

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Regular Session

March 15, 2010
8:00 p.m.

Council Chamber
Bellevue, Washington

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

ABSENT: Deputy Mayor Lee

1. Call to Order

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

2. Roll Call, Flag Salute

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

3. Communications: Written and Oral

- (a) Bill Gang spoke on behalf of the Enatai Neighborhood Association regarding the proposed Clearwire tower on SE 108th. He noted approximately 80 Enatai residents in the audience. Mr. Gang expressed concern regarding the City's process and the impacts to the neighborhood and Bellevue in general. He said the meeting with City staff and the applicant did not provide the opportunity for Enatai residents to express their concerns. He submitted his comments in writing.
- (b) Janie Nurse, an Enatai resident, noted that residents submitted a notebook to the Council addressing concerns regarding WiMax technology and the Clearwire proposal. She commented on concerns related to neighborhood compatibility and safety, especially with regard to health effects on children. Enatai Elementary School is across the street from the proposed tower site. She submitted her comments in writing.
- (c) Chris Haubeil, an Enatai resident and a licensed professional electrical engineer, spoke about the relatively new WiMax technology that is being proposed in Enatai. He

described the negative effects associated with the technology, and noted that when Bellevue's regulations were adopted, this high density antenna was not considered. He asked the City to review and study current regulations in order to develop a specific WiMax strategy.

- (d) Christie Hammond, Surrey Downs East Link Committee, asked the City to conduct an independent study of light rail Segment B alignments and an "apples to apples" comparison of the alternatives. She expressed concern regarding the potential for an elevated section at 112th Avenue SE and Main Street. She expressed support for the overall vision and thanked the Council for looking at innovative ideas.
- (e) Tim Hunt, Bellevue Chamber of Commerce, reaffirmed the Chamber's support for the B7 alignment and expressed opposition to any at-grade alternative for Segment C through the Downtown. He encouraged the City to hire a consultant to study the issues raised by Councilmember Wallace during the earlier Study Session.
- (f) Dan Rand commented on the Wilburton connections and road improvements planned for 120th Avenue NE, NE 4th Street, and NE 6th Street. He asked the Council to direct staff to make sure the bottleneck at 120th Avenue NE and NE 8th Street is corrected. He asked that 120th Avenue be straightened out at NE 8th Street before any action is taken to extend NE 4th Street from 116th Avenue NE to 120th Avenue NE.
- (g) Susan Ilvanakis expressed support for the B7 light rail alternative. She thanked the Council for its decision last week to send a letter of support for the B7 alignment to Sound Transit. She asked the Council to direct staff and a consultant to conduct an independent analysis of the alignment.
- (h) Gary Ritner expressed concern regarding the B7 alternative and the noise impacts to 171 families in the Brookshire Condominiums and its neighbors along 118th Avenue SE. He noted that these citizens have already lost property due to the widening of I-405. He reported that neighbors have expressed disappointment that Councilmember Robertson indicated she would visit the condominium communities and walk the property to consider the impacts, but she has not yet done so. He asked how he could obtain the names of the members of the CEO Advisory Committee. Staff encouraged him to contact the City Manager's Office for this information.
- (i) Hussein Akram, a Bellevue developer and landowner, commented on the recent lending challenges for condominiums. He observed that elements of the City's PUD (Planned Unit Development) regulations are antiquated and do not allow innovative solutions to housing needs. He said it is currently impossible to qualify for a zero lot line home and deliver a slab-on-grade townhome for infill, high-density city sites. He noted that his Wilburton Gateway project cannot qualify as zero lot line homes. They are therefore classified as condominiums, which makes financing more difficult for both developers and buyers. He briefly reviewed the layout of the project.

- (j) Jenny Quinn expressed opposition to the opening of the West Coast Armory shooting range on SE 32nd Street. She feels this creates a harmful environment for children. She reported that when she and her husband visited the business, there were two rooms of guns and weapons for sale. She thanked City staff for addressing this aspect of the use. However, she is not convinced that weapons are not still being sold there. She described an incident in which a man carrying a gun in a case over his shoulder passed her and her daughter, which was disturbing for both of them. Her daughter attends a dance studio near the business. Ms. Quinn said that the presence of this business makes her less inclined to visit other businesses in the Factoria area.
- (k) Allen Quinn expressed concern that there was no opportunity for public comment before the West Coast Armory was opened, because that type of permit does not require the public comment process. He asked the Council to review the types of uses allowed in light industrial zoning, and to study the appropriateness of classifying such a business as a recreational activity.
- (l) Kevin Maki, Manager of Development for Clearwire, commented that Clearwire strives to work with communities and the City on its siting criteria to identify the lowest impact sites to provide coverage for new and existing customers. He said Clearwire follows all FCC and City regulations, and will continue to work with the City and residents to mitigate concerns.
- (m) Melinda Cockram spoke in favor of a light rail tunnel, acknowledging that full funding is not yet available. She encouraged looking at the current transportation system and how it works, and then looking to the future and how it might be able to function and to be improved. She spoke in favor of a light rail station that connects with the existing Bellevue Transit Center, as well as a circulator bus through the Downtown. She feels that Bellevue Way and the South Bellevue Park and Ride facility should be left alone. She suggested continuing light rail on the freeway and building a new light rail Park and Ride station at Factoria.

Mayor Davidson questioned whether the placement of the proposed Clearwire tower is a conditional use.

City Attorney Lori Riordan said it depends on the particular facility and where it is going. Some are administrative conditional use permits, and other are conditional use permits.

City Manager Steve Sarkozy asked staff to provide a brief report on the project, and noted that staff will work with residents to address concerns.

Carol Helland, Land Use Director, noted that she spoke with Stephanie Ferguson, President of the Enatai Homeowners Association, over the weekend to discuss residents' concerns. A public meeting was held on March 11 to initiate the public process. Clearwire's proposal is a Process II application for an administrative conditional use. One of their alternatives would be a full conditional use due to the height of the pole. The decision on an administrative conditional use is made by the director and can be appealed to the City's Hearing Examiner.

Councilmember Degginger requested information about the WiMax technology and how it differs from other wireless technology and equipment. Ms. Helland stated that the two technologies appear to be similar. However, staff will check and verify whether the WiMax technology functions differently and has different impacts.

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

5. Report of the City Manager

(a) Certificate of Achievement for Excellence in Financial Reporting

City Manager Steve Sarkozy noted that the City recently received a Certificate of Achievement for Excellence in Financial Reporting.

Finance Director Jan Hawn reported that the award was received from the Government Finance Officers Association (GFOA). This is the 27th consecutive year that Bellevue has been recognized with this award, which is the highest form of recognition in governmental accounting and financial reporting. She commended Accounting Manager Diane Ijiomah and all of her accounting staff for the achievement of this award.

Mayor Davidson thanked staff for their hard work and superior performance.

(b) Chief Information Officer/IT Director Recognized as one of the Nation's Best

Mr. Sarkozy announced that Toni Cramer, Chief Information Officer, has been recognized for her visionary leadership in the public sector. She was selected as part of a group of 25 CIO/IT directors in the country including representatives from Los Angeles, New York City, and San Francisco, as well as a number of governors. Ms. Cramer and her team were specifically recognized for the eCityGov.net alliance, which provides access to services for 39 organizations including cities, one county, a fire district, two economic development councils, and an airport.

Mr. Sarkozy noted that Ms. Cramer was unable to attend tonight's meeting. Mayor Davidson expressed appreciation for Ms. Cramer's service and hard work.

(c) Management Brief regarding Google Fiber for Communities

David Kerr, Information Technology Department, described the City's efforts to be selected by Google for participation in its Fiber for Communities Initiative, which will provide ultra high-speed broadband networks for one or more locations in the country. Staff is currently providing a response to Google's request for information (RFI) and is exploring and discussing ways in which Bellevue could expedite deployment if selected for the project.

Mr. Sarkozy noted that the project is consistent with the City Council's policy of encouraging competition in the supply of bandwidth services for homes and businesses.

(d) Management Brief regarding Consultant Selection for Electrical Reliability

Mr. Sarkozy noted a memo in Council's desk packet providing an update on the City's electrical reliability study.

Bob Derrick, Director of Economic Development, provided background information and briefly reviewed the impacts of past storms and electrical outages. In 2008, the Council directed the City Manager to conduct a study of Bellevue's electrical system and the issues involved in working with Puget Sound Energy. Mr. Derrick briefly reviewed the process of interviewing four consultant firms. Staff has selected the national electrical consulting firm Exponent to conduct the study. Staff will work with the consultant to develop the scope of work, which will be brought back to the Council for approval. It is anticipated that the work will be completed by the first quarter of 2011. Staff has decided to create two informal advisory groups, one internal and one external, to review and advise the work product throughout the study.

Councilmember Degginger thanked staff for the update, noting that this was an initiative of great interest to the Council. He requested regular updates on the work. Mr. Degginger noted that the study will help the City in working with Puget Sound Energy to identify best practices that will improve electrical reliability in the community.

Councilmember Balducci stated that electrical reliability is generally pretty good. However, this is an important effort in terms of ensuring that the City has a modern electrical grid and the type of electrical service that will fully support the land uses and activities in the community. Responding to Ms. Balducci, Mr. Derrick said a number of electrical experts will serve on the external advisory group.

Councilmember Wallace questioned Puget Sound Energy's role in this discussion. He supports the goal of ensuring the most robust, modern, and reliable electrical transmission system, but wondered why PSE is not conducting the study. He suggested that the City should at least be working jointly with PSE in this effort.

Mr. Derrick said PSE is part of the informal advisory group, and the City has kept PSE informed throughout this process. PSE will cooperate with the City and its consultant by providing electrical data and more information about PSE's system.

(e) Police Defibrillator Incident

Mr. Sarkozy recalled the recent report to the Council about participation in a pilot program that provides automatic electronic defibrillators (AEDs) to some Police Officers. He noted that an AED was used yesterday by Police Officers Brenda Johnson and Andrew Popochock to resuscitate a citizen and stabilize his vital signs before emergency medical personnel arrived.

6. Council Business and New Initiatives

Councilmember Chelminiak described the Council's earlier discussion about suspending Council rules to allow Councilmember Balducci to participate via telephone in the March 22, 2010,

discussion and vote on the East Link Segment C alternative.

- Councilmember Chelminiak moved to amend Council rules established in Resolution Nos. 6399 and 5987 to allow Councilmember Balducci's remote participation by speakerphone on the East Link agenda item scheduled on the Monday, March 22, 2010, Extended Study Session agenda, including voting on the preferred alignment and related communications to the Sound Transit Board. Councilmember Robertson seconded motion.
- The motion carried by a vote of 6-0.

Councilmember Balducci thanked Councilmembers for extending this courtesy.

Ms. Balducci reported on a meeting of the Puget Sound Regional Council (PSRC) Transportation Policy Board, which voted to recommend the Transportation 2040 Plan to the PSRC Executive Board. It will ultimately be forwarded to the General Assembly for final passage.

Councilmember Wallace reported that the Council received 43 applicants to fill two positions on the Planning Commission. He noted the impressive credentials and backgrounds of the applicants, which made for a difficult selection. Mr. Wallace thanked Councilmember Robertson for her participation in interviewing candidates.

- Councilmember Wallace moved to appoint Kevin Turner and Daniel Himebaugh to serve on the Planning Commission, and Councilmember Chelminiak seconded the motion.
- The motion to appoint Kevin Turner and Daniel Himebaugh to serve on the Planning Commission carried by a vote of 6-0.

Councilmember Wallace said he presented a discussion of Bellevue issues to the Sunrise Rotary Club and the Master Builders Association. He and Councilmember Balducci attended a meeting of the Eastside Transportation Partnership (ETP).

Councilmember Robertson attended a meeting of the PSRC Growth Management Planning Board. She commented on the tremendous feedback she has received from citizens who are appreciative of the Council's decision to support the B7 alignment as the light rail preliminary preferred alternative. Last weekend, she walked the entire B3 and B7 route, measuring distances, including looking at how close Winters House is to the sidewalk (41 feet). This walk confirmed for her that the B7 alignment is the best option. She stated her commitment to working to ensure that light rail is implemented in a way that is the best fit for the community.

Mayor Davidson traveled to Phoenix, which he noted was not financed by the City. However, he represented Bellevue with a group of eight mayors and provided a presentation on the Bel-Red Corridor Plan. A number of urban design experts were in attendance to discuss a variety of urban design problems and issues. Federal Way and Olympia are the other Washington cities that participated.

7. Approval of the Agenda

- Councilmember Degginger moved to approve the agenda, and Councilmember Robertson seconded the motion.
- The motion to approve the agenda carried by a vote of 6-0.

8. Consent Calendar

- Councilmember Degginger moved to approve the Consent Calendar, and Councilmember Robertson 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 6, 2010 Special Meeting - Legislative Breakfast
Minutes of February 1, 2010 Study Session
Minutes of February 1, 2010 Regular Session
Minutes of February 11, 2010 Special Meeting - Joint Meeting with Sound Transit Board
 - (b) Motion to award Bid No. 10029 for the Uninterrupted Power Supply (UPS) monitoring system installation to E.C. Company as the lowest responsible and responsive bidder in the amount of \$44,484.38.
 - (c) Motion to approve payment of claims for the period February 27, 2010 through March 12, 2010 and payroll for the period February 16, 2010 through February 28, 2010.
 - (d) Resolution No. 8057 authorizing execution of a 2009-2011 successor labor agreement by and between the City of Bellevue and the International Association of Fire Fighters Union, Local #1604, representing Fire Prevention Officers (the Union).
 - (e) Resolution No. 8058 authorizing execution of a 2010-2012 successor labor agreement by and between the City and the Bellevue Police Support Guild representing Police Support and Clerical employees.
 - (f) Motion to award Bid No. 10013, for the 2010 Overlay Program to Lakeside Industries, Inc., in the amount of \$4,658,639.19, as the lowest responsive and responsible bidder (CIP Plan PW-M-1, Overlay Program; CIP Plan PW-M-3, Curb, Gutter and Sidewalk Rehabilitation; CIP Plan PW-M-2, Minor Capital-Traffic Operations; CIP Plan PW-W/B-49, Pedestrian Facilities Compliance Program; and, CIP Plan PW-W/B-56, Pedestrian Access Improvements.)

- (g) Resolution No. 8059 authorizing execution of an Interagency agreement with King County for the design and construction of a joint sewer project to upsized their Bellevue Influent Trunk with the City of Bellevue's project to increase the capacity of the West CBD Trunk (CIP Plan No. S-54).
- (h) Resolution No. 8060 authorizing approval of payment of \$57,666.99 for a Release of All Claims in final settlement of a claim against the City for property damage to the Breckenridge residence caused by a storm drain system failure.

9. Public Hearings: None.

10. Land Use: None.

11. Other Ordinances, Resolutions and Motions

- (a) Resolution No. 8061 authorizing the approval of payment in the amount of \$75,303.26 in exchange for a Release of All Claims in final settlement of a claim against the City for damage to the property of Scott and Jennifer Robertson caused by water system failures.

Councilmember Robertson recused herself from participating in the Council discussion and vote on Resolution No. 8061, as she is one of the claimants in this tort claim for damages to property, which was caused by multiple water system failures.

Mayor Davidson excused Councilmember Robertson, who temporarily left Council Chambers.

City Manager Steve Sarkozy noted that Resolution No. 8061 authorizes payment in the final settlement of a claim against the City regarding damage to the property of Scott and Jennifer Robertson.

Utilities Director Denny Vidmar provided further explanation about multiple flooding incidents affecting the Robertsons' property, due to a failure in two of the City's AC water mains and the process of the City's repair work. The City's Risk Manager recommends settlement of the claim, and the Utilities Department concurs with this recommendation.

→ Councilmember Chelminiak moved to approve Resolution No. 8061, and Councilmember Balducci seconded the motion.

→ The motion to approve Resolution No. 8061 carried by a vote of 5-0, with Councilmember Robertson recused.

Mr. Sarkozy added that these incidents occurred in 2007, long before Councilmember Robertson was elected to her City Council position.

Councilmember Robertson returned to Council Chambers.

- (b) Resolution No. 8062 authorizing the City Manager or his designee to sign and certify the annual report documents (City of Bellevue 2009 Compliance Report and 2010 Stormwater Management Program) required by the National Pollutant Discharge Elimination System (NPDES) Phase II Municipal Stormwater Permit for submittal to the Washington State Department of Ecology by the March 31, 2010 deadline.

Phyllis Varner, NPDES Permit Coordinator, provided an update regarding the City's efforts to comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) Phase II Municipal Stormwater Permit. Resolution No. 8062 authorizes the City Manager or his designee to sign and certify the City of Bellevue 2009 Compliance Report and the 2010 Stormwater Management Program. The deadline for submittal of the application documents is March 31.

Councilmember Robertson thanked staff for their work in this matter, which provides benefits to the overall community including its lakes and streams. She questioned whether the permit requirements are coordinated with the Shoreline Management Plan Update.

Ms. Varner responded that the permit requirements and amendments made as part of the NPDES permit effort will be applicable to any development permits for all properties, including shorelines. The Shoreline Management Plan Update team is aware of these changes and will incorporate them into the plan.

- Councilmember Degginger moved to approve Resolution No. 8062, and Councilmember Robertson seconded the motion.
- The motion to approve Resolution No. 8062 carried by a vote of 6-0.

- (c) Extending Life of Permits

Ordinance No. 5943 extending the life of certain building permit applications, complete clearing and grading permit applications, issued building permits, and issued clearing and grading permits; declaring a public emergency; providing for severability; and establishing an immediate effective date.

Ordinance No. 5944 imposing an interim official control extending the life of certain preliminary short plat approvals; declaring an emergency; providing for severability; and establishing an immediate effective date.

Mike Brennan, Director of Development Services, provided a brief overview regarding emergency Ordinances to extend the life of building permits, which was last discussed with the Council during the February 22 Extended Study Session.

Catherine Drews, Legal Planner, reviewed the process that applies only to preliminary plat approvals, which is the same process required for moratoriums. Preliminary plat approvals are development regulations, and are therefore governed by the state Growth Management Act. The

GMA requires a public hearing within 60 days of the adoption of an Ordinance providing for the one-time extension to the life of preliminary short plat approvals. The interim official control period may be effective for up to six months. If Council wishes to extend the life of these permits for one year, a second public hearing must be held for the second six-month period.

Responding to Councilmember Degginger, Ms. Drews said the first public hearing must be held on or before May 14 if the Ordinance is approved tonight. He thanked staff for their work on this issue, which responds to difficulties in the development and construction industry due to the current economic recession.

→ Councilmember Degginger moved to adopt Ordinance No. 5943, and Councilmember Chelminiak seconded the motion.

Councilmember Balducci expressed support for the Ordinance. She said she is disappointed that the City cannot do more at this point to address projects that represent quality of life and nuisance issues. She would like to find a way to address these sites and issues related to cleanup and public health and safety, but acknowledged that this is a separate matter.

→ Councilmember Degginger moved to amend the motion to also include approval of Ordinance No. 5944. Councilmember Chelminiak agreed to the amendment.

Councilmember Wallace thanked staff for its quick and thorough response to Council's interest in this issue. He noted that this sends an important positive message to developers and businesses, and benefits the community by aiding in economic development.

Councilmember Chelminiak thanked staff for the information and the maps of projects.

→ The motion to adopt Ordinance Nos. 5943 and 5944 carried by a vote of 6-0.

12. Unfinished Business: None.

13. Continued Oral Communications: None.

14. New Business: None.

15. Executive Session

→ Councilmember Degginger moved to extend the meeting to 10:30 p.m., and Councilmember Chelminiak seconded the motion.

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

At 9:26 p.m., Mayor Davidson declared recess to Executive Session to discuss one personnel matter. He noted that the meeting will adjourn at the conclusion of the Executive Session.

16. Adjournment

The Executive Session was concluded at approximately 11:15 p.m., and Mayor Davidson declared the meeting adjourned.

Myrna L. Basich, MMC
City Clerk

/kaw