

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Regular Session

March 7, 2011
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 8:02 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) T.J. Woosley, Hal Woosley Properties, spoke on behalf of Brierwood Center regarding the Wilburton Local Improvement District (LID). He encouraged Council opposition to proposed Ordinances 5993-A, 5993-B, and 5993-C. He asked the Council to reject the LID as a funding mechanism, noting that Bellevue has used general capital funding and avoided LIDs over the past 20 years. He submitted his comments in writing.
- (b) Jim Hill, Kemper Development Company, commented on the Council's 2011 State Legislative Agenda. He noted that HB 1382 regarding I-405 HOT (High-occupancy toll) lanes passed the State House on Saturday night by a margin of 52-46. A companion bill in the Senate did not make it out of committee. Mr. Hill said that Kemper Development does not believe that the bill is positioned to reduce congestion or to raise the money necessary to complete the I-405 Master Plan. He asked the Council to withdraw its support of HB 1382 or to draft a letter to the Senate Transportation Committee stating the Council's concerns as articulated in the State Legislative Agenda.
- (c) Bruce Nurse, Kemper Development Company, commented on the temporary closure of I-405 planned for the first weekend in April. He expressed concern about one aspect of the traffic detour plan, and requested permission to allow Kemper Development to present its analysis to the three-party weekly project meeting at the Department of Transportation office.

- (d) Todd Woosley said that he is a property owner within the area designated as the proposed Wilburton Connections LID. He said that the LID will impose what will eventually be a \$56 million tax on existing commercial properties. He asked the Council to consider the impacts of this tax on the local economy and future investments or redevelopment by local businesses. He asked the Council to reject the LID .
- (e) Pat Sheffels, Planning Commission member and Wilburton Subarea resident, noted that she was a member of the Bel-Red Corridor Steering Committee. She spoke on behalf of Move Bellevue Forward, which was created to advocate for sustainable growth, long-term economic vitality, and infrastructure investments that support a strong, diversified community. Ms. Sheffels urged the Council to act now to fund and design critical infrastructure needed in the future, in order to enable the City to partner effectively with other public agencies and the private sector. Move Bellevue Forward embraces the vision set forth in the Comprehensive Plan and the Bel-Red Plan, and supports the Mobility and Infrastructure Initiative financing plan. Ms. Sheffels commented on the importance of the NE 4th Street/120th Avenue NE project and of the use of LID funding to help fund the project. She spoke in favor of the formation of the Wilburton LID.
- (f) Doug Exworthy, a property owner at 699 120th Avenue NE (future location of Uwajimaya), spoke in opposition to the proposed LID formation. He expressed concern about the special benefit assigned to properties within the LID boundary. He noted that studies by his consultant and by the City's consultant indicate that the primary benefit of the transportation project is to the Bel-Red corridor and the Downtown. He commented on the negative impact to his property, including impediments to access to his property, and asked the Council to reject the proposed LID alternative ordinances.
- (g) Jim Hutchinson, Local Government Community Relations Manager for Puget Sound Energy, expressed appreciation to City representatives who attended the farewell party for Steve Reynolds, who is retiring. Kimberly Harris is the new CEO of Puget Sound Energy. Mr. Hutchinson thanked Councilmember Degginger for spending time to thank Mr. Reynolds for his work with the Cascade Water Alliance, and acknowledged Mayor Davidson's work with Cascade as well. Mr. Hutchinson expressed appreciation for Police Chief Pillo's comments regarding Mr. Reynolds' involvement with the Bellevue Police Foundation.

Councilmember Degginger stated that Mr. Reynolds has been a great community leader, and thanked him for his support of projects that have been important to the City.

- 4. Reports of Community Council, Boards and Commissions: None.
- 5. Report of the City Manager
 - (a) Management Brief on I-405 Weekend Closure

City Manager Steve Sarkozy reported on the temporary closure of I-405 related to the removal of the NE 12th Street bridge during the first weekend in April. A management brief and fact sheet are provided in the meeting packet. Mr. Sarkozy said staff would be pleased to have Kemper Development Company attend the next meeting regarding this project, as requested earlier during Oral Communications.

(b) Management Brief Providing Update on Census Process and Data

Mr. Sarkozy introduced staff to present preliminary information on the 2010 Census.

Gwen Rousseau, Associate Planner, noted the management brief in the meeting packet and reviewed highlights of the census report. Bellevue's population increased from 109,569 in 2000 to 122,363 in 2010. Minorities comprise 41 percent of the population, with Asian-Americans as 28 percent of Bellevue's population. The effects of the recession are seen in the residential vacancy rate, which went from 5.3 percent in 2000 to 9.4 percent in 2010. Most of the vacancies are in large condominium projects in the Downtown.

Ms. Rousseau said that staff will continue analyzing the data at the neighborhood level, and will return to Council to present a more in-depth analysis of neighborhood trends and comparisons in April. Additional information on 2010 population and housing characteristics will be released by the Census Bureau this summer and fall. Ms. Rousseau thanked the Council for its support of the 2010 census last spring and for raising awareness among Bellevue's diverse population about the importance of participating in the census.

Mayor Davidson noted that Deputy Mayor Lee was recognized for his efforts to promote the importance of census data collection.

Councilmember Chelminiak said that congressional redistricting is based on updates to the census information. He understands that there is also redistricting underway at the County level, which is something upon which Bellevue might want to provide comment.

Deputy Mayor Lee thanked Bellevue staff for being proactive in encouraging census participation. Responding to Mr. Lee, Ms. Rousseau said that the information to be released later in the year relates to specific population and housing characteristics.

Mr. Lee said that some Councilmembers have been approached about the services, challenges, and opportunities reflected in the census data. He encouraged staff to be mindful of these in the planning and delivery of services.

Councilmember Robertson asked that, when Council is presented with more detailed information later in the year, staff compare actual population and housing growth with adopted growth targets.

(c) Small Business Development Program

City Manager Sarkozy introduced a briefing on the regional Small Business Development Program. He noted media coverage of the Seattle School District's relationship with the program, which has mentioned the City of Bellevue in one article.

Bob Derrick, Director of Economic Development, described the City's involvement with the Small Business Development Program, which was designed to train small businesses in how to operate their businesses more effectively. He reviewed a chronology of the City's involvement with the program, which is provided in Council's desk packet as well.

Bellevue was introduced to the Seattle School District program in 2006 or 2007, and signed a membership agreement in April 2010 at a funding level significantly lower than other participant agencies. The program leased classroom space in the City-owned Lincoln Center building. The group paid one month's rent and defaulted on the balance of the lease, which was followed by the disappearance of Silar Potter, the manager of the program.

Responding to Councilmember Chelminiak, Mr. Derrick said Mr. Potter disappeared in approximately July or August 2010.

Mr. Derrick reviewed the actions taken when fraud was suspected including reporting the matter in August to the Bellevue Police Department, King County Prosecutor, Bellevue's Finance Department, and the State Auditor. Last fall, both the King County Prosecutor and State Auditor did not think this was a fraud matter. However, Mr. Derrick received a call from a different audit team later in the fall, which was investigating the Seattle School District. In February 2011, the City filed a claim with Seattle School District for losses, and the State Auditor released its report and findings. The King County prosecutor is now investigating the matter. Bellevue's losses include the \$25,000 membership fee, the brokers commission on the five-year lease, and lost rent.

Responding to Deputy Mayor Lee, Mr. Derrick said the City's losses total approximately \$76,049, which includes the membership fee of \$25,000, the excess brokerage commission of \$15,000, and lost rent of \$36,600.

Councilmember Chelminiak questioned the potential for the recovery of some or all of the losses. Mr. Derrick said the audit report mentions other organizations that lost money to the program. The program's architect and another vendor have been paid by Seattle School District, which is some indication that the City could be repaid for its losses.

Jerome Roaché, Assistant City Attorney, suggested that an appropriate topic for a City Council Executive Session is the chance of recovery and the consideration of any further actions.

Councilmember Chelminiak said he learned about this problem from The Seattle Times. However, City staff was aware of the issue much earlier. He believes that the City Council should have been notified of the situation at that time. He commented that if this matter was addressed by the City's auditor this year in exit interviews, the Council should have heard about the \$75,000 loss.

Mayor Davidson said he sat in on the exit interview with the auditor, but he believes that the conversation between the auditor and Mr. Derrick occurred after the exit interview. Mr. Derrick said the conversation occurred during the same meeting; however, a number of participants had left.

City Manager Sarkozy explained that the Finance team and Mr. Derrick continued the meeting with the auditor and described the situation. At the time, the matter was still under review. He reminded the Council that the City has a history of clean audits. Although the City's losses are relatively low in this matter, staff is troubled by the situation. The program was presented to the City as having the support of a number of public agencies, and the City relied to a great degree on the reputation and good works recommended by the other agencies.

Councilmember Degginger questioned who signed the lease as lessee, and what is the City's recourse with the Seattle School District. Who was the tenant – the District?

Mr. Roaché explained that the lessee was the Regional Small Business Development Program. At the time, Silas Potter was an employee of Seattle School District and also the head of the program. Mr. Potter signed the lease on behalf of the program. At the time of the lease, the City had no reason to believe that he was not a Seattle School District employee and agent for the District. The City subsequently learned that Mr. Potter had taken the program and registered it as a nonprofit corporation.

Councilmember Degginger questioned why the City would pay the program in advance for work of this kind instead of the program being invoiced as the work was performed. He further asked how the City can be sure that it does not do this again. Mr. Derrick said the membership incorporated the City paying the program to set up the classroom, so part of the payment was going toward that component. The membership fee was to get the program up and running on the Eastside, and to cover some of their costs for the continuing program in Seattle and Tacoma, as the other partners were doing as well. Subsequent payments in the fall would have paid for services as they were provided.

Councilmember Balducci questioned what research and due diligence was performed regarding the program before the City's involvement. She asked how the City monitors programs to ensure that services are provided. She noted that arts and human services agencies are carefully scrutinized before City funds are provided to them. She wants to apply the same level of rigor to the economic development program.

In terms of due diligence on this program, Mr. Derrick said staff had been talking with the program for a number of years and reviewing their quarterly and annual reports. This included looking at indicators of the training provided to businesses, where the businesses were ending up with government contracts, and data from other partner agencies. Mr. Derrick said that, following Ms. Balducci's comments the previous week, he met with Mary Pat Byrne, the City's Arts Specialist, to discuss the grant process for arts organizations. He agreed that it is a thorough process, and he wishes that the Economic Development program had utilized a similar model.

Deputy Mayor Lee reiterated Mr. Chelminiak's comment that the Council should have been apprised of the potential problems early in the matter. He noted that this is a rare occurrence for the City.

Councilmember Wallace commented that he attended a meeting with Mr. Derrick and Silas Potter at the Seattle School District headquarters to learn about the program. Two or three others were in the meeting. The program appeared to be a viable concern with a noble purpose. Mr. Wallace said this is an unfortunate circumstance.

Mayor Davidson concurred with comments that lessons have been learned, and the City will hopefully be a little more aware going forward. He noted that a number of business and community leaders endorsed the program. Mayor Davidson summarized that the City had good reason to become involved in the program, and that it reported the situation to a number of authorities once it appeared that things were not right.

Mr. Derrick clarified that Mr. Potter was running two programs, as was reported in newspaper articles. Bellevue's role was relatively minor compared to the overall situation and other parties who were involved.

6. Council Business and New Initiatives

- Councilmember Chelminiak moved to allow Deputy Mayor Lee to participate in next week's meeting via speakerphone, as he will be unable to attend in person. Councilmember Wallace seconded the motion.
- The motion carried by a vote of 7-0.

Councilmember Chelminiak asked that the consideration of Consent Calendar item 8(e) be moved to the end of the agenda.

Councilmember Chelminiak reported that he attended a meeting of the Economic Development District. He noted a discussion about state legislation that would allow military personnel who have been trained in operating large, heavy vehicles and equipment to be able to add that qualification to their state drivers license.

Councilmember Robertson attended meetings of the Library Board, Parks and Community Services Board, and the I-90/Eastgate Citizen Advisory Committee. She visited the light rail system during a recent trip to San Diego, where she spoke with the chief operating officer. She found it interesting to discuss the cost differential between the tunnel built by that system and cost estimates for the Bellevue Downtown Tunnel. Ms. Robertson noted that she wrote an article on environmental stewardship for the most recent issue of *It's Your City*.

Deputy Mayor Lee attended an event at the Bellevue Arts Museum, and spoke with organizers of the Wintergrass festival. He is going to the National League of Cities conference in Washington, D.C. next week.

Councilmember Balducci reported on a meeting of the Sound Transit Board, which received the annual report from the Citizens Oversight Panel. She noted that she had a different view of the report than that expressed to the Council by Will Knedlik the previous week. The report identifies its top concern as not having a stable funding source for Bellevue's Downtown Tunnel. The group was pleased with the negotiation of the term sheet between the City and Sound Transit as a step forward.

Ms. Balducci expressed an interest in the information mentioned by Ms. Robertson about the tunnel in the San Diego light rail system. Ms. Balducci reported that, during the Sound Transit Board capital committee meeting on February 11, the group voted to fund the track bridge design. This is the design of the prototype joint that will connect the floating portion of the I-90 bridge to the land part of the bridge.

Councilmember Wallace said he would like an analysis from staff for next week's meeting about how the legislation on I-405 HOT lanes aligns with the Council's position in its State Legislative Agenda.

Mr. Wallace recalled that there was a discussion on February 14, when he was absent, about the ARUP study of the B7 light rail alignment. He viewed the meeting and submitted some questions and concerns to staff regarding what appeared to be a conclusion that two hotels needed to be demolished. He questioned whether there were ways to avoid taking out the hotels, and whether the Main Street station could be moved to the Wilburton Park and Ride. Staff's response was that this issue is not in the consultant's scope of work. He would like a discussion about all of the realistic angles that need to be reviewed.

Mayor Davidson requested a response from staff related to this issue.

Councilmember Degginger commented that there was a great deal of work in setting up the ARUP study's scope of work, as well as clear Council direction that the scope of work would not be changed arbitrarily as the study moved forward. He is concerned about asking the consultant to change what they have been asked to do, because that is not what was agreed to when the Council chose to spend the money on the study.

Mayor Davidson suggested asking the Transportation Director to review the issue. If it is not within the scope of work, he suggested that staff obtain an estimate of what it would cost to add it to the study.

Goran Sparrman, Transportation Director, said he will have staff review the suggestion and determine what they imply with regard to the scope of work. He knows that ARUP will ask for additional resources to conduct the analysis, and staff will request a cost estimate.

Councilmember Robertson said she is confused about why Councilmember Wallace's questions fall outside the scope of work. Her understanding was that the City is paying the consultants to use their best brain power to find the best alignment with the lowest cost and good ridership. She wants ARUP to have the flexibility to determine the optimal project design.

Mr. Sparrman explained that the Council provided a defined alignment to staff, which staff translated into a scope of work and a contract with the consultant. The alignment was defined fairly specifically. However, it left some room to determine the best alignment within the BNSF right-of-way.

Mr. Sparrman said that asking ARUP to consider another station location goes beyond the original scope of work, and requires designing the station and conducting a new ridership analysis for that alternative. That is a fairly extensive work item that will have additional costs. Mr. Sparrman said he does not feel comfortable authorizing that additional work without Council direction.

With regard to the hotels, Councilmember Robertson asked whether, if the alignment could be done on the margin of a piece of property rather than running through the property, ARUP does not have the flexibility to provide a design that will avoid a total take of the property.

Mr. Sparrman said that is not what he is saying. Using that example, for the alignment coming underneath Main Street, which ARUP was directed to study, and through the Sheraton Hotel site, ARUP has the flexibility to optimally place the alignment on that piece of property. That analysis is part of the current scope of work.

Mayor Davidson referred to page 8a-7 of the meeting packet [Page 3 of the February 14, 2011 Extended Study Session minutes], and noted a statement that “City staff asked ARUP to identify any opportunities for optimizing the alignment. Mayor Davidson said he appreciated ARUP’s expertise in this regard.” Dr. Davidson observed that the issue now is whether asking ARUP to analyze a new station location falls outside of optimizing the alignment. He would like a written report from staff, including a cost estimate from ARUP.

Responding to Councilmember Degginger, Mr. Sparrman said staff expects to start receiving draft technical reports from ARUP soon. The reports will be reviewed and finalized, and ARUP is scheduled to come back to the Council in late April to present their findings.

Councilmember Degginger observed that it seems premature to change the scope of work without knowing the ultimate cost of the current scope of work. Mr. Sparrman cautioned that, while it is good to consider many alternatives, ARUP is working hard to meet the already aggressive schedule. He is hesitant to derail them from that effort by adding more work right now. It would make sense to let them finish this first phase of work before adding anything new.

Deputy Mayor Lee said he is disturbed by the conversation. He recalled that he previously questioned the consultant’s flexibility to look for the optimal alignment and project. He felt that both the consultant and City staff reassured him there was flexibility within the study. He does not want to rule out any alternative or option at this point.

Councilmember Degginger suggested that, when staff sends a memo about the cost of additional work, staff also distribute copies of the scope of work document.

Councilmember Wallace said he agrees with Mr. Lee that the intent of the scope of work was to maintain flexibility in looking at the rail corridor route and in trying to optimize costs and benefits. He understood that ARUP would have leeway to diverge from the detailed scope of work and the bullet points articulated in the beginning.

Mr. Wallace referred again to the same page of meeting minutes, noting a statement that: “Alternative locations also studied were SE 34th Street and the potential for splitting into two Park and Rides (A2 and 118th Avenue SE), but these were found to not be feasible.” So within the scope of work, it was appropriate for ARUP to look at splitting into two stations for Segment B. However, it is now not appropriate to take a look at moving the East Main station down to the Wilburton Park and Ride and taking a look at how that might impact costs. The idea is to eliminate a complete taking of the Red Lion and Sheraton hotels, which he assumes would drive up costs. An example of something that was studied was a request to take a look at how the alignment would cross over to the Eastgate Park and Ride from the B7 route, which is clearly not in the scope of work. However, staff has agreed to go forward and study that. He would like ARUP to be able to look at ways to achieve lower costs and better ridership.

In an attempt to clarify the scope of work, Mr. Sparrman explained that the analysis of the concept of splitting the Park and Ride lot was done at a very high level, essentially an hour or so discussion which led to the conclusion that the costs would be significantly greater with no performance improvement. In contrast, an analysis of moving the East Main station is a different type of analysis.

Mr. Sparrman added that City staff have asked ARUP to identify items outside the scope of work that ARUP believes have merit to evaluate. This does not mean that they are allowed to do the work and spend the money. However, ARUP is asked to flag issues that staff can bring to the attention of the Council for discussion. To date, ARUP has made no such recommendation.

Councilmember Chelminiak said he found Mr. Wallace’s email to be more instructive to staff, rather than asking them to possibly look at things. That was troubling because it was the full Council that is supposed to work on these issues. Mr. Chelminiak said he suggested one thing on February 14 for ARUP to look at, yet Mr. Wallace’s email told staff essentially how to answer Mr. Chelminiak’s question. Mr. Chelminiak said that if his request is outside of the scope of work, he accepts that but would like staff to look at the issue. However, he did not want staff to be the one on the line for the answer to that question; he wanted ARUP to address that question because they are the consultant.

Councilmember Chelminiak observed that open Council meetings is the appropriate place to raise issues, rather than emails to staff directing them to conduct certain work.

Councilmember Wallace noted that meeting rules prevent him from sending the email to the entire Council, and therefore he is bringing it up now. He suggested that Mr. Chelminiak was mischaracterizing what he said, which was to identify that Sound Transit has produced a document about how to get over to the Eastgate Park and Ride. Councilmember Chelminiak said the document does not address his question.

Noting the time, Councilmember Degginger waived his report.

Mayor Davidson reported that he attended a celebration of the first electric vehicle charge station in a residential neighborhood. He said this is the first charge station in the state supported by the Electric Vehicle (EV) federally funded project. Dr. Davidson noted that he too will waive the remainder of his report.

7. Approval of the Agenda

→ Deputy Mayor Lee moved to approve the agenda, amended to move Item 8(e) to the end of the agenda. Councilmember Robertson seconded the motion.

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

8. Consent Calendar

→ Deputy Mayor Lee moved to approve the Consent Calendar, with the exception of Agenda Item 8(e), to be taken up at the end of the meeting. Councilmember Robertson 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 January 4, 2011 Special Meeting
Minutes of February 14, 2011 Extended Study Session
Minutes of February 22, 2011 Study Session
Minutes of February 22, 2011 Regular Session
- (b) Resolution No. 8202 authorizing execution of a Professional Services Agreement with Murray and Associates, in an amount not to exceed \$150,000, to provide independent appraisal services and real property value analysis relating to Sound Transit's East Link project.
- (c) Resolution No. 8203 authorizing execution of a Professional Services Agreement with Exponent, Inc., in an amount not to exceed \$270,000, to perform a study of the City's electrical reliability and adequacy.
- (d) Resolution No. 8204 authorizing submittal of a grant application requesting up to \$100,000 from the State of Washington's Boating Facilities Program to help offset costs to study options and develop plans to accommodate transient moorage at the Meydenbauer Marina.

9. Public Hearings: None.

10. Land Use: None.

11. Other Ordinances, Resolutions and Motions

(a) Agreement with Bellevue School District regarding use of Cherry Crest Park

Ordinance No. 5992 authorizing execution of the: 1) Agreement for Construction and Joint Use of District Improvements; 2) Right of Entry and Temporary Use Agreement; 3) Sub-surface Easement for a geothermal heating system; 4) Surface Easement for a parking area; 5) Amendment to the Joint Use Agreement to memorialize historical maintenance and use of the properties; 6) Amendment of the 2011-2012 General Capital Investment Program (CIP) to increase the appropriation by \$593,000; and, 7) Amendment of the 2011-2017 CIP Plan to increase the budget for the Parks & Open Space Acquisition – 2008 Parks Levy project (CIP Plan N. P-AD-82) by \$593,000.

Mayor Davidson noted that this item has been discussed with the Council on previous occasions.

Mr. Sarkozy said that Ordinance No. 5992 authorizes an agreement with the Bellevue School District to allow the District to use a portion of Cherry Crest Park for the redevelopment of Cherry Crest School. Staff recommends approval of the Ordinance.

Glenn Kost, Parks Planning Manager, explained that the only significant change from previous discussions is the dollar amount of the agreement.

Mayor Davidson noted that the Ordinance contains several agreements.

Responding to Councilmember Robertson, City Clerk Myrna Basich explained that the underlined blanks in the Ordinance will be filled in with the Clerk's Receiving Numbers of the appropriate documents after they are submitted to the City Clerk's Office.

→ Councilmember Robertson moved to adopt Ordinance No. 5992, and Councilmember Chelminiak seconded the motion.

→ The motion carried by a vote of 7-0.

(b) Wilburton Connections

(1) Mobility and Infrastructure Initiative (MII) Context and Use of Local Improvement Districts (LIDs) as a Funding Source

Councilmember Degginger recused himself from participation in the Wilburton LID discussion. He noted that his firm represents one of the property owners in the proposed LID.

City Manager Sarkozy explained that the first component of the Wilburton Connections agenda item is a general policy discussion about the Mobility and Infrastructure Initiative. The LID will be addressed following that discussion. He believes it would be appropriate for Mr. Degginger to participate in this segment.

Lori Riordan, City Attorney, agreed that Councilmember Degginger need not recuse himself for this portion of the presentation.

Finance Director Jan Hawn referred the Council to packet materials beginning on page 11-11 about the Mobility and Infrastructure Initiative and the use of the Local Improvement District (LID) mechanism to fund high-priority capital projects. She recalled that the Council endorsed the MII financing plan in January 2009, which addressed current and future demands generated by growth in the Downtown, Wilburton, and Bel-Red Subareas. The estimated cost of those high-priority projects totaled \$299 million [Projects are listed in Table 1, Page 11-11]. The finance plan endorsed by the Council outlined a 10-year strategy to fund those investments [Table 2, MII Revenue Package, Page 11-12]. An underlying philosophy of the MII finance plan was that those who benefit from the improvements should help pay for them.

Ms. Hawn said the materials are provided as background information for the next discussion about the proposed Wilburton Connections LID.

(2) Alternative Wilburton Connections LID Ordinances

Councilmember Degginger recused himself from participating in the LID discussion and left the Council Chamber.

Mr. Sarkozy referred the Council to page 11-15 for packet materials regarding the proposed Ordinance to form the Wilburton Connections Local Improvement District (LID), and to order the construction of the NE 4th Street Extension and the 120th Avenue NE Improvements (Stage 1 – NE 4th Street to NE 8th Street).

Mr. Sparrman recalled that there have been a number of presentations and discussions with the Council on this item. He reviewed the process to date and said that the issue before the Council tonight is whether to establish the Wilburton Connections LID. If the Ordinance is adopted, there is a defined protest period. LID assessments are not implemented until the road project is completed and the final assessment roll is established. A new special benefit analysis will be conducted at that time to determine assessment levels. Mr. Sparrman reminded the Council that the final assessment level cannot be higher than what is established in the formation Ordinance. However, there is always the option to lower the percentage, even down to zero.

Mayor Davidson asked legal staff to comment on when this issue becomes quasi-judicial.

Monica Buck, Assistant City Attorney, said it typically becomes quasi-judicial at the time of the final assessment roll.

Responding to Councilmember Chelminiak, Mr. Sparrman said the anticipated timeframe of the final assessment roll is 2014/2015, after the project is completed.

Councilmember Wallace said that Best Buy's attorney submitted a letter discussing the proposed design work that has been underway, trying to look at options to reduce the impacts to Best Buy.

He observed that Ordinance No. 5993 contains a fairly detailed description of the project. He questioned whether the Ordinance will preclude staff's ability to adjust the alignment of NE 4th Street to reflect recent discussions with Best Buy.

Mr. Sparrman said the Ordinance will preserve full design and construction flexibility for the Council. It will not preclude the search for an optimal project that is acceptable to stakeholders as much as possible.

Mr. Wallace referred to the Ordinance version 5993-A, Section 8 [Page 11-30 of the meeting packet], and questioned whether the 75-percent assessment level should be specified. Ms. Buck said Section 3 notes the 75 percent. Section 8 refers to the standard set in state law that prohibits a municipality from charging more than the increased fair market value. She confirmed that the Ordinance could be amended tonight to state the 75 percent in Section 8 as well.

Councilmember Balducci noted public comment this evening that the City's own studies show that the benefit of this project occurs primarily for the Downtown and Bel-Red corridor. She questioned how it was determined that the special benefit area should include the properties adjacent to the road project, but not other properties in the Downtown or Bel-Red corridor.

→ Deputy Mayor Lee moved to extend the meeting until 11:00 p.m., and Councilmember Balducci seconded.

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

Responding to Councilmember Balducci, Mr. Sparrman said that the general benefit to the Downtown and Bel-Red corridor is funded from the general Capital Investment Program (CIP). The special benefit analysis identified the benefit for each individual property, and this benefit decreases the farther you move away from the road projects. This is how the special benefit boundary was established.

Councilmember Wallace noted that Wallace Properties manages the Park 120 building, which is within the LID boundary. The City Attorney has determined that there is no conflict of interest at this stage. However, he might have to recuse himself when the Council gets to the quasi-judicial phase of the process.

Mr. Wallace said that, in reading through the Hearing Examiner's report, it appears that property owners are not happy with the idea of an LID. They also make compelling points about the application of special benefit to their individual properties, in terms of the special benefit definition in the Macaulay study. The property owners comment on traffic flow and the value assigned to the properties from decreased congestion, and there appear to be conflicting reports on traffic congestion. There are also concerns about negative impacts to accessing certain properties.

Mr. Wallace said a second issue is the upzone potential, which the appraiser used to increase the value of certain properties. He said he is looking for an understanding of the process. His understanding is that the proposed Ordinance moves from the general to the specific, and that

there will be a future study to look at each property. He observed that the Macaulay study did not really do that. However, a later study will look more closely at individual properties.

Mr. Sparrman clarified that the Macaulay study conducted a specific analysis for each property. He confirmed, however, that another analysis will be completed upon project completion in 2014/2015. The study looked at the market value of the properties without the road project, and the value of the properties after the project.

Councilmember Wallace said he is looking for addressing the concerns raised by property owners. He questioned whether it is reasonable to create a special benefit of \$1 for a property, and to charge them 50 cents. He questioned whether property owners have the option to bring their own appraiser to the final assessment hearing to dispute the special benefit

Mr. Sparrman said they will have the opportunity to do everything they had the opportunity to do over the past six months. The Council will not be relying on the Macaulay work in 2014/2015. A new analysis will be conducted, which will provide guidance for the Council regarding the true special benefits. All property owners will have the ability to disagree and to show expert testimony about the accuracy of the assessment.

Councilmember Robertson said that the Hearing Examiner's recommendation was that more work should be done to address the issues raised by some businesses and property owners during the public hearing. He then came back with a supplemental recommendation. In reading the transcripts, Ms. Robertson said it seems that many of the property owners felt as if their concerns were not listened to and that the public outreach was a failure. Recognizing this, the Hearing Examiner recommended that more work be done.

Ms. Robertson said she knows that staff is working with Home Depot and some property owners. She thought that City staff was working with other property owners as well. However, a communication from Bartell Drug Store states that they have not been contacted by City staff to work on the design issues. She is concerned about this because Bellevue has high standards about working with property owners and engaging in public outreach. She knows that the City has been working with Best Buy, and she questioned whether staff is working with other property owners.

Mr. Sparrman concurred that how the City works with affected stakeholders and property owners is always important, independent of this LID issue. Staff prides itself on working with the community on projects to optimize project design and performance. Mr. Sparrman said this project has had an extensive outreach process, and staff has been in contact with many property owners. He is surprised by some of the feedback to Councilmembers because the City has been working with property owners and businesses. The City will continue to work with anyone affected by this project.

Councilmember Robertson asked staff to contact Bartell Drug Store this week, and noted their letter of December 6. Mr. Sparrman clarified that staff has been in contact with Bartell since that letter. Staff will follow up with them to ensure that they understand the impacts to their property.

- Councilmember Wallace moved to adopt Ordinance No. 5993-B, and Councilmember Chelminiak seconded the motion.

Ordinance No. 5993-B of the City Council of the City of Bellevue, Washington, ordering the construction of an extension to NE 4th Street between 116th and 120th Avenues NE and the construction of improvements to 120th Avenue NE between the NE 4th Street Extension and NE 8th Street, within the City, all in accordance with Resolution of Intent No. 8141; establishing the Wilburton Connections Local Improvement District (LID No. 300) and ordering the carrying out of the proposed improvements; describing the method of assessment; providing for payment of part of the costs of the improvements be made by special assessment upon the property in the district; and providing for the issuance and sale of local improvement district warrants or other short-term obligations redeemable in cash and local improvement district bonds; providing for severability; and establishing an effective date.

- Councilmember Wallace moved to amend the last sentence of Section 8 of the Ordinance as follows: “Actual assessments may vary from the assessment estimates so long as they don’t exceed a figure equal to 50% of the increased true and fair value the improvement adds to the property.” Councilmember Chelminiak seconded the amendment.

- The motion to amend Section 8 of Ordinance 5993-B carried by a vote of 6-0.

- Deputy Mayor Lee moved the following amendments:

- “Reduce the project costs with the goal of not needing to raise taxes through the LID, if possible.”
- “Not implementing Phase 2 of the LID if Phase 1 proves infeasible for legal reasons or not justified from benefit analysis.”
- “Assessing properties sold for redevelopment differently from properties not sold for redevelopment, which is, assess properties with different methodology.”
- “Holding up assessments three years after the projects are completed, or until benefit analysis can prove actual benefits.”
- “Setting aside bond money to refund assessments if benefits are not realized.”

Mayor Davidson noted that the motion fails for lack of a second.

Mayor Davidson called for a vote on the amended Ordinance No. 5993-B.

Councilmember Wallace stated that this is a difficult decision. He noted that everyone agrees that the transportation project is an important, and expensive, one. He has determined that, if there is a special benefit for the properties, the 50-percent special benefit ratio is a reasonable compromise. He is concerned about whether each of the properties actually has a special benefit. He is concerned about the current special benefit analysis and its method for assigning a special benefit, for example based on rezone potential. He will support the motion, with a presumption on his part that the City will do all it can to ensure the accuracy of the final special benefit analysis.

Councilmember Robertson stated that all of Deputy Mayor Lee's suggested amendments are good principles. However, she felt they did not belong in the Ordinance. She noted her ongoing concerns about the LID. The LID boundary and special benefit to properties are questionable for her. She feels that testimony before the Hearing Examiner showed the Macaulay study to be flawed. She is concerned that the special benefit analysis is based in part on speculation, which does not comply with state law. She will support the motion, however, to move forward with the project, knowing that final assessments will be determined upon project completion.

Deputy Mayor Lee said he cannot support motion. He cited concerns about the current economy and about issues raised throughout this process, and he is opposed to any new tax.

Councilmember Chelminiak recalled that the Mobility and Infrastructure Initiative finance plan specified the LID mechanism as a way to share the cost of new infrastructure. The special benefit study provides good information, and concerns have been raised by property owners. He reiterated that the assessments will not take effect until 2014 or 2015, and the Council will have the opportunity to set the special benefit ratio at zero if desired. Mr. Chelminiak thanked property owners and businesses for their involvement in the process. He noted that the LID will not go into effect without the required vote of support by property owners.

Mr. Chelminiak thanked Councilmember Wallace for setting a meeting with the City Manager this week and inviting Mr. Chelminiak to attend. He feels this helped to develop a concept for going forward.

Councilmember Balducci recalled that the MII plan was focused on identifying the most important road projects in order for the City to maintain economic viability and mobility. The financing plan reflects a combination of general taxes, impact fees, LID assessments, and an aggressive grant strategy. Staff continues to review the transportation projects for cost savings. She recalled public testimony by a former member of the Transportation Commission, who commented on the philosophy of using LIDs.

Ms. Balducci believes that there is sufficient difference between the benefit to a property owner versus the impact created on the transportation system by development. These are two different mechanisms, and she believes it is appropriate to use both. She is concerned about comments from property owners and businesses that the road projects will harm access to properties, and she urged staff to work closely with property owners to avoid such impacts to the extent possible. Ms. Balducci said that the LID assessment is not a tax, but a shared benefit revenue. She noted that 68 percent of the project's funding is from the general CIP Plan. She will support the motion.

→ The motion to adopt Ordinance No. 5993-B, as amended, carried by a vote of 5-1, with Deputy Mayor Lee opposed, and Councilmember Degginger recused.

(c) Consent Calendar Agenda Item 8(e)

Resolution No. 8205 authorizing execution of a grant agreement with the Transportation Improvement Board, in the amount of \$3,000, for the acceptance of a Washington State fuel tax funded Urban Arterial Program grant in support of the construction phase for 120th Avenue NE - Stage 2, from NE 8th to NE 12th Streets (CIP Plan No. PW-R-164).

- Councilmember Chelminiak moved to approve Resolution No. 8205, and Councilmember Robertson seconded the motion.
- Councilmember Chelminiak moved to amend Resolution No. 8205 to change instances of \$3,000 in the text to \$3,000,000. Ms. Robertson seconded the motion.
- The motion to amend carried by a vote of 6-0.
- The motion to approve Resolution No. 8205, as amended, carried by a vote of 6-0.

12. Unfinished Business: None.

13. Continued Oral Communications: None.

14. New Business: None.

15. Executive Session

- Councilmember Robertson moved to extend the meeting until 11:15 p.m., and Deputy Mayor Lee seconded the motion.

- The motion to extend the meeting carried by a vote of 6-0.

At 10:35 p.m., Mayor Davidson declared recess to Executive Session for approximately 45 minutes to discuss one item of potential litigation.

16. Adjournment

The Executive Session concluded at 11:13 p.m., and the meeting was adjourned.

Myrna L. Basich, MMC
City Clerk

/kaw