

CITY OF BELLEVUE  
CITY COUNCIL

Summary Minutes of Extended Study Session

September 8, 2014  
6:00 p.m.

City Hall Council Conference Room (1E-113)  
Bellevue, Washington

PRESENT: Mayor Balducci, Deputy Mayor Wallace<sup>1</sup>, and Councilmembers Chelminiak, Lee, Robertson, Robinson, and Stokes

ABSENT: None.

1. Executive Session

Deputy Mayor Wallace called the meeting to order at 6:01 p.m., and declared recess to Executive Session for approximately 15 minutes to discuss one item of potential litigation.

The meeting resumed at 6:32 p.m., with Mayor Balducci presiding.

2. Oral Communications

- (a) Alex Zimmerman, representing StandUP-America, talked about local and county government as a Nazi democratic mafia. He expressed his ongoing opposition to camera traffic enforcement. He talked about the need to control the Police. He said the use of red light cameras is racketeering and the government has too much control. He asked the Council to stand up for citizens.
- (b) Doug Hoople, Vice Chair of the Veterans Citizen Levy Oversight Board, distributed copies of the Veterans and Human Services Levy 2013 Annual Report. He referenced page 3 for key accomplishments, and page 19 for the performance and evaluation report on identified outcomes. Financial information begins on page 24 of the brochure. He thanked the Council and community for their support.
- (c) Joseph Tovar spoke on behalf of the applicants of the Mountvue Place Comprehensive Plan Amendment (CPA) proposal. He said he appreciates the Planning Commission's recommendation that the Council move it forward for threshold review.

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<sup>1</sup> Deputy Mayor Wallace left the meeting at 9:30 p.m.

- (d) Nate Caminos, Senior Local Government Affairs Representative for Puget Sound Energy, provided an update on the Energize Eastside project. He said the Community Advisory Group (CAG) recommended 11 routes for the project between Redmond and Renton for further evaluation. PSE has held 20 public events including an online open house that launched on August 27. Upcoming open house events are: Wednesday, September 10, 6:00-8:00 p.m. at the Renton Pavilion Event Center, and Thursday, September 11, 6:00-8:00 pm at the Bellevue Hilton. He referred the public to [www.pse.com/energizeeastside](http://www.pse.com/energizeeastside) for more information and to provide feedback. Interpreters in Russian and Spanish will be available at the open houses.
- (e) Anita Skoog Neil commented on the Shoreline Master Program (SMP) update. She asked Council to support the mean lake level as the ordinary high water mark (OHWM) for Lake Sammamish. She asked that the footprint exception include accessory structures. With regard to setbacks and vegetation, she asked the Council to support proportional mitigation only (i.e., 1:1 ratio of vegetation for expansions into the setback). She asked that the regulations allow for a mix of native and non-native vegetation, and that the Council designate percentages of each as well as for low growth versus shrubs. She said trees should not be required. Ms. Skoog Neil said residents should be able to select plants from a broad list, and there should be exceptions for challenged lots.
- (f) Erica Tiliacos, representing Save Lake Sammamish, opined that the SMP does not meet the requirements of the State Shoreline Management Act (SMA). She said the summary of comments prepared by staff does not accurately reflect all of the public comments before the Council. She thanked the Council for their consideration.

### 3. Study Session

#### (a) Council Business and New Initiatives

Mayor Balducci said she is receiving an increasing number of requests to join other cities in signing letters directed to the U.S. Congress. The most recent letter requests support of the Export/Import Bank, which is a federal organization that provides billions of dollars in financing to support U.S. businesses engaging in import and export. It supports a number of businesses in this region including The Boeing Company. Mayor Balducci said she would like to sign the letter. She asked that it be circulated to the Council to solicit feedback.

Councilmember Chelminiak said that regional economic development groups have traditionally supported the bank. He expressed his support as well.

Mayor Balducci asked the City Manager to provide the letter to the Council.

#### (b) Shoreline Master Program Update Study Session 9 – Discussion of Public Hearing Comments and Council Direction on Drafting of the SMP Update Package for Submittal to State Department of Ecology (DOE)

City Manager Brad Miyake noted the Council's ongoing discussions of the Shoreline Master Program (CMP) Update package.

Mike Brennan, Director of the Development Services Department, said staff is seeking Council direction to finalize the Shoreline Master Program (SMP) package for submittal to the Washington State Department of Ecology (DOE). He recalled that the Council held its second public hearing on the update on August 4.

Lacey Hatch, Assistant City Attorney, described the steps for the remaining process. The drafting of the Code will be completed based on Council direction. The cumulative impact analysis will be completed based on the Code language, and the SMP Update package will be assembled for Council adoption and transmittal to the DOE.

Carol Helland, Land Use Director, introduced the first topic to be resolved by the Council, which is public access to shorelines. The language presented for public comment during the August 4 Public Hearing retained physical public access for new or expanded public uses (e.g., transportation, utility and park projects) and added visual public access as a component of new or expanded private shoreline recreation uses.

Ms. Helland stated that the SMP regulations will be applied prospectively and are not retroactive. As a result, development would need to be proposed for the regulations to be imposed.

Mayor Balducci said Councilmembers should comment or ask questions if needed. However, she encouraged moving through the issues with votes to the extent possible.

Responding to Councilmember Robinson, Ms. Helland confirmed that private entities are required only to provide visual public access.

Councilmember Robertson said that, when the Code language is drafted, the threshold for triggering the visual public access requirement should be clear. She does not want the regulations to discourage private entities from reinvesting in their properties, and she does not want to layer physical public access if visual public access is provided.

Ms. Helland said her understanding of the Council's intention was that, if a marina is expanded or newly constructed, the outcome would not create a wall of development that was impenetrable to visual access from public spaces (e.g., streets, sidewalks). City staff met with representatives of the Meydenbauer Bay Yacht Club to discuss that issue.

Mayor Balducci observed that all private entities/recreation uses on the shoreline are essentially adjacent to public access points (e.g., Meydenbauer Bay, Newport Beach Park, Vasa Park), so she does not feel the need to also require physical access. However, she would like any new transient moorage location to provide public access. This would allow organizations to design their dock/facility with public access in mind, including appropriate safety and security measures.

Deputy Mayor Wallace said there needs to be an impact (i.e., lack of public access) that is being mitigated. He supports the approach outlined in the presentation by staff.

Councilmember Robinson said that private transient moorage should not be required to provide public access.

Ms. Helland confirmed that the docks along Kirkland's shoreline where people typically walk are public docks. However, adjacent private moorage is locked to prevent public access.

Councilmember Chelminiak observed that attention to this issue in the current work is lacking. However, he suggested it will need to wait until the next SMP Update. He is comfortable with moving forward with the requirement to provide visual public access.

Mayor Balducci said she feels the public has been given short shrift on this issue. However, given that public access is generally available adjacent to existing private uses, she can be comfortable with the requirement for visual public access.

Councilmember Robinson said the City recently opened public transient (temporary moorage) at Meydenbauer Bay. Mayor Balducci complimented staff and the Parks and Community Services Board for their work on this access.

Moving to the topic of park development, Ms. Helland said the provisions presented for comment during the August 4 public hearing were to: 1) Retain the Conditional Use Permit (CUP) requirement for beach parks with no Council-adopted master plan, 2) Retain the administrative shoreline permit requirement for beach parks with a Council-adopted master plan, and 3) Treat Meydenbauer Bay Park the same as other beach parks.

Mayor Balducci noted nods of agreement with moving this language forward in the SMP Update.

Councilmember Robinson questioned the role of the implementation principles identified for Meydenbauer Bay Park. Ms. Helland said that, if staff were to draft Code language that treated Meydenbauer Bay Park the same as other beach parks, the principles would not be included. However, the Council may provide additional direction and clarity.

Responding to Councilmember Robinson, Ms. Helland said the potential effect of including the implementation principles in the SMP is if, in the future, something is proposed and adopted that is potentially inconsistent with those principles, the SMP would need to be amended through the DOE. If the principles are not in the SMP and someone wanted to make a change in the future, Mr. Brennan said an amendment to the master plan would come back to the Council for consideration.

Councilmember Robinson spoke in favor of leaving the implementation principles out of the SMP because it is not typical to include them. She observed that, had the Downtown Park plan included implementation principles, the Inspiration Playground currently under development

might not have been allowed. Ms. Helland confirmed that it would have required additional legislative process.

Councilmember Lee observed that the implementation principles for Meydenbauer Bay Park provide more certainty for the project.

Deputy Mayor Wallace said he supports leaving the principles out of the SMP because they are in the park master plan and will be followed unless amended by the Council.

Mayor Balducci summarized, noting Council agreement with leaving the Meydenbauer Bay Park implementation principles out of the SMP.

Ms. Helland said the requirement for the next topic, residential moorage, is to increase the minimum moorage walkway width from four feet to five feet. Mayor Balducci noted a Council consensus supporting that provision.

Moving to the determination of the ordinary high water mark (OHWM), Ms. Helland recalled that the variation presented for public comment during the August 4 public hearing included the use of a static elevation as the default for the measurement of structure setback, where the statistically valid lake study had been completed. It retains the option for site-specific determinations as well.

Mayor Balducci said that, in studying this issue further, she wanted to frame it for discussion. She recalled that the 2004 OHWM study (co-chaired by Nan Campbell and Steve Dennis) was conducted in conjunction with the waterfront community, which ultimately accepted the OHWM. The intent was to give property owners a safe harbor if they did not want to go through an individual process.

Councilmember Robertson said there were public comments that the actual mean OHWM from the 2004 lake study was 31.2. In practice, two standard deviations were added to bring it to 31.76, which was then rounded to 31.8 and sometimes to 32. She said a difference in the designated OHWM of .8 can mean the difference of 10-15 feet for a property setback. Since the time that King County started maintaining Sammamish River, the water levels are dropping and that is likely to continue.

Ms. Robertson suggested a four-fold approach to the OHWM: 1) adopt 31.2 NAVD 88 as the actual mean OHWM, based on the lake study; 2) continue to allow property owners to conduct site-specific determinations if they want to, 3) direct that the City undertake an updated lake level study before the next SMP Update, and 4) continue to advocate the Council's legislative agenda for the Willowmoor project and for King County to continue maintaining the Sammamish River in accordance with the County's agreement with the U.S. Army Corps of Engineers. She noted that the high lake levels are damaging to docks and other property, and appropriate maintenance will mitigate the impacts.

Mayor Balducci asked staff to review the history of the 2004 OHWM determination. Ms. Helland said that citizens were wanting some level of predictability with regard to the OHWM.

At that time, property owners were required to hire a professional consultant for a determination, but a number of citizens were interested in the City designating a safe harbor. The City conducted the study to measure the OHWM at a number of properties along the shoreline.

Ms. Helland said the lake level is not at a consistent elevation and varies due to which way a property faces, wind, and other factors. The State's definition of OHWM is the point on the land that distinguishes underwater vegetation types from upland vegetation. That point was different in every case. The average elevation was 31.2. However, in order to ensure that setback was not being measured from a point underwater, the City determined that 95 percent of the properties measured were within two standard deviations. This resulted in adopting the OHWM of 31.76.

Councilmember Chelminiak said this comes back to an item that he thinks would be good public policy. He believes the 50-foot setback should be measured from the water line. The reason for establishing 31.76 as the OHWM was to cover 95 percent of the properties as a safe harbor. If the mark is lowered, there will be more properties that begin the 50-foot setback underwater. He reiterated that a site-specific determination is still an option.

Mr. Chelminiak noted the need to review the OHWM again within the next couple of years and to make sure the County properly maintains the river weir to maintain the proper lake level. He suggested continuing with how things are today and updating the study in a couple of years to reassess the OHWM.

Councilmember Stokes said he wants to meet the statutory requirement. He said he was confused about how 95 percent of the properties could be above the average measurement from the study. Ms. Helland clarified that the standard deviation went both ways, but it only matters above the line because the scattergram of elevations below the line were included because of the way the OHWM is measured.

Mr. Stokes observed that the average represents levels above and below the line. He said he does not understand the significance of part of the shoreline being underwater at times, on average. Ms. Helland said the measurement would have had to go to three standard deviations to cover all of the properties. Mr. Stokes said 31.2 is the average, and deviating from that to give people a safe harbor strikes him too much as a rationale for measures taken 10 years ago.

Ms. Helland said the DOE initially told the City to remove the static elevation from the Land Use Code. The City did so, but realized soon after that it was a waste of resources for property owners to have to provide their own site-specific determinations. If an average is used, there is going to be roughly the same number of data points above and below the average. In that case, approximately 50 percent of the properties would be measuring from a point underwater and the DOE would not approve that. That led to the City's 2004 Lake Study, which ultimately was used by the City of Sammamish and adopted into its SMP. The cities of Issaquah and Redmond use that elevation administratively.

Councilmember Stokes concurred with advocating for the Willowmoor project and that the County properly maintain the weir because it affects property rights as well as the health of the lake.

Councilmember Robertson said that, when the 2004 study was completed, the setback for shoreline owners was 25 feet, and now it is being doubled to 50 feet. She said that adding two standard deviations to the OHWM effectively increases the setback as well. She said the Corps of Engineers' OHWM was 30.6. She sees no reason to use anything except the mean, especially if the setback is increasing to 50 feet. She said site-specific studies are burdensome and expensive for property owners, and using the mean OHWM is the most fair approach.

Councilmember Chelminiak said he comes back to the issue of what is good public policy. The reason the OHWM was established with two standard deviations was to take in most properties to provide certainty for landowners. He said state law measures the setback from the point at which vegetation types change. If the OHWM is lowered, there will be more properties that begin measuring the setback from an underwater point, according to the study. He suggested that updating the study could potentially lower the OHWM. He does not believe the 31.76 OHWM is taking anyone's property rights because they have the ability to conduct a site-specific study.

Responding to Mr. Chelminiak, Ms. Helland said a site-specific study would involve a survey to identify property locations, structure locations, etc., similar to the process of establishing property lines for non-shoreline properties.

Mr. Chelminiak observed that a site-specific study does not sound onerous. He strongly believes the City should keep the OHWM where it is, based on what we know today. However, he supports updating the study and does not believe it takes property rights.

Deputy Mayor Wallace observed that the greatest detriment to salmon habitat and overall ecological function is the large amount of stormwater that is dropping silt into the lake. He believes that the SMP regulations on individual properties likely has little to do with water quality and salmon habitat. He expressed concern that this is interfering with residents' ability to use and enjoy their private property. In order of priority, the most important issues for him are vegetation standards, setbacks, and the OHWM.

Mr. Wallace opined that the average elevation from the 2004 study should be used as the OHWM. He said if the DOE believes this is a critical issue, he does not see how anyone could say that the best available science and all known technology is being used to establish the OHWM. He suggested updating the study now.

Councilmember Stokes said he is still not sure that 31.76 is the best line. It is somewhat arbitrary, and the water is going to fluctuate. He said maybe there should not be a static OHWM and the City could use an administrative approach and conduct a new study as soon as possible. He observed that the key objective is protecting the health of the lake. He believes this is an opportunity to enhance the City's programmatic approach to fish habitat. The City needs to work with other communities in education and salmon recovery programs. The City should also demonstrate its related efforts through the City's routine practices, involvement with the Cascade Water Alliance, and other activities.

Councilmember Robinson noted that the City of Sammamish has adopted the OHWM of 31.76. She would be comfortable going with a lower number and, if it does not pass, the City could go back to 31.76. She believes the DOE knows best about what the number should be. Ms. Helland opined that the DOE would likely support 31.76, especially given that the City of Sammamish has adopted that OHWM.

Councilmember Lee said it seems the only reason to adopt the proposed OHWM is to satisfy the DOE, which is not the best reason for him. He said 31.76 is a guess. He does not believe this is a property rights issue and he supports using the mean.

Mayor Balducci said the established measurement is not arbitrary. It was established by a scientific measurement and documented as a factual determination in the 2004 Lake Study, which is currently the best available information. She supports items 2, 3 and 4 suggested earlier by Councilmember Robertson, and she believes the rest of the Council supports those points as well. The issue before the Council is whether to change the OHWM, which she does not support.

Ms. Balducci opined that the DOE is not likely to support a change in the OHWM. The reason for being conservative with the higher OHWM is to avoid having the line start underwater for any properties. She reiterated that the determination of the OHWM in the lake study was not a guess and it was not arbitrary.

→ Councilmember Robertson moved to establish the OHWM at a static elevation, for the purpose of measuring structure setback, of 31.2 NAVD 88 based on the statistically valid 2004 Lake Study. Councilmember Stokes seconded the motion.

Councilmember Robertson noted that State law defines the OHWM as what was set in 1971 or as it “changes naturally over time.” She believes a scientific argument could be made that the higher lake levels are not a natural change and that the Planning Commission’s proposed OHWM of 30.6 is the right number. However, her motion is based on the 2004 study, in which the mean was 31.2. Because this is not used for measuring jurisdiction but for measuring setbacks, she would rather err on the side of being fair to everyone by using the mean.

Councilmember Stokes expressed support for the motion. While the determination of 31.76 was not arbitrary, he believes 31.2 should be used because it is was the average in the study and is consistent with state law. He observed that this is somewhat a matter of interpretation. Lake levels shift seasonally, and the average is an established middle ground in lieu of individual studies. He is not convinced that 31.76 is what was established by the study, although that number is supported by a specific rationale.

Mayor Balducci reiterated that her earlier comment was responding to at least two Councilmembers who characterized the OHWM of 31.76 as a guess or arbitrary.

Councilmember Lee reiterated that he sees the number as a guess or an estimate. He said 31.2 is the factual average determined by the study and anything else is an opinion or interpretation.

Mayor Balducci said the word arbitrary means without reason, and the study documents the reason for identifying 31.76 as the OHWM.

Councilmember Lee said he disagrees with staff's argument that the OHWM should be based on the DOE's opinion.

Councilmember Chelminiak said state law is clear; the line is where the aquatic plants change to land-based plants. That does not change monthly or annually. By establishing the OHWM based on the 2004 study, the City provided certainty with a safe harbor. However, property owners have the option to conduct their own study.

Mr. Chelminiak said the lake study indicates that, if the average of 31.2 is used, the setback will be measured from a point underwater for more properties. The setback is important because of where the shoreline is, no matter that the distance happens to be. He believes the valid study and the reason for adding the two standard deviations has been documented. There were seven Councilmembers at the time who agreed with the OHWM of 31.76. It remains good public policy today, and it will be good public policy to update the study within the next few years. He will not support the motion.

→ The motion carried by a vote of 4-3, with Mayor Balducci, Councilmember Chelminiak, and Councilmember Robinson opposed.

Moving to the topic of setbacks and vegetation conservation, Ms. Helland described the variation presented for the Public Hearing. She said it is important to be sure everyone has the same understanding of these issues. The current proposal retains the flexible maximum setback of 50 feet, retains the footprint exception to allow redevelopment consistent with existing conditions on individual lots, adds the string-line reduction to allow redevelopment consistent with the development pattern of abutting lots, and adds the "menu option" mechanism to reduce the 50-foot setback to a minimum of 25 feet.

Ms. Helland recalled that, on July 14, Council provided direction to staff to use primary structures for the purpose of setting the setback for the future. The Council did protect accessory structures as conforming to allow them to be rebuilt.

Ms. Helland said the menu options have not yet been drafted and will involve additional discussion.

Ms. Helland described the application of the 25-foot setback, footprint exception, and second 25-foot setback area. Existing accessory structures are generally not attached to the primary structure. She recalled that the Council embraced the Planning Commission's recommendation to allow them, including legally established nonconforming structures, to be kept and rebuilt even if they are within the 25-foot setback.

Responding to Mr. Chelminiak, Ms. Helland said accessory structures are limited in height but primary structures could go higher. The string test could allow a structure to move forward, closer to the water, consistent with abutting development.

Responding to Councilmember Robertson, Ms. Helland said property owners could rebuild and/or repair any existing structure above the OHWM.

Ms. Robertson questioned why the footprint line in the example does not include the existing patio. Ms. Helland said that topic was discussed by the Planning Commission and received a fair amount of public comment. This footprint exception is consistent with how critical areas are handled. For critical areas, only the primary structure is protected; accessory structures are not.

Responding to Ms. Robertson, Ms. Helland said a feature must be at least 30 inches tall to be considered a structure. Patios are handled under a different mechanism based on land-disturbing activity. Ms. Helland said decks are not considered part of the primary structure. If a deck can be reconfigured with the replacement of a structure, it would be preferable that it not extend into the critical area.

Councilmember Robertson stated that, if property owners are wanting to replace their decks or patios and they are not creating new incursions into the setback, she does not believe those situations should trigger significant mitigation. Ms. Helland said that would apply to decks that have been legally established; however, some are not.

Responding to Mayor Balducci, Ms. Helland said staff interpreted the Council's interest in allowing the replacement of accessory structures to apply to decks as well.

Moving on, Ms. Helland summarized comments heard with regard to the concept of menu options for modifying individual setbacks, which are provided on page 11 of the meeting packet and slide 14 of the presentation. These include that special lot configuration circumstances should be taken into account, menu options should be proportionate to the impact requiring mitigation as a result of development, non-native vegetation should be allowed, impacts on views/privacy/light should be considered, and native vegetation and bulkhead removal should be included as mitigation options.

Ms. Helland presented photos of native vegetation which represent plants that do well in this climate. These include a mix of high- and low-growing plants.

Ms. Helland questioned whether the menu options should be treated only as a safe harbor or default, consistent with other parts of the Code. They are meant to provide predictability and certainty. However, if a person has a better idea, they should be able to provide their own plan for no net loss of ecological function with professional assistance. Ms. Helland said there has also been discussion about the concept of units of impact and mitigation, and that these should have a nexus and be quantifiable and roughly proportional.

Ms. Helland returned the conversation to the first slide of this portion of the presentation and invited comments.

Councilmember Robertson observed that the presentation does not address small lots (e.g., Rosemont) with regard to the 50-foot setback. She recalled an idea for a reach approach in which

some of the unusually configured lots would have a different setback to avoid repeatedly using exceptions for them. When the Code language is drafted, she would be interested in seeing this type of alternative available.

Responding to the Mayor, Ms. Helland said the reach approach would require staff to go through a study of the shorelines on Lake Sammamish and Lake Washington, looking for lengths of shoreline with a consistent development pattern. Rosemont is a perfect example with many houses that are constrained by an access route. As a result, the pattern of development has been standard 25-foot setbacks. Ms. Helland acknowledged that the setback for that area could therefore be established at 25 feet. However, the footprint exception and string test both accomplish the same outcome for those lots.

Responding to Ms. Robertson, Ms. Helland said the Newport Shores canal properties already have a different approach with a reduced setback.

Responding to Councilmember Chelminiak, Mr. Brennan said there is little potential, perhaps a handful of lots, for new development on either lake. Ms. Helland said they are geographically constrained and development would be challenging.

Going back to the four bulleted items in the presentation, Mayor Balducci said she heard general agreement supporting the 50-foot setback, the retained footprint exception, the string-line determination, and the menu options approach. Ms. Helland said the menu options have been expanded from earlier discussions and more work will be done on them.

Mayor Balducci said King County has extensive information on native plants. She said it will be important to understand when trees might be required. She said the revegetation requirement should be proportionate to the land disturbance. Ms. Helland said property owners have the option of developing their own vegetation plan based on no net loss of ecological function.

Councilmember Robinson recalled public comment from someone on Phantom Lake who wondered whether they would be required to replace a great deal of native vegetation over an entire lot when they replaced their septic tank. Ms. Helland said staff heard that comment during the public hearing. In that type of situation, staff would work with a property owner to identify a plan that would not require tearing up the entire yard.

Councilmember Robinson said she hopes that, at the end of this process, the Washington Sensible Shorelines Association (WSSA) and Save Lake Sammamish can join forces and create an advocacy group for stewardship of the lake.

Mr. Brennan said staff will spend some time exploring how that might be done. Ms. Robinson said a grant for educational materials might be available from the King Conservation District. Ms. Helland said King County has green shoreline materials and plant palettes. She said the City's SMP package to be submitted to the DOE will include documentation regarding the City's educational activities and materials.

Councilmember Robertson said she supports a strong programmatic education effort. She said the Code language needs to be clear that requirements are mitigating an impact. She said development activities outside of the setback area should not trigger shoreline mitigation. There should be a proportional relationship between the impact and the mitigation. She heard the Council say, as well as the public, that the ratio should be 1:1 within the setback. If someone is adding 200 square feet of impervious surface, then 200 square feet of mitigation should occur.

With regard to menu options, Ms. Robertson would like to see a broad array of vegetation options. She does not want to see a requirement, for example, that a resident must tear out his bulkhead if he wants to add a patio. Ms. Robertson said to keep in mind that the top two priorities for the Shoreline Management Act are the residential use of shorelines and water access. She does not want to require vegetation that reduces physical or visual access to the water. She said the deed and bond requirements in place are too much and go too far, and she does not want to see those in the final language.

Councilmember Stokes supports the programmatic approach and extensive education efforts. He supports the requirements for setbacks and vegetation conservation as presented for the public hearing and discussed tonight. He agrees that mitigation should be based on nexus and proportionality. He suggested that the language should also address view preservation, and he would like to preserve flexibility for specific situations.

Councilmember Chelminiak said that, with regard to mitigation being based on nexus and proportionality, he does not believe that necessarily means a 1:1 ratio. He said there might be a more appropriate ratio based on a given situation.

Deputy Mayor Wallace questioned the problem that is trying to be solved. Ms. Helland said the goal is to maintain no net loss of ecological function. Removing 200 square feet of lawn would have a different impact than removing 200 square feet of vegetation that includes mature trees. The Code language would establish the nexus by valuing impacts in some form of units and quantifying the benefit of whatever vegetation mitigation is required.

Mr. Wallace reiterated his question about what problem the regulations are trying to solve. Ms. Hatch said the concept of achieving no net loss seems primarily tied to habitat and water quality. The goal is to be able to attach a specific ecological function to a given vegetation. Is the removal of a significant tree, for example, affecting water quality or habitat? Mr. Wallace said that makes sense to him. He wants to be able to explain the rationale behind the requirements to residents. Ms. Helland noted that residents can retain all of their existing vegetation if there is no development activity.

Deputy Mayor Wallace said there has not been sufficient discussion about view preservation. He would like the menu options to provide flexibility for property owners to preserve views within the context of mitigation.

Ms. Helland said staff is looking at menu options in which one major action could provide a considerable benefit to property owners; for example, the ability to reduce the setback from 50 feet to 25 feet if a bulkhead is completely removed. Responding to Deputy Mayor Wallace, Ms.

Helland confirmed that the goal is to establish a point system for the application of mitigation options.

Deputy Mayor Wallace said regulations will always have unintended consequences. He asked the public to email the Council and/or staff if they have a special situation that they do not believe is being addressed under the current SMP Update proposal. Ms. Helland confirmed that the City cannot anticipate every situation, and residents should propose solutions for their special situations/lots.

Mayor Balducci said she is hearing direction to proceed with the 50-foot structure setback, footprint exception, string-line test, and menu options reflecting a points system for impacts and mitigation based on nexus and proportionality. She noted a Council consensus supporting those requirements.

Ms. Helland highlighted topics that have not addressed:

- Should the final SMP Update Package be drafted to explicitly address constitutional limitations and utility system and facility mitigation?
- Should the final package include the Planning Commission's recommendations on residential nonconformities, critical areas, and shoreline stabilization?

Ms. Helland said the Shoreline Management Act contains a statement of constitutional limitations and City Code does not violate the state constitution. However, staff suggests explicitly stating this in the SMP Update. The issue of utility system and facility mitigation refers to correcting a drafting error in the previous Code.

Deputy Mayor Wallace expressed concern that the City's environmental consultants could be indirectly affecting the requirements, with the potential for profiting from property owners who might hire them to conduct site-specific studies. Mr. Brennan said it is staff's responsibility to determine and ensure objectivity in this process.

Ms. Helland said the remaining steps in the process are final Code drafting, completion of the Cumulative Impact Analysis (CIA), and finalizing the package for submittal to the DOE.

Mayor Balducci said she would like the SMP package to come back for Council action under Other Ordinances. She expects additional discussion, but wants to wrap it up as soon as possible. Ms. Helland estimated that the additional work will require at least a month.

Councilmember Robertson requested that the Code language be available to the Council and the public at least two weeks before Council's next discussion and action.

At 9:08 p.m., Mayor Balducci declared a short break.

- (c) Potential Amendments to Bellevue City Code Chapters 4.28 Purchasing; 4.30 Real Property Acquisition and Leasing; and 4.32 Sale of City Property

City Manager Brad Miyake introduced staff to present potential amendments to the City's Purchasing Code that are intended to enhance efficiency. None of the changes affect the competitive environment in which the City procures services.

Finance Director Jan Hawn opened the presentation, noting that public procurement activities should be executed in the most efficient and effective manner allowed to deliver projects and services quickly and at the lowest cost.

Sara Lane, Assistant Director of Finance, said the Purchasing Code has not been updated since 1986 and contains outdated approval authority limits. The Code is complicated and confusing and process delays can extend up to four to six weeks.

Jamie Robinson, Procurement Services Manager, said staff has two recommendations for streamlining procurement processes. The first is to increase bid and approval limits. Staff recommends updating the Purchasing Code for bids (i.e., materials, supplies and equipment) to be consistent with the State's public works bid limit. This raises the current threshold of \$35,000 for requiring competitive bids to \$90,000. Staff further recommends increasing the City Manager's leasing authority from \$35,000 to \$90,000; minor real property acquisition limit from \$10,000 to \$25,000; and authority to sell or dispose of surplus property from \$2,000 to \$10,000. The benefits of the recommendations are savings in administrative time and enhanced efficiencies in the delivery and completion of projects.

The second recommendation is to simplify and clarify the Purchasing Code, improve consistency throughout the chapters, update the Code to include alternative contracting methods consistent with state law, and to extend the lease authority from one year to two years to better match market conditions. The proposed amendments simplify administration, improve compliance, and provide more options for larger and more complex public works projects.

Ms. Hawn said staff continues to evaluate additional process and policy changes that provide for consistency and efficiency throughout the procurement process. Internal controls are part of this review as well, and simplifying administrative processes does not jeopardize internal controls. Next steps are to draft the Code amendments based on Council feedback and to return for Council action.

Responding to Councilmember Lee, Ms. Hawn said staff will provide information to the Council regarding the recent tightening of internal controls based on the Clark Nuber audit.

Mayor Balducci said it is important to note that, whenever the City is considering changing authority levels, it makes good sense that the Council not hold on to too much authority involving small contracts and relatively minor actions. Responding to Ms. Balducci, Ms. Robinson said that public works projects under the bid threshold must use the small works roster. The process is prescribed by state law, and the City will always receive bids for anything over \$5,000. Staff then executes the contract and goes through the internal signature authority process.

In further response to the Mayor, Ms. Lane said the Procurement Services Division is responsible for overseeing the process and ensuring that proper bid practices are followed.

[Deputy Mayor Wallace left the meeting at 9:30 p.m.]

Councilmember Robertson acknowledged that professional services contracts do not require bids. However, the City has an unwritten rule whereby if contracts are over \$50,000, they go to the Council for approval. She believes this should be written somewhere. Ms. Robinson said that is written in the procurement policy (i.e., procedure manual) but not in the Code. The policies are enforced by the City Manager or his/her designee.

Councilmember Robertson recommended that, if there is going to be authority within the Code for various types of contracts that do not go before the Council, she believes it would be a good practice to include those, as well as all types of contracts, in the City's procurement policy.

In further response to Ms. Robertson, Ms. Robinson said the change order policy is that anything within 10 percent of the original contract can be approved by the Department Director. Anything above that is forwarded to the City Council.

Councilmember Robertson said she is concerned about ensuring that policies prevent fraud and abuse. When the Code amendments come back to the Council, she would like to see an expanded table [provided in meeting packet] with an additional column noting any potential detriments or tradeoffs to the proposed amendments. She believes this is important for transparency and for comparing benefits to tradeoffs.

Councilmember Robertson said she found out that, under a former City Manager, the City had a property purchase proposal from someone that never went before the Council. The City Manager apparently turned it away and did not discuss it with the Council. She believes that all proposals should go to the Council.

Councilmember Robertson said she would like a list of contracts approved outside of the Council's authority to be distributed to the Council on a quarterly or twice-yearly basis.

Responding to Councilmember Chelminiak, Ms. Hawn said the Code currently delegates the establishment of procedures to the City Manager or his/her designee. Ms. Hawn said this preserves greater flexibility than stating all procedures in the Code.

Councilmember Chelminiak said he supports the proposed amendments and is comfortable with the internal procedures. Responding to Mr. Chelminiak, Ms. Hawn said all design/build contracts exceed \$10 million and therefore go before the Council for approval. Ms. Robinson said state law requires Council approval of alternative methods as well (i.e., design/build contracts).

Mr. Chelminiak concurred with Councilmember Robertson's request for summary information on contracts that are approved outside of the Council process (i.e., those falling below \$90,000).

Councilmember Stokes said he is comfortable with the proposed changes. He shares Councilmember Chelminiak's and Robertson's interest in a list of contracts. However, he does not want to micro-manage staff.

Mayor Balducci said oversight is an important role of the Council. She believes the proposed procurement levels are appropriate and supports the idea of setting thresholds that are consistent with state law.

Responding to Ms. Balducci, Ms. Lane clarified that, if a smaller contract is amended and the total exceeds \$90,000, it would go to the Council for approval.

Councilmember Lee said it is important for the Council to understand the rationale for the proposed amendments and recommended procedures.

(d) Action to Establish the 2014 Annual Comprehensive Plan Amendment (CPA) Work Program

Mr. Miyake said Council is being asked to take action to establish the 2014 Comprehensive Plan Amendment (CPA) threshold review work program.

Nicholas Matz, Senior Planner, said page 30 of the agenda packet incorrectly indicates that Commissioner Hilhorst was present for the vote. However, it was actually Commissioner Laing who was present and voted in favor on the 3-1 vote recommending that the Council initiate the Mountvue Place CPA proposal into the 2014 work program.

Mr. Matz referred to page 39 of the meeting packet [Page 3 of the Planning Commission's memo] and said that Item B should have referenced the Bel-Red Subarea Plan (not the Wilburton Subarea Plan).

Mr. Matz said threshold review is the first phase of the CPA process. Two privately-initiated CPA proposals were submitted to the City during this year's application period. However, a proposal regarding the Bellevue Technology Center was withdrawn.

Mr. Matz described the Mountvue Place CPA proposal. The application would amend the zoning map designation for a 4.67-acre site currently split between Bel-Red Commercial-Residential (BR-CR) and Bel-Red General Commercial (BR-GC) zoning to all Bel-Red Commercial Residential (BR-CR). The Planning Commission recommends, by a vote of 3-1, initiating the Mountvue Place site-specific proposal, without geographic expansion, into the 2014 CPA work program. Commission Chair Tebelius voted against the recommendation.

Mr. Matz said the Planning Commission found that the criterion of significantly changed conditions is met. The split-site designation was not identified during the Bel-Red planning process, and the single zoning designation is consistent with the Bel-Red Subarea Plan.

Mayor Balducci said the question before the Council is whether to initiate the CPA proposal for threshold review.

Responding to Councilmember Robinson, Mr. Matz said the SEPA (State Environmental Policy Act) review will look at traffic impacts and access to transit and light rail.

- Councilmember Robertson moved to initiate the Mountvue Place Comprehensive Plan Amendment (CPA) proposal into the annual work program for threshold review, as recommended by the Planning Commission. Councilmember Chelminiak seconded the motion.

Councilmember Chelminiak observed that four Commissioners were present at the meeting for the vote on the CPA work program. He recalled there have been other votes indicating Commissioner absences. He requested data on Planning Commission attendance over the past couple of years. He is not asking for individual names but would like to know the number of Commissioners present at meetings.

- The motion carried by a vote of 6-0, with Deputy Mayor Wallace absent.

Mayor Balducci said she continues to struggle with the criterion of “changed circumstances.” This parcel’s split zoning makes it difficult to develop. However, she wondered whether changed circumstances should be part of the criteria.

At 10:00 p.m., Mayor Balducci declared the meeting adjourned.

Myrna L. Basich, MMC  
City Clerk

/kaw