

CITY OF BELLEVUE  
CITY COUNCIL

Summary Minutes of Regular Session

January 4, 2010  
8:00 p.m.

Council Chamber  
Bellevue, Washington

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

ABSENT: None.

1. Call to Order

The meeting was called to order at 8:06 p.m., with Mayor Davidson presiding.

2. Roll Call, Flag Salute

Upon roll call, all Councilmembers were present. Councilmember Degginger led the flag salute.

(a) President's Volunteer Service Awards

Shelly Shellabarger, Volunteer Program Coordinator, announced the recipients of the President's Volunteer Service Awards. The Call to Service Award is the highest Presidential Volunteer honor, and this year's three recipients are all from the Bellevue Botanical Garden. Udell Fresk volunteered more than 6,000 hours, Ruth Edwards served 4,400 hours, and Joanne White volunteered more than 4,000 hours. Windermere Realty received a group award for a total of 1,430 hours. Additional individual awards went to volunteers in the City's Mediation Program, Natural Resources, Emergency Services, Kelsey Creek Farm, and Bellevue Botanical Garden.

City Manager Steve Sarkozy thanked everyone for their dedication and hard work. He noted that Garden D'Lights is a well-attended seasonal event.

Mayor Davidson thanked the volunteers for their contributions to the community.

3. Communications: Written and Oral

(a) Laura Medlow applauded Councilmember Wallace and everyone else who has backed the East Link light rail alternative along the BNFS railway. She looks forward to development in the Bel-Red corridor and other areas east of the downtown. She

suggested the development of a central, multi-modal Bellevue Transit Center on 116<sup>th</sup> Avenue, including a large parking facility.

- (b) Court Olson noted the Council's discussion during the Study Session regarding the Eastgate Area Properties Master Plan. He expressed concern that the proposed picnic facility in the northwest corner of the site will displace wildlife including raccoons, possums, deer, coyotes, and birds of prey. In addition, he feels that creating a secluded picnic area will provide the opportunity for criminal activities. He said some muggings have occurred on trails in that area. Mr. Olson asked the Council to consider removing the picnic facility from that aspect of the park plan.
  - (c) Lisa Baker noted her background in landscape architecture and said that she shares Mr. Olson's concern about the proposed picnic area. She explained that open and publicly visible designs are a desirable way to deter criminal activities, whether in a park or a parking garage structure.
4. Reports of Community Council, Boards and Commissions: None.
  5. Report of the City Manager: None.
  6. Council Business and New Initiatives

Councilmember Chelminiak congratulated both Mayor Davidson and Deputy Mayor Lee on their new roles. He reflected on the accomplishments of the past four years, and commended Councilmember Degginger's service as mayor.

Councilmember Degginger said that it was an honor to serve as mayor for such a wonderful city and great City organization. He thanked fellow Councilmembers, the City Manager, the Leadership Team, and staff for working together on the many initiatives and projects.

Councilmember Balducci thanked Mr. Degginger for his leadership as mayor and noted his special interest in the Downtown Implementation Plan, parks and sports fields, and schools.

Councilmember Wallace expressed appreciation for the City Council's work. He looks forward to working with the business community and residents over the next four years.

Councilmember Robertson thanked Councilmember Degginger and the Council for their achievements including the new City Hall and parks and transportation infrastructure investments.

Deputy Mayor Lee expressed thanks to Councilmember Degginger, stating he has been a tremendous mayor and leader for the City Council. He thanked Councilmembers Robertson and Wallace for their service within the community. Mr. Lee commented on the challenges ahead and the need to set a more sustainable course for the City. He noted that the Council is fiscally prudent and understands the importance of a healthy economy and financial strength. The Council is poised to strengthen the City's finances and to maintain the community's strong

business environment. Mr. Lee highlighted the age and cultural diversity within Bellevue.

Mayor Davidson added his appreciation for the service of outgoing Mayor Degginger and Deputy Mayor Balducci.

7. Approval of the Agenda

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

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

8. Consent Calendar

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

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

- (a) Minutes of November 2, 2009 Study Session  
Minutes of November 2, 2009 Regular Session
- (b) Motion to approve payment of claims for the period November 14, 2009 through December 31, 2009 and payroll for the period November 1, 2009 through December 15, 2009.
- (c) Ordinance No. 5927 authorizing execution of a Department of Homeland Security (DHS) Subgrant Agreement with the Washington State Military Department to accept grant funds in the amount of \$1,109,217 for network resiliency fiber optic cable hardening, BSC fiber optic cable hardening, Eastside Fusion Center analyst, project management/urban area planning sustainment, WebEOC management tool and community preparedness; amending the 2009-2010 budget of the operating Grants, Donations and Special Reserves Fund in the amount of \$1,109,217; and authorizing expenditures from said fund.
- (d) Motion to award Bid No. 9270, Downtown Crosswalk Projects as part of the Downtown Mid-Block Crossings Program to Road Construction Northwest, Inc., in the amount of \$461,355.75, as the lowest responsible and responsive bidder (CIP Plan No. PW-W/B-77).

9. Public Hearings: None.

10. Land Use: None.

11. Other Ordinances, Resolutions and Motions

- (a) Ordinance No. 5922 amending the Bellevue City Code, Chapter 5.30, by: 1) requiring any applicant seeking an initial franchise with the City to meet service obligations for the entire ten-year term of the initial franchise, 2) requiring, over a reasonable period of time, the construction of a cable system throughout the City upon renewal of the franchise, and 3) authorizing the service of a lesser area provided cable service is constructed throughout this lesser area.

City Manager Steve Sarkozy noted that this item was postponed from the December 14, 2009, agenda and is returning to the Council for consideration.

Jerome Roaché, Assistant City Attorney, explained that Ordinance No. 5922 amends Chapter 5.30 of the Bellevue City Code by requiring any applicant seeking an initial cable franchise to meet service obligations for the entire ten-year term. It also requires, over a reasonable time period, the construction of a cable system throughout the City upon renewal of the franchise, and it authorizes the service of a lesser area provided that cable service buildout is accomplished throughout the lesser area.

Mr. Roaché reviewed that in 2007 the FCC adopted new franchise rules which preempted local franchise authority. One provision states that local governments cannot refuse to grant franchises based on an unreasonable buildout mandate. A later FCC ruling stated that local governments can require buildout upon franchise renewal, as this would not be considered a barrier to entry into the market.

Mr. Roaché recalled the Council's ongoing position to require buildout throughout the entire city. Ordinance No. 5922 attempts to amend BCC 5.30 in order to reconcile the Council's position with the FCC rules.

Mr. Roaché said Councilmember Robertson has requested a clarifying edit to Section 5.30.170, Subsection C, to insert the word "subsequent" in the first sentence, between the words "for the first five years of the" and "franchise."

Responding to Deputy Mayor Lee, Mr. Roaché confirmed that buildout will be required upon franchise renewal.

Responding to Councilmember Chelminiak regarding the proposed revision to Section 5.30.170C, Mr. Roaché and the Council agreed to using the word "renewed" instead of "subsequent."

Mayor Davidson stated his ongoing concern that the provisions could allow a situation in which a new franchise would choose to complete only the more lucrative segments of the market, such as downtown residences, while other areas of the city might not have competing providers.

David Kerr, Information Technology Manager, agreed that this is a legitimate concern. The FCC rules are designed to provide an advantage for new entrants into the market. Staff's proposed ordinance is intended to accommodate this focus, while also ensuring that the City can require

buildout upon franchise renewal.

Councilmember Balducci expressed support for the ordinance and noted that she shares Dr. Davidson's concerns. However, she has not heard of any approach that would completely prevent providers from engaging in selective competition. Responding to Ms. Balducci, Mr. Roaché confirmed that imposing a full buildout requirement for an initial franchise would be considered an unreasonable barrier to entry.

Councilmember Chelminiak concurred with the statements made by Mayor Davidson and Councilmember Balducci. While the proposed legislation is not ideal in terms of promoting competition, the City must operate within the federal guidelines.

→ Deputy Mayor Lee moved to adopt Ordinance No. 5922, with a clarifying edit in Section 5.30.170C inserting the word "renewed" in the first sentence between the words "for the first five years of the" and "franchise." Councilmember Balducci seconded the motion.

→ The motion to adopt Ordinance No. 5922, as amended, carried by a vote of 7-0.

12. Unfinished Business: None.

13. Continued Oral Communications: None.

14. New Business: None.

15. Executive Session: None.

16. Adjournment

Dr. Davidson acknowledged a number of young people in the audience, who indicated that they were students from Bellevue High School.

At 8:54 p.m., Mayor Davidson declared the meeting adjourned.

Myrna L. Basich  
City Clerk

/kaw