

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Regular Session

January 19, 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 8:03 p.m., with Mayor Davidson presiding.

2. Roll Call, Flag Salute

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

(a) Recognition of Bank of America for Donation to Crossroads Community Center

Vicki Drake, Community Services Supervisor, introduced Michael James, president of the Friends of Crossroads Advisory Board.

Mr. James thanked Dana Gray and the Bank of America for donating \$5,000 to Crossroads Community Center to purchase new computers for the existing computer lab. The new equipment will allow participants to complete homework, learn new software, write a resume, and prepare to enter the workforce.

Ms. Gray presented the check from Bank of America, stating how excited they are to play a part in expanding and revitalizing the computer lab at Crossroads Community Center. Ms. Gray said a number of students who have worked for Bank of America have formerly volunteered or worked for the computer lab.

3. Communications: Written and Oral

(a) Debi Lelinski representing the Surrey Downs East Link Committee, congratulated Councilmember Balducci on her appointment to the Sound Transit Board. She asked the Council to commit to the recommendations of the Light Rail Best Practices Committee

and to advocate for an alignment that provides the best long-term regional transportation plan. Ms. Lelinski suggested that the Council's decision criteria include a high-speed regional system connecting major city hubs, high system-wide ridership, effective connections to the bus system, and the use of regional corridors that do not impact residences through home condemnations, noise, and visual blight.

- (b) Janine McDonald announced the creation of the Mercer Slough Neighborhood Association and distributed maps showing the neighborhood's boundaries of SE 8th Street, I-405, I-90, and Mercer Slough Park. The association represents 500 residents and its purpose is to maintain and enhance the quality of life in this neighborhood area. Ms. McDonald noted the negative impacts of recent projects including the expansion of I-405, the addition of a large hotel near the Wilburton Park and Ride lot, and completion of the Mercer Slough Environmental Education Center. She expressed concerns regarding traffic congestion and speeding, pedestrian safety, and potential light rail impacts. The Mercer Slough Neighborhood Association supports the light rail B3 modified side-running alternative and opposes the B7 alignment.
- (c) Bill Pace provided an update on the Mercer Slough Blueberry Farm. He questioned what the future holds for the farm and how light rail might impact Bellevue Way along the front of the Blueberry Farm. Mr. Pace noted that the farm donates produce to food banks and participates in the Strawberry Festival, Blueberry Festival, and the 24-Hour Relay Challenge.
- (d) Renay Bennett thanked Mayor Davidson for his leadership in bringing consensus to the Council in its recent discussion. She reminded the Council of its previous statement of support for the B7 alternative if the B3 modified side running option is not feasible. She feels that the B7 modified alternative represents an interesting alternative as well and warrants further discussion. She urged the Council to provide its input to the Sound Transit Board early next week.
- (e) Gary Ritner asked the Council to visit the Brookshire Condominiums complex to assess the impacts of light rail alternative B7. He feels this would destroy the value of most of the units.
- (f) Martin Paquette spoke in favor of the East Link light rail alignment B3 modified alternative and a station at the South Bellevue Park & Ride lot. He said his family values the efficient transportation available at the Park & Ride and welcomes the arrival of light rail. He observed that the Council is hearing from property owners and neighborhoods, and he hopes the Council will also consider the needs of transit riders. Mr. Paquette said the disadvantages of the B7 alternative are that it has a long stretch between stations, negatively impacts homes and apartments, and does not provide the best access to the Downtown.
- (g) Joan Devron spoke in opposition to the B7 alignment, expressing concerns regarding potential impacts to residents, cyclists, dog walkers, and Mercer Slough visitors. She noted that the Sound Transit environmental study asserted that those in condominiums

are equally entitled to environmental justice as individuals in traditional residential neighborhoods. She said the current project maps being used are out of date and do not reflect the recent expansion of I-405, which is now dangerously close to homes. She asked the Council to visit the area to envision if and how light rail could fit along I-405. Ms. Devron said the B7 option has the highest environmental impact and construction costs, as well as the lowest ridership. She said commuters will be interested in more direct service into the heart of the Downtown.

- (h) Betsy Blackstock said she is pleased with the Council's discussion during the earlier Study Session. She reported that the Sound Transit grant manager spoke recently at a citizen oversight panel, and she confirmed to Ms. Blackstock that local communities determine a preferred route and then request grant funding. Ms. Blackstock suggested that Bellevue choose its preferred alternative and seek grant funding. Ms. Blackstock expressed support for the B7 route crossing Mercer Slough, which could connect to links going north, east, and south as well.

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

5. Report of the City Manager

- (a) Management Brief Providing Update Regarding Study and Presentation of Possible Amendments to City's Lewd Conduct Ordinance and Adult Business Zoning and Licensing

City Manager Steve Sarkozy opened staff's report regarding the study and presentation of possible amendments to the City's lewd conduct ordinance, as well as adult business zoning and licensing regulations.

Lori Riordan, City Attorney, noted the management brief beginning on page 5-1 of the meeting packet regarding possible amendments to the City's lewd conduct ordinance and adult zoning and licensing regulations. She provided brief background information regarding the opening of the Knotty Bodies espresso stand in November, which subsequently closed in December. There is one other bikini barista stand operating within Bellevue in an area zoned for drive-up businesses.

Ms. Riordan said the City received a fair amount of public comment from residents who had researched the issues associated with bikini barista stands in other cities and counties. The Council directed staff to develop options for addressing the negative secondary impacts of this type of business. Council's expressed goals for Code changes were to protect children, maintain the character of residential neighborhoods, prevent crime, and uphold the community's values and standards. Council indicated that any proposed legislation should be supported by the legislative record demonstrating negative secondary impacts to the quality of life in Bellevue. Staff has been working on developing the legislative record through contacts with other cities and counties who have addressed the same issue.

Ms. Riordan explained that other jurisdictions have reported a number of negative impacts associated with bikini barista stands including lewd conduct, prostitution, increased traffic, and the blocking of egress and ingress to properties. Some jurisdictions have chosen to focus on police enforcement. For example, the City of Tukwila updated its lewd conduct ordinance and enhanced police enforcement at the espresso stands. Other communities have, in addition to updating their lewd conduct and public indecency laws, taken the step to characterize the stands as adult entertainment and to impose regulations applicable to this use.

Ms. Riordan proposed that staff develop options for Council consideration, including a summary of the strategies in place in other jurisdictions and their pros and cons. She explained that amendments to the lewd conduct regulations would focus on the limits of appropriate attire for public exposure. Staff is also taking a broader look at the City's adult business code of conduct and licensing standards. The third area of review pertains to the zoning of adult businesses, as the City is constitutionally required to allow venues for adult entertainment. Ms. Riordan explained that the City also wants to protect neighborhoods, parks, churches, libraries, and schools from negative secondary impacts.

Ms. Riordan said zoning changes are reviewed by the Planning Commission, which is currently working on the shoreline update required by state law. Land Use staff is gathering data to present to the Planning Commission, but potential zoning changes related to adult businesses will not be immediately addressed by the Commission. The Commission will ultimately provide a recommendation to the Council.

Ms. Riordan recalled that a number of concerned citizens are interested in this topic, and staff continues to keep them updated. She requested Council feedback regarding staff's proposed approach.

Responding to Councilmember Balducci, Ms. Riordan said that next month, staff will bring forward possible changes to the lewd conduct ordinance, as well as examples from other jurisdictions that have addressed this issue. In further response, Ms. Riordan explained that review of the adult business code of conduct will likely result in proposed amendments related to anatomical areas. She confirmed that review of the adult business code of conduct, licensing and zoning issues will take more time. She recalled work in the 1990s to regulate strip clubs in which the City's regulations were ultimately upheld by the State Supreme Court.

Councilmember Balducci expressed support for moving forward with staff's review. She acknowledged that the First Amendment protects the rights of adult businesses, and she encouraged moving toward a regulatory approach that will address the community's concerns.

Councilmember Chelminiak concurred. He encouraged a thorough review of zoning regulations within the context of how well these match up with the City's current adult business regulations. He said it is important to fully understand the legal ramifications of classifying bikini barista stands as adult entertainment versus regulating behavior through the lewd conduct ordinance.

Councilmember Wallace noted staff's indication that the Planning Commission might not review this issue until the Shoreline Management Plan process is concluded. He would like staff and the

Council to continue to proceed with this discussion as promptly as possible and to request the Planning Commission's review in a timely manner.

Ms. Riordan clarified that she does not want to leave the impression that the City's present zoning is deficient. However, it is important to conduct a periodic review and update to zoning regulations. Ms. Riordan said staff intends to move forward with gathering data on the zoning issue. Given Council's strong interest in addressing these issues, staff will schedule the matter for the Planning Commission's review as soon as possible and in a manner that does not interfere with the Commission's shoreline regulations work.

Mayor Davidson noted a Council consensus to move forward as proposed by staff.

6. Council Business and New Initiatives

Councilmember Degginger reported that there will be a hearing on the SR 520 bill before the state legislature on Thursday, and he will attend to testify on behalf of the City.

Deputy Mayor Lee said he and Mayor Davidson attended the *Celebration of a Dream* tribute to Martin Luther King, Jr., at Crossroads Shopping Center. Mr. Lee commented on Bellevue's growing diversity and the Council's attention to related issues and needs.

Mayor Davidson requested a moment of silence to honor Lynn Johnson, a longtime supporter of community programs for four decades who passed away on January 16. He noted her involvement with the Bellevue Arts Commission, Performing Arts Center Eastside (PACE) feasibility study, Bellevue's 50 Fest celebration, and numerous other activities on the Eastside and in Seattle.

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 Degginger seconded the motion.

Councilmember Balducci requested the following amendment to the November 16 Regular Session minutes at the bottom of page 3:

"Ms. Balducci noted that she moved to remove arterial tolling and parking surcharges as sources of funding in the unfunded portion of the plan. She proposed language indicating that if projects in the unfunded portion of the plan are ultimately adopted, funding mechanisms including possible user fees will be determined at that time. Ms. Balducci reported that ~~her second~~ she

seconded, for the purpose of discussion, a motion was to first use toll revenues for projects on the specific tolled corridor, but to allow the use of excess revenues on another corridor if approved by a vote of citizens. That motion failed. The next step for the 2040 Plan is review and action by the PSRC Executive Board."

→ 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 16, 2009 Study Session
Minutes of November 16, 2009 Regular Session
Minutes of November 23, 2009 Extended Study Session
- (b) Ordinance No. 5928 authorizing: 1) Amending the City Manager's Employment Agreement to establish the City Manager's compensation and benefits for 2009 and 2010; and, 2) Execution of a First Amendment to the City of Bellevue 401(a) Money Purchase Pension Plan.
- (c) Motion to approve payment of claims for the period January 1, 2010 through January 15, 2010 and payroll for the period December 16, 2009 through December 31, 2009.
- (d) Ordinance No. 5929 establishing a "No Parking Anytime" zone on the east side of 132nd Avenue NE from NE 10th Place to Bellevue-Redmond Road.
- (e) Ordinance No. 5930 authorizing: 1) Execution of an interlocal agreement with King County Metro (KCM), in the total amount of \$612,500 (including the acceptance of \$472,500 in pass-through grant funds from KCM), for the Connect Downtown Implementation Project 2010-2011; 2) Execution of an agreement with the Bellevue Downtown Association (BDA), in an amount not to exceed \$382,825, for implementation services associated with the Connect Downtown Implementation Project 2010-2011; 3) Amendment of the 2009-2010 General Capital Investment Program (CIP) fund to increase the appropriation by \$472,500; and, 4) Amendment of the 2009-2015 Bellevue CIP fund by increasing the project budget for Transportation Demand Management (CIP Plan No. PW-R-87) by \$472,500 in new pass-through funding contributions from King County Metro.
- (f) Ordinance No. 5931 authorizing: 1) Execution of a grant agreement with the Washington State Department of Transportation to accept \$150,493 in federal Congestion Mitigation and Air Quality funding for the East King County Bicycle Wayfinding project; 2) Amending the 2009-2010 General CIP fund to increase the appropriation by \$150,493; 3) Amending the 2009-2015 Capital Investment Program (CIP) Plan to increase the budget for the Minor Capital-Traffic Operations program (CIP Plan No. PW-M-2) by \$150,493; and, 4) Execution of an interlocal agreement with the cities of Bothell, Issaquah, Kirkland and Redmond for the City of Bellevue to receive and administer the grant funds on

behalf of the project coalition.

- (g) Ordinance No. 5932 authorizing: 1) Execution of a grant agreement with the Washington State Department of Transportation (WSDOT) to accept \$354,400 in federal Congestion Mitigation and Air Quality funding for the 124th Avenue SE Connection to the I-90 Trail; 2) Execution of a grant agreement with WSDOT to accept \$605,000 in state Pedestrian and Bicycle Safety Program funding; 3) Amending the 2009-2010 General CIP fund to increase the appropriation by \$959,400; and, 4) Amending the 2009-2015 Capital Investment Program (CIP) Plan to increase the budget for the Pedestrian Access Improvements program by \$959,400 and authorizing expenditures from said fund (CIP Plan No. PW-W/B-56).
- (h) Ordinance No. 5933 authorizing: 1) Execution of a grant agreement with the Washington State Department of Commerce to accept a \$75,000 in (federal pass-through) Energy Efficiency through Transportation Planning Program grant funds for the integration of the 130th Avenue NE station with the Sound Transit station plan; 2) Amending the 2009-2010 General CIP fund to increase the appropriation by \$75,000 in grant funds; and, 3) Amending the 2009-2015 Capital Investment Program (CIP) Plan to increase the budget for the Early Implementation of the Bel-Red Corridor Plan by \$75,000 (CIP Plan No. PW-R-153).
- (i) Motion to award Bid No. 9361, Lake Hills and Eastgate Communication Upgrade to Cannon Construction, Inc, in the amount of \$52,122.50, as the lowest responsible and responsive bidder (CIP Plan No. PW-R-155).
- (j) Motion to award Bid No. 9356, 152nd Avenue SE Sidewalk and other Utilities Department underground utility improvement work to Serpanok Construction, Inc., in the amount of \$1,692,152.25, as lowest responsible and responsive bidder (CIP Plan No. PW-W/B-74; Water W-16, W-99; Sewer S-24 and Storm D-64).
- (k) Motion to award Bid No. 0316 for Upper Coal Creek Bank Stabilization Sites Revegetation, to L.W. Sundstrom, Inc., in the amount of \$130,187.29, as the lowest responsible and responsive bidder (CIP Plan Nos. D-95 and D-100).

9. Public Hearings: None.

10. Land Use: None.

11. Other Ordinances, Resolutions and Motions: None.

12. Unfinished Business: None.

13. Continued Oral Communications: None.

14. New Business: None.

15. Executive Session: None.

16. Adjournment

At 9:00 p.m., Mayor Davidson declared the meeting adjourned.

Myrna L. Basich
City Clerk

/kaw