

CITY OF BELLEVUE  
CITY COUNCIL

Summary Minutes of Extended Study Session

July 25, 2011  
6:00 p.m.

Council Conference Room 1E-113  
Bellevue, Washington

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

ABSENT: None.

1. Executive Session

Deputy Mayor Lee called the meeting to order at 6:00 p.m., and declared recess to Executive Session for approximately 15 minutes to discuss one item of potential litigation.

The meeting resumed at 6:15 p.m., with Mayor Davidson presiding.

→ Deputy Mayor Lee moved to amend the agenda to add the consideration of a limited waiver of attorney-client privilege, which will allow for the presentation of the conclusions of Jeffrey Coopersmith in his report concerning conflict of interest allegations against Councilmember Kevin Wallace. Councilmember Robertson seconded the motion.

→ The motion to amend the agenda carried by a vote of 7-0.

Kate Berens, Deputy City Attorney, recalled that the City retained Mr. Coopersmith to address issues raised regarding alleged conflicts of interest on the part of Councilmembers. She explained that the waiver of attorney-client privilege is necessary in order to allow Mr. Coopersmith to present his findings to the Council. The limited waiver would also apply to the release of copies of the report to the public.

→ Deputy Mayor Lee moved to agree to a limited waiver of the attorney-client privilege associated with the contracted services of Jeffrey Coopersmith for the sole purposes of :  
1) Allowing Mr. Coopersmith to verbally present a summary of his conclusions contained in his report dated July 20, 2011; and 2) Allowing for public release of copies of these two reports. Councilmember Robertson seconded the motion.

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

Mr. Coopersmith presented his findings and conclusions with respect to the allegations of conflict of interest involving Councilmember Kevin Wallace. The factual investigation involved the review of more than 10,000 documents provided by the City of Bellevue, mostly emails and attachments from Mr. Wallace's account, and more than 2,300 pages submitted by Councilmember Wallace. The consultant team also reviewed the bankruptcy file of GNP Railway, proceedings of the Surface Transportation Board with regard to GNP, City Council Minutes, Sound Transit documents, and other public documents. Mr. Wallace was interviewed, as were three parties associated with GNP Railway (Douglas Engle, Thomas Payne, Thomas M. Jones) and William Popp, Sr., a transportation consultant.

Mr. Coopersmith noted that the City has no ethics code that applies to members of the City Council, and there are only two state laws that potentially govern the legislative policy area. RCW 42.23.030 applies to matters involving contracts, which Mr. Coopersmith determined does not apply to this situation.

RCW 42.23.070 prohibits a member of the Council from using his or her position to secure special privileges or exemption for himself, herself, or others. Mr. Coopersmith said the language is unclear, and the Florida Supreme Court found identical language to be unconstitutionally vague. The Washington State Attorney General's opinions suggest that the statute relates to granting special access or exemptions, for example, not applying a building code to a party. Given the lack of clarity, Mr. Coopersmith said that his team interpreted RCW 42.23.070 as referring to a specific intent to confer a special privilege or exemption for oneself, for example, a financial benefit. This is consistent with a case before the Washington Supreme Court in 2003 (Recall against Feetham), which found that a violation must include a specific intent to confer a special privilege.

Mr. Coopersmith described his findings regarding: 1) The January 2010 City Attorney's memorandum with regard to property owned by Councilmember Wallace's father, 2) Whether the potential business relationship with GNP Railway represented a violation of RCW 42.23.070, and 3) Whether Councilmember Wallace used City resources in any way that would violate the statute. Mr. Coopersmith concurred with the City Attorney's finding in January 2010 that Councilmember Wallace did not have a conflict of interest that would require him to recuse himself from the Council's East Link discussions and votes.

Mr. Coopersmith referred the Council to pages 11-19 of the report and briefly reviewed the issues related to GNP Railway. He said he did not find any evidence supporting an intent by Councilmember Wallace to violate state law. Mr. Coopersmith noted that the GNP Railway memorandum of understanding (MOU) lists potential revenue sources, including possible revenue from Sound Transit for the grant of a sub-easement or license to use the BNSF corridor.

Mr. Coopersmith opined that the possibility that Sound Transit would ever pay GNP for the use of the corridor is far-fetched at best. He said that Sound Transit reflects the opposite position in its filings with the Surface Transportation Board, which is that GNP might be required to pay Sound Transit for its use of the rail corridor. The Surface Transportation Board did not resolve the issue of whether a purported railroad with no property rights in a rail corridor could

reactivate service, and what rights it might have if service was reactivated. Mr. Coopersmith said the evidence does not support a view that Councilmember Wallace acted with an intent to confer special privileges or exemptions on himself.

Mr. Coopersmith reviewed the report's finding about whether Councilmember Wallace used or attempted to use City resources to benefit GNP. He stated that there is no evidence to demonstrate that Councilmember Wallace attempted to use City resources for the benefit of GNP.

Mayor Davidson thanked Mr. Coopersmith for doing a thorough job.

Councilmember Degginger requested a clarification of the last sentence on page 16 of the report. Mr. Coopersmith said that Councilmember Wallace told him that he believed GNP's filing with the Surface Transportation Board would be confidential. Mr. Wallace indicated that he would not have signed the MOU if it had been a public document. Mr. Coopersmith said that Councilmember Wallace told him he would not have signed the MOU at all in a typical business deal. However, Mr. Wallace said he signed the document because GNP needed to have something to show the Surface Transportation Board with regard to financial resources.

In further response to Councilmember Degginger, Mr. Coopersmith said the GNP Memorandum of Understanding included a clause stating that the MOU was non-binding.

Mayor Davidson questioned whether the Council needed to take formal action accepting the report. Deputy City Attorney Berens said that no action was required.

Councilmember Chelminiak thanked Mr. Coopersmith for his work. He noted that the City has an ethics ordinance that applies to City employees, and he is unclear as to why it does not apply to Councilmembers. Mr. Chelminiak said that the definition of family within the employee ethics code extends to parents and siblings. He questioned whether the application of this definition to Councilmembers would have raised any issues for further investigation with regard to any of the Councilmembers.

Mr. Coopersmith said it is always possible, if you apply a different law to the same situation and set of facts, to come up with a different conclusion. In performing his analysis and investigation, Mr. Coopersmith said he decided it was not appropriate to apply standards, that did not actually apply to a Councilmember, to that Councilmember. If the City adopts an ethics code for Councilmembers in the future that incorporates principles from the employee ethics code, a future investigation might have a different outcome.

In this case, Mr. Coopersmith did not undertake an analysis of what would happen if different law applied to Councilmember Wallace. In further response to Mr. Chelminiak, Mr. Coopersmith said the comment applies to his investigation of all Councilmembers as well.

Mayor Davidson requested a consensus to have the minutes reflect that the report was accepted with no further action by the Council.

Noting that the report is now available to the public, Councilmember Degginger questioned closing the issue without providing the opportunity for public review.

Mayor Davidson indicated that he was simply looking for a way to finalize the matter and move forward.

Councilmember Wallace recalled, for the audience, that questions about potential conflicts of interest were raised earlier in the year relating to his role as a City Councilmember and his role as a private businessman with Wallace Properties. He noted that, in March, he supported the decision for an independent review. Mr. Wallace said he takes his responsibilities as a Councilmember very seriously. He wants residents to know that they can have confidence in their City Council to deal fairly with the issues affecting the community.

Councilmember Wallace thanked the Mayor for his handling of this difficult matter. Mr. Wallace indicated that he spent personal time and expense to cooperate fully with the investigation. Councilmember Wallace stated that Mr. Coopersmith's conclusions confirm those of his personal attorney and of an additional legal review. Mr. Wallace noted that a memo to this effect has been provided to the Mayor and is available for public review as well.

## 2. Communications: Written and Oral

- (a) Patrick Bannon, Bellevue Downtown Association, expressed support for the City's work with Sound Transit on the term sheet for the C9T light rail alternative [Agenda Item 3(d)]. He commented that the Downtown Tunnel promotes high ridership and integrates well with other modes of transit.
- (b) Joe Rosmann, representing Building a Better Bellevue, commented on a letter to the Council from Shirley Stone of the Bellefield community regarding the B2M mitigation alignment discussed during the previous week's Council meeting. He expressed concerns regarding the number of trees that would need to be removed for this option as well as the impacts on ducks and geese.
- (c) Loyd Jacobs urged the Council to keep moving forward on East Link and to prepare a draft term sheet for action by the Sound Transit Board on July 28. He said that the elements important to Bellevue residents are a B2M alternative with noise and vibration mitigation, a Downtown Tunnel, the elimination of at-grade crossings, and a retained cut for Segment D through the Bel-Red corridor. He thanked Councilmembers for their work, and submitted his comments in writing.

## 3. Study Session

- (a) Council Business and New Initiatives

Councilmember Robertson said she is pleased that the review of potential Councilmember conflicts of interest has been completed. She continues to believe that Councilmembers are working for the best interest of the City and its citizens. Ms. Robertson suggested initiating a discussion this fall about creating an ethics code for the City Council, and to work toward the adoption of a policy by next spring.

Mayor Davidson confirmed the Council's interest in creating an ethics code, and noted that past discussions raised the issue of the appropriate policy for a part-time Council.

Councilmember Robertson further suggested that both a policy and procedure be defined.

Councilmember Degginger observed that the City spent a fair amount of time and money on the investigations, which ultimately supported the previous conclusions of the City Attorney. He noted the importance of communicating with the City Attorney about any questions or concerns, and of trusting the legal opinions of staff. With regard to an ethics code, Mr. Degginger suggested looking at other models within the region and at the state level.

Mayor Davidson acknowledged that there are more part-time than full-time Councils, and he supports reviewing a number of approaches.

Councilmember Chelminiak expressed support for moving forward with this initiative. He noted that the Coopersmith reports concluded that no laws were broken. However, Mr. Chelminiak suggested that an ethics code could broaden its scope beyond specific laws. He asked Councilmembers to provide their input regarding a draft ethics code. City Manager Sarkozy suggested that Councilmembers submit their comments and suggestions to him or the City Clerk.

Mayor Davidson confirmed that the City Manager will take this on as a high priority.

Councilmember Wallace agreed with the need for a hard look at adopting an ethics code. He noted the statement in Mr. Coopersmith's report that statutory language identical to Washington state's has been ruled unconstitutionally vague in Florida. Mr. Wallace believes that a clear ethics code will preclude future allegations regarding conflicts of interest. Rather than having Councilmembers make suggestions about what to include in the ethics code, he suggested directing the City Attorney's Office to research ethics codes adopted by other part-time City Councils.

Councilmember Balducci supports moving forward with the initiative. She noted that the Council will have the opportunity to review and discuss draft policy language, regardless of the source of the language.

Moving on, Councilmember Balducci requested a status report from staff with regard to burglaries. She noted concerns from Sherwood Forest residents about water pressure, and requested information on this issue as well.

Deputy Mayor Lee said he received an email from the president of the Washington Square Towers condominiums requesting a mid-block crossing on 106<sup>th</sup> Avenue NE between NE 8<sup>th</sup> and NE 10<sup>th</sup> Streets. Mr. Lee asked staff to look into this issue and report back to the Council.

(b) Regional Issues

(1) Cascade Water Alliance

City Manager Steve Sarkozy introduced the Cascade Water Alliance update.

Chuck Clarke, Chief Executive Officer for the Cascade Water Alliance, provided a briefing on the current effort to review and revise Cascade's member charge structure. He recalled that, when Cascade was established, there was high growth on the Eastside that was expected to continue for some time. In 2006, when water demand was still relatively strong, Cascade signed contracts with Seattle and Tacoma for temporary water supply. Mr. Clarke noted that those costs now need to be reassigned to Cascade members to ensure overall equity.

Mr. Clarke explained that the review of member charges included an evaluation of the overall equity of Cascade's cost recovery, identification of potential improvements to the member charge structure, and the development of options for the Cascade Board to consider. Mr. Clarke commented on regional and national changes in water use patterns and forecasts, supply strategies, sharing of costs and risks, and the use of investments already made. Temporary water supplies were purchased in the past to be applied to regional members' jurisdictions that were growing the most. However, that growth has stopped and the costs will be reallocated to members.

Mr. Clarke reviewed Seattle Public Utilities water demand forecasts and actual usage since 1950, and Cascade's 2004 water demand and financial forecasts. He described the 2006 water demand forecast for Cascade member jurisdictions, and compared that to the 2011 forecast. He reviewed the breakdown of cost recovery sources for 2011, and the forecast of payment shares for 2012-2025. In 2006, it was assumed that Bellevue would pay approximately 40 percent of Cascade's revenues because it uses the majority of water purchased from Seattle. Now, Bellevue is above 50 percent in terms of the allocation of costs. Mr. Clarke noted that water demand has not increased as expected for Issaquah and the Sammamish Plateau.

Mr. Clarke summarized that Cascade projects a deficit of approximately \$20 million through 2025. He reviewed options for modifying Cascade's cost recovery including restructuring the use of RCFC (Regional Capital Facilities Charge) credits, removing the five percent cap on administrative charges, and/or implementing a new charge for temporary supplies.

Mr. Clarke said Cascade is negotiating with Seattle and Tacoma to be relieved of at least some of the costs associated with the past purchase of a temporary water supply, which is no longer needed. He noted that the Cascade Board will be discussing the issues further this month and in September, and a decision by the Board regarding the reallocation of costs is anticipated in

October. Mr. Clarke said Cascade is working to identify a solution that fairly and equitably charges the appropriate costs to member jurisdictions.

Mayor Davidson thanked Mr. Clarke for the presentation, and noted that it will be made to all member jurisdictions.

Councilmember Degginger commented on the change in the water demand forecast due to slowed growth and increased water conservation. He complimented the Cascade member cities on the cooperative effort to address the issues and identify an equitable solution.

Deputy Mayor Lee questioned the ability to produce more accurate water demand forecasts. Mr. Clarke said Cascade is now using a sophisticated model; however, he noted the value of professional judgment as well. The model indicates that the region should be using approximately 75-80 million gallons by 2060, and Cascade has reduced that estimate to 60 million gallons. Mr. Clarke explained that Cascade's goal is to build in enhanced flexibility for adjusting to future fluctuations in water demand.

Mayor Davidson announced that there would be a one-hour Executive Session immediately before the last agenda item regarding the East Link project.

## (2) Legislative Update

Ms. Carlson noted packet materials on additional regional issues and the federal legislative update.

Referring to page 3-17 of the meeting packet regarding the King County Flood Control District, Councilmember Degginger questioned the increased charges for risk management and legal defense services. Ms. Carlson acknowledged that concerns have been raised by staff and others, and it is likely that staff will request a communication from the Council to the Flood Control District Board about its budget.

Joyce Nichols, Policy Advisor, said the charges were discussed during the last advisory committee meeting in June. The expenses are related to a King County project and lawsuit predating the Flood Control District.

Councilmember Degginger questioned whether King County created a reserve fund before the Flood Control District was formed. Ms. Nichols said she did not know, but that is one of the questions pending before the advisory committee.

Mayor Davidson said he attended the last advisory committee meeting, and he confirmed that there were concerns about the charges.

Responding to Councilmember Chelminiak, Ms. Nichols said the lawsuit relates to a project on the Cedar River that involved placing large boulders into the river to control the water flow. The

lawsuit related to a disabling injury of a young girl who was swimming in the river and got tangled up with the rocks.

- (c) Planning Commission Recommendation on Land Use Code Amendments related to consistency with Federal Emergency Management Agency (FEMA)

Carol Helland, Land Use Division Director, explained that the proposed amendments fulfill requirements of federal and state laws for participation in the National Flood Insurance Program. FEMA and the State Department of Ecology have directed changes to Bellevue's critical areas regulations to maintain eligibility for participation. The Planning Commission's recommendations respond to agency direction, and the deadline for amending the Land Use Code is July 2011. Ms. Helland described the City's participation in the National Flood Insurance Program, which provides discounted flood insurance rates and eligibility for federal disaster aid.

Ms. Helland noted a number of technical changes to the Land Use Code to update references, cross references, and definitions; identify professionals qualified to prepare flood elevation certificates; and update development requirements for new development in the floodplain. Substantive amendments define the floodway, which is currently limited to Kelsey Creek, and prohibit development in the floodway unless consistent with the City's floodplain regulations.

Ms. Helland defined the terms floodway and floodplain. She explained that the substantive Land Use Code amendments apply only to single-family residences and allow repair, improvement and reconstruction up to 50 percent of market value. The work cannot increase the existing footprint. However, there is flexibility for the DOE to permit repair or construction when certain damage exceeds 50 percent of a structure. Ms. Helland said that no single-family residences are located within the floodway in Bellevue.

Kevin Turner, Planning Commission Chair, reported that the Commission recommends adoption of the FEMA Consistency Land Use Code Amendment to maintain eligibility for participation in the National Flood Insurance Program. The Commission further recommends that the Council direct staff to work with FEMA to exempt Lake Sammamish and Phantom Lake from the FEMA floodplain regulations, and that the Council direct the Commission to review the FEMA BiOp policy as part of the Shoreline Master Program Update.

Mayor Davidson stated his understanding that Lake Washington has locks to control water levels, and Lake Sammamish and Phantom Lake have weirs to control water levels. He questioned the effect of the proposed exemption on the latter two lakes.

Ms. Helland described the effect of an exemption and how to apply for an exemption. The exemption involves changing the characterization of the flood risk for Lake Sammamish. Based on testimony received, the Planning Commission believes there is not a flood risk on Lake Sammamish that warrants identifying a floodplain on FEMA maps. The exemption would remove the designation, and the purchase of flood insurance would no longer be required for

federally backed loans. Homeowners would be allowed to purchase flood insurance, however, and would be eligible for federal disaster aid.

Responding to Councilmember Robertson, Ms. Helland said property owners would still be subject to shoreline regulations.

Responding to Councilmember Degginger, Ms. Helland said the lakeshore was mapped and an insurance rate study was conducted in 1978. Councilmember Degginger questioned photographs recently submitted to the Council by residents who are concerned about the rising water levels of the lakes. Ms. Helland said staff has researched the process for removing the area's floodplain designation, as proposed by the Planning Commission. There is evidence to suggest that this will be a difficult hurdle due to the current characteristics of the lake. Mr. Turner noted that another issue is the proper maintenance of the weir.

In further response to Mr. Degginger, Ms. Helland said lake levels tend to rise quicker and drain slower than in the past, which establishes the ordinary high water mark based on observations over time.

Mayor Davidson suggested that an increase in impervious surfaces could contribute to the current tendency of water levels to rise quickly when there is significant rain.

Continuing, Ms. Helland explained that FEMA does not have a specific process for exempting areas identified as the floodplain. However, staff has been in discussions with FEMA to identify any options. FEMA's feedback to date is that a multi-jurisdictional collaboration is needed to study Lake Sammamish, and an engineering study is needed to demonstrate that flood control projects remove the risk for flooding.

Responding to Mayor Davidson, Ms. Helland explained that shoreline regulations require 25-foot setbacks from the ordinary high water mark, which has the effect of pulling structures back from the lake and limiting the number of structures that might be affected by any flooding.

Councilmember Robertson questioned the purpose of the proposed work. She questioned whether the shoreline code, once updated, would supplant an exemption, if obtained. Ms. Helland answered no and explained that critical areas regulations are also required in the shoreline district, so there must be equivalent protection for wetlands, steep slopes, and floodplains in both shoreline and non-shoreline districts. Ms. Robertson commented that, if the Planning Commission recommends pursuing an exemption, she wants to better understand the overall issues. She would like to schedule a future, more detailed Council discussion.

Ms. Helland reviewed the alternatives for responding to the Commission's request: 1) Direct staff to describe other options available for property owners to modify the application of floodplain regulations, 2) Direct staff to develop an exemption project scope of work and rough cost estimate, identify possible funding sources, and prepare a timeline for Council consideration, and 3) Direct staff to not pursue the work requested by the Planning Commission.

Councilmember Balducci said she would like to know more about the pros and cons of each option before providing direction to staff or the Planning Commission.

Councilmember Degginger suggested that the study represented by the first option would be relatively expensive and therefore not feasible at this time. Responding to Mr. Degginger, Ms. Helland said the effort would need to involve all affected jurisdictions.

Ms. Helland described the Planning Commission's recommendation to review the FEMA BiOp (Biological Opinion) related to the Endangered Species Act, as part of the Shoreline Master Program Update. She explained that jurisdictions are required to demonstrate that flood insurance programs comply with the Endangered Species Act. Three FEMA BiOp compliance options are defined by the National Marine Fisheries Service, and different options have different financial implications for the City and property owners. The Utilities Department anticipates briefing the Council on this issue in September. Ms. Helland asked the Council to defer a decision on this Commission request until after the September briefing.

Mayor Davidson concurred with the need for more information, and noted the challenges of gaining an exemption for Lake Sammamish and Phantom Lake. Ms. Helland clarified that the Planning Commission has proposed working with FEMA to try to gain an exemption for the two lakes. Staff believes this would be difficult, but is seeking Council direction about whether they would like further study of the issue.

Ms. Helland clarified that the Commission's request for staff work on the FEMA BiOp is related to a requirement that local National Flood Insurance Programs comply with the Endangered Species Act. Three compliance options are available. The default option places responsibility on individual property owners to comply with the BiOp during any development or redevelopment project located within the floodplain. The BiOp requirement that development in the floodplain not adversely impact endangered species applies in Bellevue to Chinook salmon.

Responding to Mayor Davidson, Ms. Helland explained that if an exemption for the lakes is achieved and the floodplain designation is removed, there would be no need to comply with the BiOp. However, critical areas regulations would apply to those properties formerly designated within the floodplain.

Councilmember Robertson noted the September deadline regarding the FEMA BiOp compliance option. Ms. Helland said that, before the deadline, the City must inform FEMA about how it plans to handle the BiOp requirement. If no other option is identified, the default is that individual property owners are responsible for ensuring that development and redevelopment does not affect endangered species. However, the City may change that option after the deadline if it chooses to do so.

Councilmember Robertson said she is inclined at this point to follow through on this work with the Planning Commission, as they are studying shoreline issues already. However, she would like more information on the floodplain exemption issue before providing direction. She said that

King County is working with the U.S. Corps of Engineers to resolve the weir issue on Lake Sammamish. She suggested discussing all of these issues together in September.

Responding to Deputy Mayor Lee, Ms. Helland said the National Flood Insurance Program has been in place in Bellevue since 1978.

Deputy Mayor Lee observed that it is unusual for a Board or Commission to suggest a work program or item.

Mr. Turner said the Commission's ongoing work to update the Shoreline Master Program has identified a number of issues that it believes would best be addressed in a comprehensive manner.

Ms. Helland indicated that, separate from the exemption and BiOp issues, there is some urgency to the FEMA consistency Land Use Code amendments. She requested Council direction to prepare an ordinance for action on August 1.

→ Deputy Mayor Lee moved to direct staff to prepare the recommended Planning Commission ordinance for Council action during the August 1 meeting. Councilmember Degginger seconded the motion.

Responding to Deputy Mayor Lee, Ms. Helland explained that the other two issues could have significant financial implications.

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

Mayor Davidson restated the need for further information and discussion on the exemption and BiOp work items.

Mayor Davidson announced that the Council would be going into an Executive Session for approximately one hour to discuss one matter of potential litigation.

→ Councilmember Balducci moved to extend the meeting until 11:00 p.m. Councilmember Robertson seconded the motion.

→ The motion to extend the meeting carried by a vote of 7-0.

At 8:43 p.m., Mayor Davidson declared recess to Executive Session, noting that the meeting will resume to address the last agenda item following that session.

The study session resumed at 10:25 p.m.

- (d) East Link: Discussion of Action to Update 2010 Term Sheet between Bellevue and Sound Transit in anticipation of an Agreement for a Tunnel Contribution

Deputy Mayor Lee moved to appeal Sound Transit's Final Environmental Impact Statement (FEIS) on the East Link light rail project. Based on its analysis, as well as input from the community, he believes it does not provide adequate consideration of the City's preferred alternative. The motion died for lack of a second.

Mayor Davidson suggested that the Council direct staff to write a letter to Sound Transit articulating the City's position and requesting a one-week delay in dealing with the Term Sheet that has been presented by Sound Transit.

Councilmember Robertson concurred and suggested that the letter review the City's cooperation and progress in working with Sound Transit. She noted there are details yet to be resolved with regard to the B2M alignment. However, she is encouraged by Sound Transit's willingness to consider design modifications to the B2M option and to work with the City toward a solution for the Downtown Tunnel. She also would like the letter to ask the Sound Transit Board to defer its alignment decision beyond July 28 to allow more time for negotiations.

Councilmember Chelminiak agreed that progress has been made. He observed that the Council could ask for more time, but he believes it is unlikely that this will be granted. He acknowledged that there are still concerns about some of the issues addressed in the Term Sheet that need to be resolved. However, he questioned whether a letter is an appropriate action at this time. He suggested that testifying in person at the Sound Transit Board meeting would be more effective.

Mayor Davidson stated that he would like to make the request for a delay.

Councilmember Degginger noted that both parties are making progress in negotiations about substantive ways to mitigate the B2M alignment and to reach an agreement on the Term Sheet. He believes it is better to continue with this course of action and does not support sending a letter.

Councilmember Balducci said she supports the general message that the Bellevue City Council is encouraged by the progress to date and wants to continue in that vein. She agreed that having a Councilmember testify before the Sound Transit Board on Thursday would be helpful. She believes that it is reasonable to ask for more time on the Term Sheet, but to ask for a delay in the Board's vote is not likely to be successful.

Deputy Mayor Lee reiterated his position that the Council appeal the FEIS.

To provide context to the discussion, Councilmember Wallace explained that the City has been making efforts to work cooperatively with Sound Transit to discuss opportunities regarding the alignment along Bellevue Way and 112<sup>th</sup> Avenue SE. Since the release of the latest proposal from Sound Transit the previous Monday, Mr. Wallace said there have been mixed reactions within the community and further discussion is needed. He noted the need to identify a cooperative alignment and appropriate mitigation, as well as the need to adopt a Term Sheet that will get light rail through the City at the lowest cost.

Mr. Wallace said there has not been enough time since the release of the FEIS on July 15 to properly address the issues. Mr. Wallace observed that Bellevue is doing its best as a City to balance community needs and priorities. However, mutual cooperation with Sound Transit is needed.

Mayor Davidson suggested that the Term Sheet has become the negotiating document, and the City will continue to work toward agreement with Sound Transit.

Councilmember Robertson asked whether the City will continue to make progress with Sound Transit staff on the B2M alignment mitigation measures. She believes this is closely linked to the Term Sheet.

Deputy City Attorney Kate Berens said there are no plans for further discussion of mitigation measures, beyond the presentation to the Council during the previous week's meeting, until after the Term Sheet is resolved. Following adoption of the Term Sheet, engineering work, environmental review, and public outreach activities will be involved in working toward an umbrella agreement to be adopted in the fall.

Ms. Robertson said she would like the Term Sheet to specify that the City will have sufficient time to conduct public outreach and to address mitigation issues before getting to the point of a Memorandum of Understanding.

→ Councilmember Robertson moved to prepare a letter to Sound Transit, to be submitted when she testifies before the Sound Transit Board on July 28. Points to be included in the letter are that the Council is pleased about progress to date, looks forward to continuing to work together toward a cooperative alignment, and requests more time to work on the Term Sheet. If the Sound Transit Board takes action as planned on July 28, the Council asks that Sound Transit identify the C9T (Downtown Tunnel) as their preferred alternative. Councilmember Balducci seconded the motion.

Councilmember Chelminiak reiterated that he believes an oral communication will be more effective than a written letter at this point.

Noting that the Sound Transit Board meeting is Thursday, and given the late hour, Councilmember Degginger said he does not believe it is practical to proceed with drafting a letter and counting on there being sufficient time for Council review before the Board's meeting. Mr. Degginger does not support a letter, and he does not support all of the comments represented by the motion.

→ Councilmember Wallace offered a substitute motion that Councilmember Robertson instead deliver talking points to the Sound Transit Board on Thursday. Councilmember Robertson seconded the substitute motion, but maintained her support for a letter.

Deputy Mayor Lee said he supports oral testimony to the Sound Transit Board.

Mayor Davidson stated that he does not believe there is sufficient time to put a letter together.

Councilmember Chelminiak summarized that, in general, the Council supports continued work on the Term Sheet, is pleased with the direction of negotiations with Sound Transit, and wants to conduct additional public outreach. He expressed support for Councilmember Robertson testifying before the Sound Transit Board.

→ The substitute motion carried by a vote of 6-1, with Councilmember Degginger opposed.

At 10:48 p.m., Mayor Davidson declared the meeting adjourned.

Myrna L. Basich, MMC  
City Clerk

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