

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Regular Session

February 19, 2013
8:00 p.m.

Council Chamber
Bellevue, Washington

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

ABSENT: Councilmember Davidson

1. Call to Order

The meeting was called to order at 8:04 p.m., with Mayor Lee presiding.

2. Roll Call, Flag Salute

Upon roll call, all Councilmembers except Councilmember Davidson were present.

Councilmember Chelminiak led the flag salute.

(a) President's Volunteer Service Awards

Mayor Lee welcomed staff to present the President's Volunteer Service Awards. In 2012, 6,355 citizens volunteered in 12 City departments, serving a total of 144,091 hours with an estimated value of \$3,352,577. For 2012, 102 local volunteers, including a number of teens, were honored with President's Volunteer Service Awards.

Shelly Shellabarger, Volunteer Program Coordinator, introduced recipients of the President's Call to Service Award, which is the highest level of recognition. Shirley Johnson has worked as a volunteer at the Highland Community Center for 20 years and has served 4,400 hours. Steve Walker has served more than 12,000 hours for the Parks Department's Natural Resources Division over the past 24 years. Dallas Graham has served more than 4,802 hours at the Bellevue Botanical Garden; and he and his wife, Sharon, were recognized as the City's Volunteers of the Year in 2010.

Ms. Shellabarger noted that the Gold, Silver and Bronze Award recipients would be honored with a private reception on February 22.

(b) Special Recognition of Aubrey Davis

Mayor Lee read a commendation in recognition of the significant contributions of Aubrey Davis, who recently passed away. Mr. Davis was a founding member of Group Health Cooperative and a longtime supporter of a balanced, robust transportation system in the Puget Sound region. He served as Mayor and Councilmember for Mercer Island and was instrumental in the establishment of the 1976 Memorandum of Understanding between the State of Washington and others regarding the I-90 project, which allowed for greater community involvement and the consideration of environmental impacts for major transportation projects.

More recently, he was a friend to Bellevue in his support for replacing the SR 520 bridge, including early improvements on the Eastside, and his support for the two-way transit/HOV project on I-90. Mayor Lee said Mr. Davis's legacy is one of energy, public advocacy, and dynamic leadership.

3. Communications: Written and Oral

- (a) Ron Lewis, East Link Executive Project Director, Sound Transit, said he appreciates the Council's hard work on the Light Rail Overlay Land Use Code Amendment (LUCA) and other activities related to the East Link Memorandum of Understanding (MOU). He expressed support for elements contained within the Overlay including the concept of context sensitivity and the involvement of a Citizen Advisory Committee (CAC). He noted concerns regarding the Leadership Group draft of the Overlay, developed since the February 11 public hearing, related to the timing of permit applications and setback requirements for residential properties.

Mayor Lee thanked Mr. Lewis for his comments and said the City looks forward to a continued partnership with Sound Transit on the light rail project.

- (b) Joe Rosmann, Building a Better Bellevue, expressed concerns regarding East Link light rail project permitting requirements, environmental impacts, decision authority, and setbacks. He provided his comments in writing.
- (c) Scott Rodgers, Move Bellevue Forward, discouraged further delays in the East Link light rail project. He noted that residents and property owners are looking for certainty going forward.
- (d) Wendy Jones, Enatai Neighborhood Association, thanked the Council's Leadership Group for their efforts on behalf of Bellevue citizens, noting that the revised draft Light Rail Overlay is a marked improvement over the February 11 draft. She expressed ongoing concerns regarding vibration impacts and the Director's ability to waive certain requirements, including setbacks. She spoke in favor of a Hearing Examiner permit process instead of a decision by the Director of Development Services.
- (e) Shefali Ranganathan, Transportation Choices Coalition, expressed strong support for the East Link light rail project. The Coalition is a statewide organization with more than

1,000 members who live and work in Bellevue. She expressed support for the light rail project and thanked the City for working collaboratively with Sound Transit. She said the Coalition is concerned about the proposed requirement that all property acquisitions take place before permit application. She urged the Council to resolve this issue without causing project delays.

- (f) Sam Bellomio, StandUP-America, expressed concern that citizens' voices are not heard. He commented on his ongoing opposition to the red light camera program which, he said, has not lowered accident rates. He expressed concern that most of the revenue generated by the cameras goes to King County and the camera vendor. Mr. Bellomio said he intends to run for the Seattle City Council. He noted his opposition to proposed I-90 tolling.
- (g) Alex Zimmerman, StandUP-America, announced that he is running for the King County Council. He said StandUP-America will do all it can to stop the use of red light cameras in Washington state, as they have been able to do with regard to the use of drones. He expressed opposition to I-90 and SR 520 tolling.

Deputy Mayor Robertson asked staff to provide information about the legality of political candidates using Oral Communications as a campaign forum.

- (h) Brock Howell, King County Program Director for Futurewise, expressed support for implementing regional light rail as soon as possible.
- (i) Douglas Tsang expressed support for comments made earlier by Wendy Jones, who was speaking on behalf of the Enatai community. While he does not want further light rail project delays, he does want a proper design process and certainty for homeowners.
- (j) Wendy Tyner thanked the Arts Commission for the grant received in support of the Wintergrass Music Festival, which is celebrating its 20th year overall and fourth year at the Bellevue Hyatt Regency. The festival has received the International Bluegrass Music Association Award for Event of the Year and has been nominated for its youth education programs. The festival will bring 12,000 visitors to the community including bluegrass and acoustic bands from Japan, Italy, Sweden, Brazil, Switzerland, Canada, Romania, and the Czech Republic. Ms. Tyner invited the Council and the public to attend the festival.

Mayor Lee thanked Ms. Tyner and said that Wintergrass is a wonderful asset for the community.

- (k) Sherwin Lee expressed his support for the Wintergrass Music Festival. He asked the Council to consider moving Oral Communications to occur before the earlier Study Session. He expressed concern about comments during the February 11 public hearing which he felt were not helpful and/or inappropriate.

4. Reports of Community Council, Boards and Commissions

(a) Bellevue Youth Link

Angela Navas, Xiaoning Jiang, and Brian McDonald introduced themselves as members of the Bellevue Youth Link Board and invited the Council to the 15th Annual Gumbo Night on February 27.

Mr. McDonald provided a brief update on Youth Link's activities.

Ms. Navas reported that Youth Link collected more than 1,500 coats earlier this winter and was able to distribute 800 of them during an event on January 15. She thanked the Council for its support of Bellevue Youth Link.

5. Report of the City Manager: None.

6. Council Business and New Initiatives

Councilmember Balducci reported that the Arts Commission is moving forward with the Council's direction for a limited update of the Cultural Compass, the City's plan for arts and culture. The Commission will kick off the work in March and anticipates presenting the final update to Council in November. The project anticipates extensive public outreach and will review the four areas identified within the Cultural Compass: 1) Support of artists and arts organizations, 2) Cultural diversity, 3) Arts facilities, and 4) Public art program.

Mayor Lee thanked Ms. Balducci for the report and expressed support for the project.

7. Approval of the Agenda

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

→ The motion to approve the agenda carried by a vote of 6-0.

8. Consent Calendar

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

→ The motion to approve the Consent Calendar carried by a vote of 6-0, and the following items were approved.

(a) Minutes of January 28, 2013 Extended Study Session
Minutes of February 4, 2013 Study Session
Minutes of February 4, 2013 Regular Session

(b) Resolution No. 8513 determining the anticipated shortfall in revenues for providing municipal services to the Eastgate Annexation Area, continuing the

sales and use tax rate established by Ordinance 6045, as amended, pursuant to the authority in RCW 82.14.415; and establishing an effective date.

- (c) Resolution No. 8514 authorizing execution of a two-year Maximo software maintenance agreement, and a two-year technical services agreement with Interloc Solutions, Inc., in an amount not to exceed \$279,200, plus taxes if applicable, for ongoing development and consulting services.
- (d) Resolution No. 8515 authorizing execution of a Memorandum of Understanding by and between the City of Bellevue and the International Brotherhood of Electrical Workers Local 77, representing staff in the Traffic Signals Shop and Electronic Communications Shop, for a one-year labor agreement extension, including an agreement to take furloughs in combination of giving back paid leave. The contract extension is January 1, 2014 - December 31, 2014.
- (e) Resolution No. 8516 authorizing the execution of a professional services agreement with David A. Clark Architects in an amount not to exceed \$197,057, to provide design development documents, construction documents, bidding documents and process assistance, construction inspections, submittal review, and a cost estimate for the Bellevue Golf Course driving range building expansion.
- (f) Resolution No. 8517 authorizing execution of 1) Amendment #3 to the Interlocal Agreement between the Washington State Department of Transportation and the City of Bellevue for final design of pedestrian and bicycle improvements along Northup Way (GCA 6668, SR 520 Interim Regional Pedestrian and Bicycle Path); and, 2) amendment #2 to the consultant agreement with Jacobs Engineering Group, Inc., in an amount not to exceed \$656,631 (plus any applicable taxes), to advance the design from 60% to final design for the Northup Way Corridor Improvements, 108th Avenue NE to NE 24th Street (CIP Plan No. PW-R-146).
- (g) Motion to award Bid No. 12257, Bicycle Wayfinding Signs Installation Phase 1 to Northwest Traffic, Inc. as the lowest responsive and responsible bidder in the amount of \$59,537.00 (CIP Plan No. PW-M-2).

9. Public Hearings: None.

10. Land Use

- (a) Consideration of application for Bellevue School District 405 for a Conditional Use Permit to demolish the present one-story Sammamish High School and to build a new three-story high school facility on the same site. The new academic building will be wrapped around the existing 18,000 square-foot Performing Arts Center, which will remain. The site is located at 100 140th Avenue SE and is in the jurisdiction of the East Bellevue Community Council. File No. 12-117732 LB.

Ordinance No. 6100 approving the conditional use permit application of Bellevue School District 405 to demolish the present one-story Sammamish High School and to build a new three-story high school facility on the same site at 100 140th Avenue SE; File No. 12-117732-LB; and establishing an effective date.

City Manager Steve Sarkozy introduced this agenda item, noting that it is a quasi-judicial matter for the City Council.

Liz Stead, Urban Design Planning Manager, recalled that the Sammamish High School project was highlighted for the Council during the February 4 meeting. There was no public comment on the application during the Hearing Examiner's hearing held on December 13, 2012.

→ Councilmember Balducci moved to adopt Ordinance No. 6100, and Councilmember Chelminiak seconded the motion.

→ The motion to adopt Ordinance No. 6100 carried by a vote of 6-0.

11. Other Ordinances, Resolutions and Motions

- (a) Resolution No. 8512 ratifying the proposed 2012 King County Countywide Planning Policies (CPPs), updating existing policies, including appendices and map amendments.

Mr. Sarkozy opened discussion regarding the proposed 2012 King County Countywide Planning Policies (CPPs). He noted that Deputy Mayor Robertson serves on the Growth Management Planning Council (GMPC), which reviews and recommends proposed amendments to the CPPs.

Mr. Sarkozy said the policies and amendments must be ratified by 30 percent of the jurisdictions in King County representing at least 70 percent of the population. The deadline for ratification or disapproval is March 4, 2013.

Dan Stroh, Planning Director, explained that the policies provide a framework for local Comprehensive Plans and ensure countywide consistency with land use planning. This is the first major update of the CPPs since they were first adopted in 1992.

Mike Kattermann, Senior Planner, said the CPPs were originally developed to comply with the State Growth Management Act (GMA). The update incorporates current issues and priorities including affordable housing, school siting in rural areas, climate change, and healthy communities. The package proposed for ratification also includes technical map amendments that do not affect Bellevue.

Mr. Kattermann recalled that this topic was brought to the Council in May 2011 when it appeared that the process was nearing ratification. However, new subject areas were added to the update process which led to additional work.

Mr. Kattermann said staff recommends ratification of the policy amendments, which will occur if the Council takes no action. If the Council wishes to disapprove of the proposed amendments, it should take specific action to do so.

Deputy Mayor Robertson commented that the policy amendments are consistent with the City's Comprehensive Plan.

→ Deputy Mayor Robertson moved to approve Resolution No. 8512, and Councilmember Stokes seconded the motion.

Responding to Councilmember Balducci, Mr. Kattermann said the growth targets were reviewed and approved separately approximately two years ago.

Councilmember Wallace questioned whether the policies contain any unfunded mandates. Mr. Kattermann noted an earlier proposal about greenhouse gas emissions that was later removed. Deputy Mayor Robertson said she was mindful of identifying unfunded mandates, not just for Bellevue but also for smaller jurisdictions with very limited resources.

In further response to Mr. Wallace, Mr. Kattermann said the annexation area added 290 housing units for Bellevue, which was anticipated during the most recent discussion of growth targets. He referred the Council to page 11-33 of the meeting packet for the list of growth targets for 2006-2031.

→ The motion to approve Resolution No. 8512 carried by a vote of 6-0.

- (b) Resolution No. 8518 authorizing the execution of a consultant contract with LMD, in an amount not to exceed \$200,000, to provide planning, architectural analysis, and urban design services related to the Downtown Livability Initiative/Land Use Code Update.

City Manager Sarkozy requested deferring this item while staff work to ensure there are no conflicts of interest associated with hiring the consultant.

12. Unfinished Business

- (a) Continued Discussion from Study Session regarding Draft Light Rail Overlay Land Use Code Amendment (LUCA)

Mr. Sarkozy asked staff to continue the presentation and discussion from the earlier Study Session on the Light Rail Overlay Land Use Code Amendment (LUCA).

Deputy City Attorney Kate Berens recalled that staff was summarizing the height limitations for light rail facilities. She noted that the differences between the Public Hearing draft Overlay and the Leadership Group draft are relatively minor for this item. The proposal to require expansion of the transition area setback by four feet for every foot in height over the underlying district does not appear to alter or affect the East Link alignment or alternatives.

Moving on, Ms. Berens said that both the Public Hearing and Leadership Group drafts apply setbacks to traditional structures as required according to the underlying land use district. The Leadership Group draft adds requirements for transition areas including: 1) Structure setback of 30 feet from the linear alignment and, 2) Additional dimensional standard requiring a separation of 60 feet between primary residential structures and the alignment.

Ms. Berens described two options addressing the setback issue, one with private ownership of the 30-foot landscape buffer and one with Sound Transit ownership of the 30-foot landscaping. She asked the Council to provide direction on whether the 30-foot setback should be required from the edge of the light rail alignment to the property line within areas receiving transition provisions.

Deputy Mayor Robertson said she supports a 30-foot setback, owned and maintained by Sound Transit, as opposed to a buffer. She stated that this will maintain more consistent vegetation throughout the alignment. She said the landscaping buffer serves two purposes: screening for the individual homeowner and maintaining a lush, green corridor along the alignment for light rail commuters and general aesthetics.

Councilmember Balducci said it is important to be transparent about what will happen along the alignment, based on the rules, for both the transit agency and residents. Responding to Ms. Balducci, Ms. Berens provided examples of the potential impact of the setbacks and/or buffers along the alignment.

Ms. Balducci observed that there would be additional full and/or partial property takings. She recalled that the Council has talked about its preference for full instead of partial takings. She questioned what the City can legally require with regard to the setbacks and proposed 60-foot separation.

Councilmember Balducci said she does not want to slow the process down any further. However, if Light Rail Overlay requirements impact new properties, there should be a public process before Council action.

Responding to Councilmember Chelminiak, Mr. Brennan said that anything higher than 30 inches is generally considered a structure requiring compliance with setback regulations. In further response, Ms. Berens opined that, for cases in which the required setback overlaps a structure, there would be a complete property taking.

Mr. Chelminiak questioned Sound Transit's policy regarding unneeded remnants of properties resulting from the takings.

Responding to Councilmember Stokes, Ms. Berens confirmed that a buffer on private property would impinge on the use of that property. The Public Hearing draft Overlay provides the flexibility for a minimum 15-foot buffer if there is agreement between Sound Transit and the property owners. The Leadership Group draft requires a 30-foot setback.

→ Deputy Mayor Robertson moved to extend the meeting until 10:30 p.m., and Councilmember Chelminiak seconded the motion.

→ The motion carried by a vote of 6-0.

Councilmember Stokes said he is comfortable with allowing a reduced setback to 15 feet, if agreeable to the homeowner.

Deputy Mayor Robertson stated that any flexibility on the part of the homeowner should occur after light rail is built. She feels that the residential separation is an important component of making sure that the mitigation is part of the alignment and part of the Land Use Code. She said the Council received information earlier in the day about vibrations and noise, stating that 50 feet might be inadequate. She does not feel that the 60-foot separation proposal is over-reaching. She is not convinced that light rail and residential units are compatible uses.

Councilmember Chelminiak said that some residences are on major arterials with buses and large trucks, yet the same setbacks are not required. He agrees that proper separation is important. However, he is not sure whether 60 feet is the necessary distance. He observed that ownership of the buffer is not as important as the requirements for maintaining it.

Deputy Mayor Robertson questioned the direction that staff is seeking. She said she is hearing support for bringing the Leadership Group draft back next week for final discussion and action.

Councilmember Balducci recalled previous requests by certain Councilmembers for more information on condemnations and on homeowners' ability to choose their landscaping. She said she believed there were other pending questions/requests in need of responses before taking formal action. She said there are references in the Leadership Group Overlay to other codes that might apply, and she would like to understand the practical impacts before taking a vote on the Overlay.

Ms. Balducci observed that it is unclear whether the Noise Control Code applies to light rail. She said the draft Overlay applies standards that are not applied to any other form of transportation.

Ms. Berens said that other codes, including the Noise Control Code, would be applied according to how they are written.

Councilmember Stokes commented that the purpose of that language was to provide clarification.

Councilmember Balducci observed that it is misleading to the public to indicate that applicable codes, including possibly the Noise Code, apply when the Noise Code might not actually apply. She believes the Council needs to decide whether it does or does not apply to light rail.

Councilmember Wallace said the reason for including the reference in the Light Rail Overlay is to make it clear that the code applies and that there is no exemption of light rail facilities in the Noise Control Code. His intent is that it applies to the construction and operation of the light rail

facility throughout the entire line. If there is an exemption, or there is going to be an attempt at making an exemption that is not there, he believes the Council needs to amend the Noise Control Code going forward.

Mr. Wallace said what he would like to see, from a procedural standpoint, is that the Council agree to move the Leadership Group version to the baseline version to be considered the following week. If there are proposed amendments, he suggests the Council vote on them individually.

→ Councilmember Wallace moved to consider the Leadership Group draft version of the Light Rail Overlay as the baseline for continued Council discussions and anticipated action on February 25. Additional individual amendments will be considered by separate votes. Councilmember Stokes seconded the motion.

Councilmember Balducci said that voting on the Overlay requires an understanding of the current Noise Control Code. She observed that two members of the Leadership Group have indicated it might mean something different than her understanding of its applicability. Beyond that, what are the impacts? What does the Noise Code do to the permitting and operations of the light rail line? She is unsure about the practical import of the language. Ms. Balducci stated that the setback issue is important and should be clarified as well.

Councilmember Stokes concurred with looking at practical implications and said he does not believe that anyone on the Council is trying to stop light rail.

Mayor Lee concurred with the need for a baseline for final discussion on February 25.

Councilmember Wallace said that having the Noise Control Code apply does not preclude light rail. It requires the light rail facility to mitigate noise impacts in accordance with the Code, which can be achieved.

Mayor Lee asked staff to respond to any outstanding requests for information before the next week's Council meeting. He welcomed the Sound Transit Budget Director in attendance.

Responding to Councilmember Chelminiak, Mr. Brennan confirmed that the Construction Code will apply to light rail construction. Mr. Chelminiak noted specific items of concern with regard to the Noise Code including bells, crossings, and crossovers. He observed that what we are trying to get to is the sound of the train and, in particular, whether or not it screeches. He observed that the actual noise levels will not be known until the project is built.

Councilmember Balducci said she wants to understand the impacts of the Noise Control Code on the light rail project.

Responding to Councilmember Stokes, Ms. Berens confirmed that a noise consultant is working as part of the effort to identify cost savings. The consultant is reviewing all of the environmental information and the City is requesting her opinion about the mitigation that has been proposed as well as her suggestions regarding mitigation.

Deputy Mayor Robertson spoke in favor of the motion. She said it is important to have one draft to work on for next week, from which the Council can have discussions and request additional information from staff. She expressed support for the Leadership Group draft Overlay, which she believes provides better certainty for the community.

Ms. Robertson noted that Councilmember Davidson left the meeting due to illness. However, he expressed support for using the Leadership Group draft as the version to work from the following week.

Mayor Lee acknowledged that uncertainties remain. However, he believes the City is making progress through its partnership with Sound Transit.

→ The motion carried by a vote of 6-0.

Councilmember Wallace recalled previous discussion about the idea of a roadmap outlining related standards including traffic, SEPA mitigation, and others. He questioned whether a roadmap exists outlining all of these standards where they are not covered specifically in the Overlay Land Use Code Amendment.

Ms. Berens referred him to page SS 2-55 of the meeting packet, which provides a list of State Environmental Policy Act (SEPA) elements and how they are addressed through Codes and rules.

Mr. Wallace recalled that the major issues from prior discussions are standards for traffic mitigation related to light rail stations, the Noise Control Code and its applicability, and the environmental standards that Dr. Davidson appropriately continues to bring up (i.e., shorelines, critical areas, and the process for mitigation).

Councilmember Chelminiak said he would be interested in seeing how other jurisdictions handle some of these issues, in particular the setback and buffer in residential areas. He would be interested in Seattle and Eastside jurisdictions as well as cities out of state including San Jose, Denver, and Portland. He would be interested in a comparison of how they address permitting and when an agency can apply for a permit.

Councilmember Balducci thanked staff for their hard work, including over the holiday weekend. She thanked the public for their attention to the issues as well.

Mayor Lee thanked staff for an exceptional effort.

13. Continued Oral Communications: None.

14. New Business: None.

15. Executive Session

At 9:51 p.m., Mayor Lee declared recess to Executive Session for approximately 30 minutes to discuss one item of potential litigation.

16. Adjournment

The Executive Session concluded at 10:21 p.m. and the meeting was adjourned.

Myrna L. Basich, MMC
City Clerk

/kaw