

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Regular Session

February 16, 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 8:05 p.m., with Mayor Davidson presiding.

2. Roll Call, Flag Salute

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

3. Communications: Written and Oral

- (a) Mark Landes said he lives next to Bellevue High School, near the proposed second driveway, and he has children that attend the school. He asked whoever is making decisions on the project to listen to adjacent residents. He noted that every iteration of drawings reflects the driveway closer to his property. He asked the City to review the best possible placement of the driveway. He has contacted the City, Bellevue School District, and the architect, but he is not sure his message is being heard.
- (b) John Chesemore, Bellecrest Neighborhood Association, spoke to the Bellevue High School remodeling project. He said residents continue to struggle in their efforts with the Bellevue School District, which he said has refused requests to prevent additional high school driveway access into the neighborhood. Neighbors have attended every District meeting to testify that additional traffic into the neighborhood is unacceptable. Mr. Chesemore recalled a roundtable meeting with the City and District, which was attended by a majority of individuals in favor of the second driveway, and who did not live in Bellevue. Residents were told it was too late to make changes. Mr. Chesemore said this was not the process desired by residents. He quoted Land Use Code 14.30 and 14.60.105 in support of the residents' position. He noted that residents are willing to allow the

driveway for emergency access only. However, the School District would not act on this option. Mr. Chesemore asked the City Council to direct staff to ensure that the residents' list of mitigation items are included in the conditional use permit (CUP), most notably the location of the driveway.

Mayor Davidson explained that this CUP application could be appealed to the City Council, at which point it becomes a quasi-judicial matter that cannot be discussed outside of the Council's public deliberations. He noted that Councilmembers are hesitant to discuss the matter now due to its quasi-judicial potential.

Councilmember Balducci explained that by law, the City Council is not involved in the issuance of the permit and cannot direct staff to do anything other than the normal review and application process. The matter would go to the City Council only as an appeal of the Hearing Examiner's decision, should that occur.

Councilmember Chelminiak said he would like a copy of the CUP application decision when it becomes available.

Councilmember Degginger asked whether the School District has a policy regarding carpooling or encouraging carpooling.

Land Use Director Carol Helland said the City plans to issue the conditional use permit on Thursday. Staff has been in contact with Mr. Chesemore and Renay Bennett, who is also a Surrey Downs resident. Bellevue School District's policy with respect to carpooling and traffic mitigation are thoroughly discussed in the staff report. An aggressive carpooling plan will be necessary during construction, and the District is hoping that this will continue beyond the project.

- (c) David Hoffman, Master Builders Association, highlighted portions of a letter he sent to the Council earlier in the day regarding the expiration of permits. He noted the significant loss of construction jobs last year and the inability for builders to obtain loans. He asked the City to extend land use and building permits beyond their expiration dates over the next 12 months.

Responding to Councilmember Wallace, City Clerk Myrna Basich said the letter from the Bellevue Downtown Association was delivered today for submittal as a written communication.

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

5. Report of the City Manager

- (a) Management Brief providing information on Expiration of Development Applications and Issued Permits

City Manager Steve Sarkozy introduced the management brief providing information related to the expiration of development applications and issued permits.

Mike Brennan, Director of Development Services, referred to page 5-1 of the meeting packet and reviewed a report on the expiration of development applications and issued permits. He said a number of permit applications, issued permits, and preliminary plats are approaching their expiration. He noted that the construction industry is struggling due to the recession and market conditions. Mr. Brennan referenced a table on page 5-5 of the meeting packet, which shows the current number of land use and building applications, permits, and plats in the system, as well as those approaching expiration dates within the next 12 months. A total of 121 projects are facing expiration dates within the next 12 months.

Mr. Brennan said staff is seeking Council direction about whether to proceed with considering permit extensions. He noted that the information is provided in response to the Council's request, and staff can provide additional information as requested.

Councilmember Robertson stated that she had asked for a list of stalled projects. Mr. Brennan said that a separate group of projects are suspended or their permits have expired. Staff is compiling this information and will return to update the Council.

Responding to Councilmember Robertson, Mr. Brennan said the permit term of 18 months has been in effect for some time. He confirmed that there was discussion about changing permit terms during the neighborhood livability work and related code changes. At that time the debate was about whether to shorten the permit term to expedite construction in neighborhoods in order to reduce construction impacts.

Councilmember Robertson said she would like to pursue an Ordinance extending permit terms for the short term, due to the economic recession.

Councilmember Wallace concurred, and questioned the downside of extending plats and permit terms for two years. Mr. Brennan said the policy question is the application of current regulations. As long as a project is holding vested status in the system, it is subject to the regulations in place at the time of application. He clarified that the question is whether to hold projects to a more current set of regulations.

Councilmember Wallace referenced his "favorite" project at 211 112th Avenue NE, and questioned the permit expiration date. Gregg Schrader, Building Official, said March 28 is the date of the permit expiration, and City staff has been in contact to make sure the project is proceeding. Completion is still anticipated by that date. However, if at the end of February it appears that the date will not be met, staff will work to process a tenant improvement permit to complete the interior work.

Responding to Councilmember Chelminiak, Mr. Brennan confirmed that the City has not received new short plat applications since essentially early 2008. In further response, Mr. Brennan explained that the new NPDES stormwater drainage regulations affect land subdivisions, and in some cases this could represent a significant project cost increase.

Mr. Chelminiak questioned the large number of single-family remodel and additions permits in the system. Mr. Brennan said there was a similar trend of increased remodeling and reinvestment in existing properties during the economic downturn in 2001-2002 when interest rates were low.

Councilmember Degginger said he is supportive of doing something helpful, but he is interested in assessing any potential risk or negative impacts to the City, particularly within the area of the NPDES and Clean Water Act requirements. Mr. Brennan said staff will come back with additional information.

Mayor Davidson and Deputy Mayor Lee suggested that staff bring this issue back to the Council.

Councilmember Balducci concurred with this suggestion. She said it is hard to not be sympathetic to the current building and development environment. She would like a more in-depth legal explanation about what it means in terms of application statutes and potential risk. She would like City staff and Master Builders Association staff to talk about some key comparables. When staff comes back with information on abandoned sites, Ms. Balducci would like to consider safety and aesthetic issues if permits for these sites are to be extended. She questioned how the current situation compares with the last recession and building slowdown.

Councilmember Chelminiak said he agrees with all of the comments, and he wants to help builders and residents. He would like to see some of the worst sites cleaned up. He would like to see the 353 single-family remodels and additions completed as well. He thinks some of those would have been knockdowns two to three years ago.

Responding to Mayor Davidson, Mr. Sarkozy said staff will bring the issue back.

Looking ahead to the Consent Calendar, Mr. Sarkozy asked to pull Agenda Item 8(e) due to a Council request for more information.

6. Council Business and New Initiatives

Councilmember Degginger reported that the State Senate approved the SR 520 bill, which appears to authorize the east side of the project to move forward. However, it also appears to authorize that savings in the pontoon project can be applied to projects on the west portion. As a separate issue, Mr. Degginger recalled discussion at the Council Retreat in January about moving approval of the agenda closer to the top of the Council meeting agenda.

City Clerk Myrna Basich explained that there were other items related to Council rules that were not unanimous among the Council, and these require adoption by resolution. She is working with legal staff to finalize the language, and it will be presented for Council consideration shortly.

Councilmember Balducci reported that the King County Caucus of the Transportation Policy Board met to discuss principles to give to the regional project evaluation committee for distribution of the next round of ARRA funds. Bellevue has submitted two projects for potential funding. One is an overlay project on NE 8th Street, and the other is a bicycle wayfinding project in conjunction with several other cities. She attended a meeting of the Eastside Transportation

Partnership (ETP), during which there was a report on the I-405 HOT lanes. Option 4 appears to be moving forward, and Bellevue has not yet taken a position on this.

Deputy Mayor Lee attended the Eastside Heritage Center benefit dinner, the Bellevue Youth Theatre fundraising event, and the special Joint Meeting of the Sound Transit Board and the Bellevue City Council. He noted that the Chinese New Year fell on February 14 this year, and related activities and celebrations will continue through the month. He wished the Chinese-American community of Bellevue a Happy New Year of the Tiger.

Mayor Davidson attended a number of meetings including the Bellevue Youth Link Board, King Conservation District Advisory Committee, and light rail financing committee.

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, with the exception of 8(e) and the January 4 Study Session minutes. Councilmember Chelminiak seconded the motion.

Mayor Davidson noted a memo in the desk packet from City Clerk Myrna Basich related to the amendment to the January 4 Study Session minutes requested by Deputy Mayor Lee. Dr. Davidson explained that the minutes writer listens to the meeting audio recordings to capture what is said. He said that Ms. Basich feels that the minutes accurately reflect the comments made by Deputy Mayor Lee.

Deputy Mayor Lee clarified that he feels his amendment, provided in the desk packet memo, sounds better and conveys the same intent. He asked for the Council's concurrence to change the minutes.

Responding to Councilmember Degginger, Mayor Davidson said a motion has not yet been made to approve the Consent Calendar, including approval of the suggested amendment to the minutes.

- Councilmember Degginger moved to approve the January 4 Study Session minutes as amended by Deputy Mayor Lee. Councilmember Wallace seconded the motion.

Councilmember Balducci recalled her past example of attempting to modify the minutes because she felt the substance reflected in the minutes was incorrect. At that time, she felt that the amended language she proposed was correct. However, it turned out from listening to the recording that her statement was not as she intended although her substantive point was correct. She hears the issue that the Council cannot create a historical record of something that was not

said. Councilmember Balducci observed that the minutes are not verbatim, that the amendment is close enough to the actual recording, and that she therefore does not have a problem with this change. She proposed that in the future, if a Councilmember does not like the wording or wants to clarify a point, the Councilmember could make a statement at the time of approval of the minutes, in order to ensure that his or her comment or intention is clear. She suggested this is preferable to changing history, and she reiterated that she has been guilty of this in the past.

City Clerk Basich stated that from a technical perspective, the minutes should be pulled from the Consent Calendar and acted on separately. She said that Councilmember Balducci is correct in her statements about how to handle a situation in which a Councilmember wishes to clarify or expand a previous comment. The preferred way to make a change is through a clarifying statement at a following meeting, and not to go back and attempt to rewrite history.

Mayor Davidson opined that this change is minor, but he can envision that bigger issues could be rewritten. He leans toward the perspective that what was said is what should be recorded in the minutes, while a later statement of clarification can be made.

Mayor Davidson called for a vote on the amendment suggested by Deputy Mayor Lee.

→ The motion to approve the January 4 Study Session minutes as amended by Deputy Mayor Lee carried by a vote of 7-0.

Deputy Mayor Lee said he feels it is legitimate to raise the question. What is important is to make it clear in order for the Council to act. However, there is a difference between intent and what was said. He always thought the Council could add to clarify intent, by saying something different perhaps. But if the Council prefers to reflect verbatim comments, Mr. Lee said he will agree to that. And in the following meeting, Councilmembers may make a motion to amend the minutes with a clarifying statement.

Mayor Davidson stated that his position from this point forward is to follow verbatim language. The process that would be more clearly appropriate is to make a statement referring to the minutes, and the requested amendment, in a later meeting.

Councilmember Chelminiak suggested separating approval of the minutes from approval of the Consent Calendar.

Councilmember Balducci clarified that in the case of an error or a misrepresentation of the facts of a Councilmember's statement, the rules should allow for the original minutes to be corrected. Mayor Davidson and Ms. Basich confirmed that this is the existing procedure.

Deputy Mayor Lee stated for the record that he was the first ethnic minority Councilmember when he was elected 16 years ago.

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

- (a) Minutes of January 4, 2010 Study Session [As amended]
Minutes of January 4, 2010 Regular Session
Minutes of January 11, 2010 Extended Study Session
 - (b) Resolution No. 8045 adopting the City of Bellevue Federal Legislative Agenda for the 2010 legislative session.
 - (c) Ordinance No. 5937 repealing Chapter 23.30 of the Bellevue City Code in its entirety and replacing it with a new Chapter; amending Chapter 23.05 of the Bellevue City Code, specifically amending sections 23.05.040, 23.05.050, 23.05.090, 23.05.110, 23.05.130, 23.05.190; providing for severability; and establishing an effective date.
 - (d) Motion to approve payment of claims for the period January 30, 2010 through February 12, 2010 and payroll for the period January 16, 2010 through January 31, 2010.
 - (e) Resolution No. 8046 authorizing the write-off of certain uncollectible accounts totaling \$134,261.45.
 - (f) Resolution No. 8047 authorizing execution of a four-year Interlocal Agreement with the City of Mercer Island for Marine Patrol Services on Lake Washington.
 - (g) Resolution No. 8048 authorizing execution of a professional services agreement with Northwest Hydraulic Consultants, in an amount not to exceed \$136,000, for engineering services for the Bel-Red Corridor Hydrology and Hydraulic Analysis of West Tributary and Goff Creek (CIP Plan No. D-104).
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 9:01 p.m., Mayor Davidson declared the meeting adjourned.

Myrna L. Basich, MMC
City Clerk

/kaw