Robertson said the City does a good job with its environmental education programs, and she suggested expanding those efforts with regard to shoreline impacts and regulations.

Ms. Helland said that all of the science data, before and since 2009, was provided to The Watershed Company after Mr. Settle was hired. Ms. Sandstrom said the SMP is not based only on the older science, but it is based on the Shoreline Analysis Report and the existing body of literature to date.

Councilmember Chelminiak observed that discussions have focused almost entirely on regulations affecting ecological function. He would like to also focus on public access (e.g., recreation purposes) to shorelines via public property in general throughout Bellevue.



Councilmember Robinson said she would be interested in hearing about incentives that would discourage people from developing property within 50 feet of the shoreline. She said the Washington Sensible Shorelines Association has proposed some incentives. Ms. Helland confirmed that those will be addressed in future discussions.

Councilmember Lee said he is interested in more information on the items eligible for negotiation with the DOE. He said there are many things the City is already doing or has accomplished with its public projects to improve water quality and the environment. He concurred with Councilmember Chelminiak's comments about public access. Councilmember Lee suggested that the City list every program and project over the past 20 years that contribute positively to the quality of the environment and shorelines.

Responding to Mr. Lee, Mr. Settle said the City can and should incorporate other regulations (i.e., State and Federal) as part of the overall SMP approach to demonstrate no net loss of ecological functions. Ms. Helland said this will be discussed in greater detail in future discussions.

Deputy Mayor Wallace said he sees only three references to science reports dated after 2009 in the draft CIA. He said it would be interesting to see a list of the reports presented to and/or studied by the Planning Commission that were not referenced by The Watershed Company in its study. Mr. Wallace observed that future improvements to I-405 and with the light rail project should be considered in terms of the benefits to the environment.

Mr. Wallace would like to add private property rights as a topic for future discussion. He said the U.S. Supreme Court is increasingly providing decisions on property rights that he believes should be addressed.

Mr. Wallace observed that the dominant terms of the discussion are "qualitative," "likely," "potential," "ambiguity," and "inconsistency." He said this is not helpful in deciding how to regulate someone's private property with regard to ecological function. Mr. Wallace said he is stunned that every jurisdiction in the state has to go through this, especially given that the state of the law at this point is so unclear and does not definitively support any of the many opinions.

Mr. Settle says there are repeated references, with regard to private property rights, that requirements be "consistent with constitutional and other legal limitations." He said this qualifier is built into the shoreline guidelines. Mr. Wallace suggested that this deserves more attention than it has received to date.

Mayor Balducci concurred that the Council needs to discuss the legal defensibility of regulations, possibly in Executive Session, as it approaches its final decisions.

Councilmember Stokes said he is concerned that this process continues to expand. He believes it needs to be wrapped up and moved forward, but he is concerned that this is fraught with ambiguity. He noted the difficulty of predicting impacts over the next 20 years. He is frustrated that there is not more clarity in this area. He questioned how well anyone can know the difference in impacts of development within 25 feet versus 50 feet of the shoreline.

Ms. Helland said staff is trying to set up a framework so that Council understands the limits of its discretion and is able to make appropriate policy decisions.

Mayor Balducci suggested that Councilmembers provide questions to staff in preparation for future discussions and/or to have individual briefings on certain topics, if desired. She said it is important to manage meeting time for these topics.

Mayor Balducci thanked staff and the consultants for the presentation.

At 8:49 p.m., Mayor Balducci declared a short break.

The meeting resumed at 8:59 p.m.

(d) Surrey Downs Master Plan Update

Mr. Miyake introduced staff's update on the Surrey Downs Park Master Plan.

Patrick Foran, Directors of Parks and Community Services, thanked citizens for their comments on the Master Plan earlier during oral communications.

Glenn Kost, Parks Planning and Development Manager, said staff would provide a briefing tonight and request adoption of the plan later this year. The original Master Plan was adopted in 2009, before the East Link alignment plan was completed. The current East Link light rail alignment does not allow access to the park from 112<sup>th</sup> Avenue SE. He described the extensive community involvement in modifying and updating the Master Plan which includes loop trails, playground elements, restrooms, picnic tables/small shelters, benches, and park buffer.

Mr. Kost recalled early discussions about the possibility of a community center at this location. However, expanded sports facilities are underway at Hidden Valley Park with the Boys and Girls Clubs of Bellevue. The Surrey Downs original sports meadow is now a play meadow with no programmed sports. The parking lot is reduced in size (15-20 spaces) and there is vehicle access from SE 4<sup>th</sup> Street. Several berms will be placed along 112<sup>th</sup> Avenue SE as a buffer between the park and the light rail trains.

Mr. Kost described the cross-sections of street park frontage along 112<sup>th</sup> Avenue SE involving berms, two-tiered wall treatments, and sloped landscaping. He presented artistic depictions of the street views along the park.

Mr. Kost said staff analyzed the effects of edge treatments to mitigate light rail noise and considered a number of options including the Sound Transit single-wall option and City-preferred two-tiered retaining walls with landscaping. Staff suggests working with park neighbors to determine perimeter fencing options. Staff does not recommend the additional six-foot wall on top of the second retaining wall.

Mr. Kost said the Parks and Community Services Board supports moving forward with the recommended plan. Next steps for 2014 are to finalize the Master Plan, conduct environmental review, consider Comprehensive Plan and Subarea amendments, request Capital Investment Program (CIP) funding, and coordinate with Sound Transit. The Surrey Downs courts will be relocated in 2015 and light rail construction is slated to begin that year as well.

Mayor Balducci observed that the recommended plan addresses some of the outstanding issues from earlier plans. She said the Council has heard compliments on staff's work on the Master Plan. She thanked staff and the community for their work.

Councilmember Robertson expressed support for the idea presented during earlier oral communications proposing a non-motorized bike and pedestrian facility along the light rail alignment. Mr. Kost said that was considered. However, such a project would be more likely to occur on the east side of 112<sup>th</sup> Avenue SE.

Nancy LaCombe, Transportation Project Manager, offered to have staff return with an update on Sound Transit's plans for a multi-purpose path from I-90 to Main Street.

Councilmember Robertson said she hopes there will be plans in place to enforce parking at Surrey Downs Park so it does not become used as a park and ride lot. She would like to get the berms into place before light rail construction begins to mitigate construction noise for nearby residents. Mr. Kost said that is one of many issues to be discussed with Sound Transit.

Councilmember Stokes expressed support for the plan. He is pleased that the earlier sports facilities discussed for Surrey Downs Park are now being provided at Hidden Valley Park.

Councilmember Chelminiak thanked staff for their good work. He questioned the safety considerations associated with certain passive areas of park. Mr. Kost said that safety issues are not anticipated. Residents believe the park will be active and well used throughout the day.

Mr. Chelminiak observed that this could become an unregulated off-leash area, and he suggested that other activities could curb that. Mr. Foran said this will be a good park for summer youth programs. Mr. Chelminiak said he is sorry to see the absence of the skate area from the previous plan, as well as other activities for older youth such as a climbing wall.

Councilmember Lee expressed support for the park Master Plan and noted he would like there to be relatively flat play areas available for games. Mr. Kost said the play meadow is designed with that use in mind.

Councilmember Robinson commended staff's work with residents, which she observed. She said residents raised many of the questions that have been raised tonight by Councilmembers. She encouraged that staff look into the possibility of a bike path along light rail.

Mayor Balducci stated that the Council is comfortable with moving forward. She suggested that other elements (e.g., climbing wall) could be added later if it is determined that the park is under-utilized. She thanked staff for their work.

(e) East Link Project Update

Mr. Miyake opened staff's monthly update on the East Link light rail project.

Transportation Director Dave Berg noted the three topics for this update: 1) 112<sup>th</sup> Avenue property acquisition and disposition, 2) acceleration of 120<sup>th</sup> and 124<sup>th</sup> right-of-way acquisition, and, 3) the Sound Transit Operations and Maintenance Satellite Facility (OMSF).

Land Use Director Carol Helland described the 112<sup>th</sup> Avenue SE properties affected by the light rail project. She recalled amendments adopted in February 2013 as part of the Light Rail Overlay District, which established minimum setbacks for a regional light rail transit (RLRT) transition area and minimum structure separation.

Ms. Helland described provisions in Land Use Code 20.25M for a 30-foot landscaped buffer adjacent to at-grade or elevated track and a 60-foot structure separation between the edge of trackway and existing primary structure. There is currently no provision or option for an existing owner to choose to remain should their structure fall within the 60-foot separation area, and the existing structure cannot be modified. However, future structures could be built to the 30-foot separation limit after light rail is established.

Ms. Helland said City Codes govern the use and condition of the properties after they are acquired, including removal of all structures, re-grading and erosion control, security, and upkeep. Properties must be left in a condition that does not require them to be fenced.

Responding to Councilmember Robinson, Ms. Helland confirmed that a future property owner could build within the 60-foot separation area.

Responding to Mayor Balducci, Ms. Helland said the current Code does not provide a process for allowing a property owner to appeal to remain on their property if it does not have the required setbacks. Ms. Helland said the Code could be amended if Council desires.

Responding to Councilmember Stokes, Mayor Balducci said this issue could be discussed further if there is sufficient Council interest.

→ Councilmember Stokes moved to extend the meeting to 10:15 p.m., and Councilmember Robinson seconded the motion.

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

Don Billen, Sound Transit, provided an update on specific property acquisitions underway. He noted that some properties are rented and it is possible the tenants might opt to stay longer. Councilmember Robertson questioned whether homeowners would have the same option. Mr. Billen said that can be discussed if a homeowner is interested.

Mr. Billen said Sound Transit has issued a Request for Information to the contracting community to assess the potential for relocating any of the structures. There could be a market to move some of the structures to other locations. Sound Transit anticipates construction beginning in late 2015 or early 2016.

Councilmember Chelminiak requested a map of all property acquisitions, including portions not involving structures. Mr. Billen will send him that information.

Mayor Balducci thanked Mr. Billen for the update.

Moving on, Mr. Berg described the 120<sup>th</sup> Avenue NE/124<sup>th</sup> Avenue NE composite project plan. He said right-of-way funding is currently designated for 2015. However, it is unknown whether actual payments will be made in 2014 or 2015. Staff is not looking for Council direction at this time. However, if a settlement should occur in 2014, staff will bring that back to the Council to discuss financing options.

Mr. Berg said the OMSF Draft Environmental Impact Statement (DEIS) will be published on May 9, 2014. Sound Transit is scheduled to brief the Council on May 19 and will hold a public hearing in June. The comment period for the DEIS ends June 24, 2014.

Deputy Mayor Wallace questioned how right-of-way costs in the area will be shared between the City and Sound Transit. Mr. Berg said the two agencies are beginning to discuss cost sharing.

Referring to the properties on 112<sup>th</sup> Avenue SE, Mr. Wallace said he did not recall those 13 parcels being part of the East Link Memorandum of Understanding with Sound Transit. He noted that right-of-way needs have changed since the MOU was established and he questioned how that will be reconciled under Sound Transit's current plans.

Mayor Balducci said the Council is coming up on key decisions regarding the light rail project, and she is unsure about the City's internal process for preparing for those decisions. She requested a presentation to Council regarding the East Link timeline going forward and the decisions to be made by the City.

(f) Regional Issues

Noting the time, Mayor Balducci said Regional Issues items would be postponed.

4. Discussion of upcoming items

- (a) Consideration of an application of the Bellevue School District for a Conditional Use Permit and a Critical Areas Land Use Permit to demolish the existing Odle Middle School and to construct a new two-story facility to serve grades 6 through 8. The adjacent Bellevue Aquatic Center will not be disturbed and will remain open during the construction process. The site area is approximately 18 acres and is located at 502 143rd Avenue NE, which lies in between 140th and 148th Avenues NE.

Ms. Helland recalled that information on the application of the Bellevue School District for a Conditional Use Permit and a Critical Areas Land Use Permit to demolish the existing Odle Middle School and to construct a new two-story facility was provided to the Council approximately two weeks ago. The Hearing Examiner recommended approval with conditions, and no appeals have been filed. Final action is scheduled for May 5, and staff anticipates the matter will be on the East Bellevue Community Council's May 6 agenda.

Mayor Balducci thanked City staff and the Bellevue School District for their work.

Returning to a Regional Issues item, Joyce Nichols, Director of Intergovernmental Relations, provided a quick update on Councilmember Lee's visit to the National League of Cities (NLC) conference in March. He met with a number of parties to advocate for key priorities identified in the Council's Federal Legislative Agenda including economic development, transportation (e.g., I-405 Master Plan completion), Bel-Red sustainable communities initiatives, and the marketplace fairness act related to remote/Internet sales. Ms. Nichols said the good news from his trip is that Bellevue has a delegation interested in helping the City. She described how the Council can help raise the City's profile on certain issues by continuing to repeat messages and meet with the delegation, including inviting elected officials to Bellevue to tour the City's projects.

Councilmember Lee said this is consistent with priorities the Council discussed at its retreat, which are economic development and regional collaboration. He spoke to the need to seek federal funding as much as possible.

Mayor Balducci suggested it would be beneficial to have similar reports when Councilmembers participate in conferences or other City-related travel.

Mayor Balducci declared the meeting adjourned at 10:15 p.m.

Myrna L. Basich, MMC  
City Clerk

/kaw