

CITY OF BELLEVUE  
CITY COUNCIL

Summary Minutes of Regular Session

January 3, 2012  
8:00 p.m.

Council Chamber  
Bellevue, Washington

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

ABSENT: None.

1. Call to Order

The meeting was called to order at 8:07 p.m., with Mayor Lee presiding.

2. Roll Call, Flag Salute

Upon roll call, all Councilmembers were present. Deputy Mayor Robertson led the flag salute.

3. Communications: Written and Oral

- (a) Abby Carter, President, and two other members of the Teen Advisory Board for Bellevue Youth Theatre, thanked the Council for its ongoing support. They invited Councilmembers and the public to the Theatre's annual fundraiser and production of *Singin' in the Rain* on January 21 at the Westin Hotel. They thanked Mayor Lee and Councilmember Davidson for their participation in the production.

Dr. Davidson wished the youth well and thanked them for coming.

4. Reports of Community Council, Boards and Commissions: None.

5. Report of the City Manager

- (a) Management Brief Providing Update on South Bellevue Annexation Effort

City Manager Steve Sarkozy introduced staff's update on the South Bellevue annexation effort.

Chris Salomone, Director of Planning and Community Development, explained that the South Bellevue Annexation item will come back before the Council following action by the state legislature on the state sales tax credit, which has implications related to annexations. Staff anticipates an update to the Council in February, and is working to refine the City's analysis of the fiscal impacts of the annexation. Signatures have been certified for the Eastgate and Tamara Hills annexations. Staff will monitor the legislation and schedule a public hearing on the matter for late January or in February.

Mr. Sarkozy suggested that NPDES Permit item from the earlier Study Session would most appropriately be continued under Agenda Item 12.

6. Council Business and New Initiatives

Councilmember Stokes said he looks forward to working with the Council and to representing all Bellevue residents.

Councilmember Wallace introduced a nomination for the open Planning Commission seat.

→ Councilmember Wallace moved to appoint Aaron Laing to fill the position vacated by Daniel Himebaugh on the Planning Commission. Councilmember Davidson seconded the motion.

Responding to Councilmember Chelminiak, Mr. Wallace said that three applications were received for the open position. Mr. Wallace spoke with the three candidates on the telephone and determined that Mr. Laing was the most knowledgeable and qualified.

Responding to the Mayor, City Clerk Myrna Basich described the typical process for filling a Board or Commission vacancy. A booklet of information on the applicants is provided to Councilmembers, and they are invited to participate in the interviews. Staff members sometimes participate as well.

Councilmember Balducci said she was contacted by a citizen today who was concerned about the process for the nomination. She did not recall seeing the initial posting of the vacancy. However, she was told that the original deadline was January 6 and it was then moved to an earlier date. She expressed concern about the appearance of the process.

Ms. Basich confirmed that the original application deadline was in January. However, the Deputy City Clerk received a request in December to shorten the application period to enable making the appointment at this first meeting of the year.

Councilmember Balducci said that the Mayor and Councilmembers are usually invited to participate in interviews, along with appropriate staff. She noted previous concerns in similar situations about process, openness and transparency, and about insufficient notice to the Council on certain issues. She would like to defer action on the nomination to avoid tainting the appointment to fill the vacancy on the Planning Commission.

Ms. Balducci expressed concern that Councilmembers were not given packets of information on the applicants or invited to participate. She observed that Mr. Laing is an excellent candidate for the Planning Commission. However, she believes it is important to follow the usual process.

Responding to Mayor Lee, Councilmember Wallace said that Planning staff asked him about how to proceed, whether to review past applicants or to advertise the vacancy, and whether there would be an interview process. Mr. Wallace said he suggested using the same application process that has been used in the past. He noted that staff and the Planning Commission were interested in filling the vacancy as quickly as possible. Staff suggested an application deadline in January. However, Mr. Wallace said he suggested moving that earlier by a couple of weeks.

Councilmember Balducci reiterated her question about why the Council was not invited to participate in the process.

Mr. Wallace said there were only three applicants, and the recommendation, in his mind, was a clear one.

Councilmember Chelminiak said he would like to know who applied for the vacancy. He recalled that, several years ago, Ms. Balducci submitted a candidate without the opportunity for full participation. In that case, the appointment was deferred.

Mr. Chelminiak said he was not aware of the vacancy on the Planning Commission until he saw that Mr. Laing had sent his application to all Councilmembers. Mr. Chelminiak said the process is typically administered by the City Clerk's Office, and Councilmembers are given the opportunity to participate.

Deputy Mayor Robertson said the Planning Commission is working to complete its Shoreline Master Program review and is eager to fill the vacancy. She noted that the term expires in May. She said that Mr. Laing, a land use attorney, is strongly qualified for the appointment.

→ Councilmember Balducci made a substitute motion to delay the appointment for a week, and Councilmember Chelminiak seconded the motion.

Responding to Councilmember Balducci, Councilmember Wallace indicated that the next Planning Commission meeting is January 11. Deputy Mayor Robertson commented that it would be helpful to appoint the new Commissioner as soon as possible.

Ms. Balducci observed that January 11 provides sufficient time to postpone the appointment and to allow other Councilmembers to review the applicants before taking action on January 9. While the term is ending in May, Ms. Balducci observed that incumbents are often reappointed for another term.

Councilmember Chelminiak questioned whether the appointed person would be eligible for reappointment. Mayor Lee said he did not believe the matter had risen to a level to warrant a

great deal of time to redesign the process. He observed that a selection process was followed. He acknowledged the concerns, however, of certain Councilmembers.

Councilmember Stokes said he had a great deal of respect for the process when he was appointed to the Parks and Community Services Board. He spoke in favor of deferring Council action on the appointment to provide transparency and to avoid tainting the ultimate appointment of the new Planning Commissioner.

Mayor Lee commented that he sees no reason to question the process to date and the recommendation of the Council liaison to the Planning Commission. However, he understands that the Council wants more information.

Councilmember Wallace said he would treat the reappointment of Commissioner Laing in the same manner that he treated the reappointment of the Commissioners who were appointed by Councilmember Degginger, the prior Council liaison to the Planning Commission. That would be to ask them to continue for another four years. As for the proposed delay on taking Council action, Mr. Wallace said he would rather avoid such short notice to the appointee.

Mayor Lee suggested a review of the appointment process to avoid unnecessary issues in the future, and called for a vote on the motion.

→ The motion to delay the Planning Commission appointment by one week carried by a vote of 5-2, with Deputy Mayor Robertson and Councilmember Wallace opposed.

Moving on, Councilmember Chelminiak congratulated Mayor Lee and Deputy Mayor Robertson on their new positions.

Mr. Chelminiak recalled concerns expressed by certain residents during the December 12 City Council meeting about youth homes operated by a program associated with First Presbyterian Church of Bellevue. He reported that he attended a meeting with some of those parties. Mr. Chelminiak requested a Council discussion on the broader issue of religious uses in neighborhoods, which would help to understand the role of the Council in these matters.

Councilmember Davidson congratulated the new Mayor and Deputy Mayor. He noted that he supported delaying the Planning Commission appointment in the interest of ensuring transparency in the Council process.

Deputy Mayor Robertson noted that the implementation of SR 520 tolling is diverting traffic to other routes. She asked the City Manager to provide an update on traffic diversion issues after tolling has been in effect for a month or so. Mr. Sarkozy said staff will provide a report.

Mayor Lee thanked Dr. Davidson for his service as Mayor. Mr. Lee said he is honored to be elected as Mayor and to be able to continue to serve Bellevue citizens.

## 7. Approval of the Agenda

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

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

8. Consent Calendar

→ Deputy Mayor Robertson moved to approve the Consent Calendar, including the correction to the minutes of the December 12, 2011 Study Session, as described in the memo to the Council. Councilmember Davidson seconded the motion.

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

- (a) Minutes of November 28, 2011 Extended Study Session  
Minutes of December 5, 2011 Study Session  
Minutes of December 5, 2011 Regular Session  
Minutes of December 12, 2011 Study Session [*Amended to indicate that Ms. Robertson was present.*]  
Minutes of December 12, 2011 Regular Session
- (b) Ordinance No. 6038 approving the 2012 Pay Plans, as required by Bellevue City Code.
- (c) Resolution No. 8353 authorizing execution of a Hardware Purchase, Technical Maintenance Services Agreement with Cerium Networks, in an amount not to exceed \$512,000, for the replacement of the City's telephone system.
- (d) Resolution No. 8354 authorizing execution of an agreement with the Boys & Girls Clubs of Bellevue (BGCB), in an amount not to exceed \$86,500, to continue operation of the Ground Zero Teen Center and BGCB satellite sites in partnership with the City.

9. Public Hearings: None.

10. Land Use: None.

11. Other Ordinances, Resolutions and Motions: None.

12. Unfinished Business

- (a) Update on the proposed draft National Pollutant Discharge Elimination System (NPDES) Western Washington Phase II Municipal Stormwater Permit (2013-2018) and draft Stormwater Management Manual for Western Washington.

*[Study Session Agenda Item 5(a)]*

City Manager Steve Sarkozy introduced the continuation of the Study Session discussion on the NPDES permit and the draft Stormwater Management Manual for Western Washington issued by the Washington State Department of Ecology.

Responding to Councilmember Davidson, Utilities Director Nav Otal said the State's new stormwater requirements will impact citywide operations including utilities, parks, and transportation projects and facilities.

Dr. Davidson said he has ongoing concerns about unfunded State mandates that do not recognize the individual character of cities. He believes that more time and a more extensive analysis is needed to determine the impacts, including costs. He said these are important long-term issues, and there is no reason to rush forward to increase regulations on land without a good basis for doing so.

Deputy Mayor Robertson thanked staff for the presentation. Responding to Ms. Robertson, Ms. Otal confirmed that the draft permit and draft DOE manual represent a stack of reports that are approximately eight inches high. Ms. Robertson expressed concern that the proposed regulations, with far-reaching impacts, are being rushed. She observed that the DOE is not following the Administrative Procedures Act in its concurrent review process for both the permit and the draft manual. She is concerned that the comment period ends before all documents and information will be available. She questioned whether there is a mechanism to challenge the DOE's process under the Administrative Procedures Act. Ms. Otal indicated that that is a legal question for the City Attorney's Office.

Ms. Robertson expressed concern about the impacts on residents; for example, the cost of complying with geotechnical requirements for a landscaping project. She expressed support for the draft City of Bellevue Interest Statement on the NPDES Permit, provided on page SS 5-23 of the meeting packet. Responding to Ms. Robertson, Ms. Otal confirmed that the issue is on the Council's 2012 Legislative Agenda. Ms. Otal said the Association of Washington Cities (AWC) is working to request an extension of the permit from the state legislature.

Councilmember Wallace expressed general concern about the criteria, definitions, and policies reflected in the manual and permit, as well as the lack of information in a number of areas. He noted the competing goals of environmental protection, affordable housing, job creation and economic development. He expressed concern that increased regulation will significantly affect the ability to provide affordable housing and to effectively address job growth.

Councilmember Stokes concurred with Mr. Wallace's comments about the importance of striking the most effective balance of competing objectives. He believes however that, in the long run, compliance with environmental regulations will provide economic benefits. He agreed with the Council's comments that there are serious issues that need to be addressed, and a delay is needed for adequate evaluation.

Councilmember Chelminiak expressed concern that the Department of Ecology is not following the Administrative Procedures Act. He wondered how cities will comply with the regulations and what the cost will be to comply. Mr. Chelminiak said the Planning Commission's heavy workload includes the Shoreline Master Program review as well as other issues that affect economic development, including growth management, transit implementation, redevelopment of neighborhood shopping centers, Eastgate area planning, and the Downtown Implementation Plan. Some Councilmembers have expressed an interest in an overall review of the Land Use Plan as well.

Mr. Chelminiak noted information in the packet stating that the proposed DOE mandate requires municipalities to amend their development-related regulations to incorporate low impact development (LID) principles by December 2016. At a minimum this involves review of the Comprehensive Plan, the Land Use Code, the Stormwater Code, the Clearing and Grading Code, Traffic Codes, Enforcement and Civil Violation Codes, Public Safety Codes, and corresponding engineering and development standards. He supports stormwater management objectives but is concerned about the ramifications including costs and the significant work required by staff.

Mr. Chelminiak expressed concern that the proposed regulations are unfunded mandates. If the State decided to provide some funding, it would take money away from other General Fund resources that the City normally receives from the State.

Councilmember Balducci acknowledged the importance of protecting the environment and providing clean water. The City has completed extensive work over the years in support of that goal, and understands the importance of environmental protection on Bellevue's economic health. However, she observed that the process related to the proposed manual and permit are flawed. She said the State has not yet provided all of the information on which it is seeking comment from the City. With regard to the issue of the unfunded mandate, she suggested that, if the State does propose any revenue mechanisms (e.g., taxes on oil barrels), the City might want to consider supporting one or more of the State's options.

13. Continued Oral Communications

Sonja Rossman said she is an activist for schools, the environment, and seniors, as well as for fairness and transparency in government. She described her efforts to identify a tenant going into the Kelsey Creek Center, which is near her home on Glendale Golf Course. She was told that it would be a high-end Asian market, and has now heard that the tenant is Walmart. She is very concerned and questioned how this happened without the Planning Commission conducting a review and bringing it to the attention of the public. She would like to have accurate information about the tenant and the project.

Responding to Mayor Lee, City Manager Sarkozy said he had not heard Walmart mentioned. He said he would check on the matter and include Ms. Rossman in his response to the Council.

14. New Business: None.

15. Executive Session

(a) Personnel Matter

At 9:12 p.m., Mayor Lee declared recess to Executive Session to discuss one personnel matter. He noted that the meeting would adjourn upon the completion of that discussion.

16. Adjournment

The Executive Session was concluded at 9:35 p.m., and the meeting was adjourned.

Myrna L. Basich, MMC  
City Clerk

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