

CITY OF BELLEVUE  
CITY COUNCIL

Summary Minutes of Regular Session

May 6, 2013  
8:00 p.m.

Council Chamber  
Bellevue, Washington

PRESENT: Mayor Lee, Deputy Mayor Robertson, and Councilmembers Balducci, Chelminiak, Stokes and Wallace<sup>1</sup>

ABSENT: Councilmember Davidson

1. Call to Order

The meeting was called to order at 8:15 p.m., with Mayor Lee presiding.

2. Roll Call, Flag Salute

Upon roll call, all Councilmembers except Councilmember Davidson were present. Councilmember Balducci led the flag salute.

(a) Asian Pacific American Heritage Month Proclamation

Mayor Lee read a proclamation declaring May as Asian Pacific American Heritage Month in Bellevue.

(b) Better Hearing and Speech Month

Councilmember Balducci said her family has benefitted greatly from the professional services of audiologists and speech therapists, and she appreciates the opportunity to read this proclamation.

Ms. Balducci read the proclamation recognizing May as Better Hearing and Speech Month in Bellevue.

Ruth Norwood and Jody Norwood, Evergreen Speech and Hearing Clinic, thanked the Council for the proclamation and noted the services provided by the clinic.

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<sup>1</sup> Councilmember Wallace left the meeting at 10:13 p.m.

(c) National Older Americans Month Proclamation

Mayor Lee read a proclamation recognizing May as Older Americans Month in Bellevue.

Diana Thompson, Vice Chair of the Bellevue Network on Aging, referenced the schedule of activities throughout the month at Bellevue's Community Centers. This year's theme is *Older Americans: Unleash the Power of Age*. She noted changing demographics in the community and the increasing demand to meet the needs of older adults. The Network's subcommittees include Outreach, Transportation/Housing, Advocacy, and Medicare Observation. The latter two subcommittees recently met with Congressmen Smith and Reichart regarding the important issue of Medicare.

Ms. Thompson encouraged the City Council to recognize the contributions of older adults and to consider the needs of the growing, aging population when making decisions. The Network appreciates its advisory role to the City and looks forward to providing future updates. She noted the annual report provided in the meeting packet and invited Councilmembers to attend the Network's meetings on the first Thursday of each month.

Councilmember Chelminiak observed that 57 percent of City Councilmembers are older Americans.

(d) National Kids to Parks Day

Deputy Mayor Robertson read a proclamation declaring May 18 as National Kids to Parks Day in Bellevue. Alexandra DySard, Park Ranger, accepted the proclamation on behalf of the Parks and Community Services Department.

(e) Arts Education Month Proclamation

Deputy Mayor Robertson read a proclamation recognizing May as Arts Education Month in Bellevue.

Mayor Lee commented on the importance of arts education and the partnerships between local arts organizations and the Bellevue School District. He presented the proclamation to Brad Smith, Arts Commission Chair.

Mr. Smith thanked Mary Pat Byrne for her work with the Arts Commission. Mr. Smith commended the work of in-school art teachers and all of the organizations that support their efforts. Chris Marks, Bellevue School Board, thanked the Council for its recognition of the importance of arts programs and education.

3. Communications: Written and Oral

- (a) Martin Nizlek, a resident on Lake Sammamish, spoke on behalf of the Board of the Washington Sensible Shorelines Association. He thanked the Planning Commission for

taking the appropriate time to study and discuss shorelines regulations for the Shoreline Management Program. Mr. Nizlek said Association representatives attended all of the Planning Commission meetings on this topic and provided independent, professional and legal input and advice. Mr. Nizlek said the Association compiled a packet of information which has been provided to the Council. [Mr. Nizlek submitted his comments in writing.]

- (b) Deric Gruen, Sustainability Director with Bellevue College, commented on the importance of transit services for college employees and students. He described the need for all-day service to support classes between the hours of 6:30 a.m. and 10:00 p.m. He encouraged the Council to keep Bellevue College in mind when discussing transit services demands.
- (c) A Bellevue College student thanked the City for producing a good Transit Master Plan and commented on the need to retain transit service levels.
- (d) Gilbert Pauley, a resident of Lake Sammamish and a retired University of Washington Professor in fisheries, commented that he has presented his perspective on the Shoreline Management Program to the Planning Commission. He indicated concerns about errors in the best available science report, which is being heavily relied upon by staff in developing the SMP. He said that many of the recommendations are subjective, speculative, and not supported by science. He expressed concern about the lack of opposing points of view as well. [Mr. Pauley submitted his comments in writing.]
- (e) Shawn Sivly, program manager with Friends of Youth, described the 24-hour girls shelter in Bellevue serving up to five youths aged 8-17. She thanked the Council for its continued human services funding and noted that Friends of Youth serves youth and families throughout King County.
- (f) Chris Loffler said his company recently moved half of its employees to Downtown Bellevue due in part to better access transit services. He said the company previously received grants from the City of Redmond to offer incentives for employees to use alternative travel modes. He suggested a list of items for improving transit in Bellevue including free parking for scooters and motorcycles, marked or separate bike lanes, special vanpool parking spaces, subsidized vanpool parking at some Downtown buildings, and casual carpool sites (where riders can be matched up).
- (g) Charlie Klinge, attorney, spoke on behalf of the Washington Sensible Shorelines Association. He has been involved in Bellevue's Shoreline Management Program process since 2009 and has represented property owners working with a number of cities on their plans. He noted that the State allows city-specific provisions. He submitted his comments in writing.

Referring to the earlier proclamation on arts education, Mr. Klinge commended school arts programs and noted that two of his children performed in the recent musical at Newport High School.

- (h) Norm Hansen, Bridle Trails, commented on the Puget Sound Energy (PSE) electrical franchise renewal. He said the Council is being asked to approve a franchise renewal tonight without change. He was surprised by this in light of the City's electrical reliability study and recommendations. He asked the Council to consider extending the current franchise to allow time for further review of certain issues.
  - (i) Ellen Kerr, President of the Bridle Trails Community Club, concurred with Mr. Hansen. She asked the Council to extend the current franchise and to direct staff to ask additional questions and to make time for community input. She said the City and residents have worked together on the electrical reliability study. She wants residents to have the opportunity for continued input and participation.
  - (j) Andy Swain, Puget Sound Energy, said PSE negotiated the current franchise agreement with the City 10 years ago. He said the staff report in the meeting packet does a good job of explaining the purpose of the agreement and PSE's request for renewal. Mr. Swain said PSE is committed to continuing to work with the City and residents to complete and implement an amended and restated memorandum of understanding (MOU) addressing the recommendations of the 2011 electrical reliability study report.
  - (k) Lyndon Haywood said he is running for a position on the City Council.
4. Reports of Community Council, Boards and Commissions: None.
5. Report of the City Manager
- (a) Washington Recreation and Park Association Awards

Deputy City Manager Brad Miyake announced that Bellevue has received six awards from the Washington Recreation and Park Association (WRPA).

Patrick Foran, Director of Parks and Community Services, thanked all staff for their hard work in earning these awards. He introduced Jessi Bon, President of WRPA and Parks Director for the City of Sammamish.

Mr. Foran said that two staff members received individual awards. Pat Harris, Grounds Operations Manager, received the Parks Resource Section Distinguished Service Award. He was not able to attend the meeting.

Mr. Foran announced that Terry Smith, Assistant Director of Parks and Community Services, was recognized with the Citation of Merit-Professional award for his long-time commitment to providing services for youth, people with disabilities, and the general community. Mr. Smith's many accomplishments include spearheading partnerships with nonprofit organizations in the community (e.g., Wrap Around Services Program) and always looking for ways to provide services to those who may not have access elsewhere. Mr. Foran said this award is one of the

highest honors bestowed upon a professional working in the field of parks and recreation in the state.

Ms. Bon summarized the program awards to the City of Bellevue: 1) Outstanding Teen Program Award for Kelsey Creek Farm teen volunteer program, 2) Spotlight Award - Best Trail for the Ravine Experience Bridge at the Bellevue Botanical Garden, 3) Spotlight Award - Special Use Facility for Robinswood Park Off-Leash Area Renovation, and 4) Spotlight Award – Trail Map/Interpretive Signs for the Mercer Slough Nature Park interpretive trail signage.

Ms. Bon congratulated Mr. Smith for receiving the Citation of Merit. She said he has been a major contributor to the profession and a mentor for others. Ms. Bon said Mr. Smith's vision and follow-through helped to establish the foundation for the WRPA's statewide cultural competency program.

Mayor Lee congratulated and thanked staff for their work and achievements. He commended staff's ongoing efforts in developing and maintaining this City in a Park and its many programs.

Councilmember Stokes noted that he formerly served on the Parks and Community Services Board and worked with Mr. Smith on a number of programs. Mr. Stokes added his congratulations and admiration for all of the work of the Parks and Community Services Department.

(b) Management Brief regarding Downtown Livability Advisory Committee and Update on Public Outreach

Mr. Miyake referred the Council to page 5-3 of the meeting packet for an update on the Downtown Livability Advisory Committee and community outreach. He noted that Arts Commissioner Tracy Cole has indicated she cannot ensure consistent participation on the committee due to other commitments. The Council is asked to instead confirm Trudi Jackson as the Arts Commission representative on the advisory body.

Mr. Miyake recalled a previous Council request to add a seat to the committee for a former member of the Downtown Implementation Plan (DIP) Advisory Committee. He noted the list of proposed Downtown Livability Advisory Committee members on page 5-4 of the meeting packet.

Chris Salomone, Director of Planning and Community Development, said the Downtown Livability Initiative kicked off on November 29 with a large open house and scoping meeting. Community outreach has continued this spring with eight focus group sessions held between March 5 and 19. This resulted in the creation of smaller groups for a total of 18 separate focus groups led through a series of seven topical areas corresponding to elements of the Downtown Livability Initiative. A summary report of these discussions is being finalized by staff.

Mr. Salomone said that walking tours with more than 50 participants were held the previous week. A summary report of those tours, including photographs, is currently being compiled as

well.

With regard to the suggestion to add a former DIP committee member to the Downtown Livability Advisory Committee, Mr. Lee said he contacted one individual but he was not immediately available to serve. He questioned whether the Council would still like to add a seat to the committee. If so, he would contact additional individuals.

Councilmember Chelminiak observed that three Downtown Livability Advisory Committee members live in neighborhoods south of Downtown and one lives in a neighborhood west of Downtown. However, no one on the committee lives in the Northtowne or Wilburton areas. He suggested Margot Blacker and Pat Sheffels as candidates. Mr. Chelminiak said he is not so concerned about the number of committee members. He is pleased to see that the work is moving forward.

Councilmember Stokes suggested staying at 15 members. He believes Trudi Jackson will be an excellent representative of the Arts Commission. He noted that she is president of the Bellevue Schools Foundation and lives in the north end of Bellevue.

Councilmember Balducci said she had requested the additional seat for a former DIP member as a way to provide a link between that work and the current study. She realizes there are other ways that could be done. Ms. Balducci suggested that staff keep the DIP vision and recommendations in mind as the Downtown Livability Initiative work moves forward in order to remain consistent with that vision.

Deputy Mayor Robertson expressed support for appointing Trudi Jackson but not adding another seat.

- Deputy Mayor Robertson moved to confirm the list of Downtown Livability Advisory Committee members as listed on page 5-4 of the meeting packet, amended to remove the potential DIP seat. Councilmember Stokes seconded the motion.
- The motion carried by a vote of 6-0.

Mayor Lee said the advisory committee will take a tour on May 7 and hold its first meeting on May 15.

## 6. Council Business and New Initiatives

There was no discussion.

## 7. Approval of the Agenda

- Deputy Mayor Robertson moved to approve the agenda, amended to take action on Item 8(i) separate from the remainder of the Consent Calendar. Councilmember Wallace seconded the motion.

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

8. Consent Calendar

→ Deputy Mayor Robertson moved to approve the Consent Calendar, with the exception of Item (i). Councilmember Wallace 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 April 1, 2013 Study Session  
Minutes of April 1, 2013 Regular Session  
Minutes of April 8, 2013 Extended Study Session  
Minutes of April 15, 2013 Study Session  
Minutes of April 15, 2013 Regular Session
- (b) Resolution No. 8577 authorizing execution of an Amendment to the professional services agreement with TCA Architecture Planning, Inc., increasing the contract amount by \$93,328 for a contract total of \$141,644, for additional architectural and engineering services for the construction phase of Fire Training Tower structural modifications and installation of gas-fired burn props.
- (c) Resolution No. 8578 authorizing execution of a two-year professional services agreement with Protocol Property Management, in an amount not to exceed \$155,00, for the management of 18 residential rental properties.
- (d) Motion to award Bid No. 13003, Lewis Creek Tributary Restoration at Lakemont Boulevard SE Project, to Westwater Construction Company, as lowest responsible and responsive bidder, in the amount of \$383,810.00 (CIP Plan No. PW-M-1).
- (e) Motion to award Bid No. 13008, Northup Way Corridor Pedestrian Safety Improvements Project, as part of the Minor Capital-Traffic Operations Program, to Westwater Construction Co., as lowest responsible and responsive bidder, in the amount of \$706,790.00 (CIP Plan No. PW-M-2).
- (f) Motion to award Bid No. 13019, for the 2013 Overlay Program to Lakeside Industries, Inc., as the lowest responsive and responsible bidder in the amount of \$3,438,172.40 (CIP Plan No. PW-M-1).
- (g) Motion to award Bid No. 13041, 150th Avenue SE and Newport Way Interim Improvements, to NPM Construction Co., as the lowest responsible and responsive bidder, in the amount of \$172,404.00 (CIP Plan Nos. PW-M-20 and PW-M-1).

- (h) Motion to award Bid No. 13047, Advance Building Demolition for NE 4th Street Extension project, to Rhine Demolition, LLC, as the lowest responsible and responsive bidder, in the amount of \$83,350.00. (CIP Plan No. PW-R-160).
- (j) Resolution No. 8580 authorizing execution of a professional services agreement with CHS Engineers, LLC, in an amount not to exceed \$300,000, for engineering services for the Trenchless Utility Repairs - Design Services project (CIP Plan Nos. D-64 and S-24).
- (k) Motion to award Bid No. 13031 for 2013 Asphalt and Concrete Replacement to AA Asphalt Inc., in the amount of \$463,350.00.
- (l) Motion to award Bid No. 13037 for AC Water Main Replacement (2013) - Phase 2, to Fury Site Works, Inc., as the lowest responsible and responsive bidder, in the amount of \$1,599,252.73 (CIP Plan No. W-16 and D-64).
- (m) Motion to award Bid No. 13039 for Kelsey Creek Fish Passage and Stream Channel Improvements at Glendale Country Club, to Jansen, Inc., as lowest responsible and responsive bidder, in the amount of \$1,358,787.20 (CIP Plan Nos. D-81 and D-86).
- (n) Resolution No. 8581 authorizing approval of payment in the amount of \$72,463.57 for a Release of All Claims in final settlement of a claim against the City for property damage to the Tessier residence caused when a water main broke with a landslide.

Item for Separate Action:

- (i) Resolution No. 8579 authorizing execution of an Amendment to the professional services agreement with Epicenter Services, LLC, increasing the contract amount by \$25,000 for a contract total of \$74,238, for consultant services associated with research, development and procurement of the 2014 Comprehensive Garbage, Recyclables and Organics Collection contract.

Councilmember Chelminiak noted that, consistent with previous Council discussions, he would recuse himself from this vote and step down from the dais.

→ Deputy Mayor Robertson moved to approve Resolution No. 8579, and Councilmember Wallace seconded the motion.

→ The motion carried by a vote of 5-0, with Councilmember Chelminiak recused.

Councilmember Chelminiak returned to the dais.



9. Public Hearings: None.

10. Land Use: None.

11. Other Ordinances, Resolutions and Motions

- (a) Resolution No. 8582 authorizing execution of the renewal of the City's current Electrical Franchise Agreement with Puget Sound Energy

Mr. Miyake said the Electrical Franchise Agreement with Puget Sound Energy expires on May 14, and Council action is scheduled for next week.

Transportation Director Dave Berg said the franchise allows for the non-exclusive use of the public streets and right-of-way for PSE and lays out the conditions for the use of that public ROW. The Washington Utilities and Transportation Commission (WUTC) also regulates PSE with regard to rates, facilities, services, and practices.

Mr. Berg highlighted five areas addressed in the current 2003 franchise agreement that were not covered in the original 1986 agreement: 1) Permitting and infrastructure restoration, 2) Potential relocation, 3) Undergrounding in certain situations, 4) Shared excavation, and 5) Vegetation management. The franchise agreement incorporates the City's Comprehensive Plan policies with regard to the undergrounding of any new facilities. Four memoranda of understanding (MOU) associated with the franchise address the areas of vegetation management, relocation, records of installation, and reliability reporting.

Sheida Sahandy, Assistant to the City Manager, said that past franchise agreement discussions about reporting requirements, the wind storm of November 2006, and the increasing demand for power in the Downtown raised the need for the electrical reliability study that was ultimately conducted in 2011. Staff and PSE are working to finalize an update to the MOU on Reliability Reporting, based on the findings and recommendations of that study.

Responding to Councilmember Stokes, Mr. Berg said that, if the franchise agreement is not renewed, the requirements of the agreement would no longer govern the electrical utility. The options in the franchise agreement are to either renew as written or to renegotiate a new franchise agreement.

In further response to Mr. Stokes, Ms. Sahandy said the work on updating the reliability MOU is moving along well. However, residents and other stakeholders have not had a chance to review the proposed MOU.

Responding to Mayor Lee, Mr. Berg said a new franchise agreement would need to be negotiated if the current one expires.

Deputy Mayor Robertson spoke in favor of extending the contract for five years. However, she noted her understanding that allowing it to expire would keep the same provisions in place until

renegotiated. She suggesting asking the City Attorney to research and provide a response on that issue. She would like the Council to have sufficient time for discussion and public involvement before the next renewal. She supports addressing the MOU as a separate process.

Councilmember Chelminiak expressed concern that the franchise expires in one week. He said it is important that citizens have adequate time to review and provide input on the MOU. He agrees with the need for more discussion and public input before the next franchise renewal in five years. The Council needs to determine how much to fund and implement from the electrical reliability study. He concurred with deferring action until the following week.

Councilmember Stokes agreed with deferring action and having a robust discussion about the MOU in the near future.

Mayor Lee reiterated that the Council needs more time for review before the next franchise renewal. He looks forward to separately discussing the MOU in the near future and to allowing time for public input.

Councilmember Wallace spoke to the importance of electrical reliability issues, noting that a portion of the Downtown lost power for an hour earlier in the day.

- (b) Draft Amendments to BCC Chapter 3.92 relating to the Code of Ethics for City Council and Council-appointed Boards, Commissions, and Committees

Mr. Miyake recalled that this item was originally on the April 22 agenda but was postponed due to time constraints.

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

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

Councilmember Wallace said he would need to leave at 10:00 p.m. to get his son home.

City Clerk Myrna Basich recalled that the Council previously expressed an interest in updating the ethics code to bring it up to date with state law. At the time, the Council suggested the need for a policy that would not seriously restrict citizens' ability to participate on the Council, Boards or Commissions, or other Council-appointed bodies. The Council previously expressed the desire for greater clarity in the definition of a conflict of interest and on the process to be used in addressing any questions of ethics that might arise.

Ms. Basich said the Council also asked that staff research how other Washington cities have addressed ethics provisions and to report back to the Council. Staff evaluated the ethics codes of a number of cities and honed in on the cities of Bainbridge Island, Federal Way, Kirkland, Seattle, and Tacoma. These cities have recently developed or updated their codes and/or reflect a unique approach providing a meaningful comparison or contrast.

Ms. Basich recalled that staff presented the results of its research to the Council in January and March, and the Council settled on the Kirkland ordinance as a base model for a new Bellevue ordinance. Council asked staff to return with draft ordinance language, including a small number of modifications to the Kirkland ordinance. The Kirkland Code of Ethics was adopted in 2012 based on the work of an ad hoc citizen task force working with a subcommittee of the Council and key staff. It identifies the use of an ethics officer instead of an ethics commission.

Ms. Basich said the City Attorney has developed draft ordinance language for the Council's consideration.

City Attorney Lori Riordan recalled three requests from the Council with regard to the Kirkland Ordinance. The first was to delete the requirement for financial disclosure statements because elected officials are already required to submit financial disclosure information to the state. The Council did not want to impose that burden on the citizen volunteers serving on Boards and Commissions.

The second request was that staff add a section governing the acceptance of gifts to make it more consistent with other ethics codes. Ms. Riordan said that Kirkland's code has a provision for the acceptance of gifts by way of reference to another chapter of its code. She has taken that language and placed it explicitly into the draft ethics code.

The third issue related to the handling of complaints by third parties alleging ethics violations. Ms. Riordan recalled that the Council asked staff to bring back alternatives for addressing complaints for the Council's consideration. She noted that the options provided for Council discussion place the responsibility for investigating and determining whether violations have occurred on an ethics officer. The options are listed on page 11-25 of the meeting packet.

Ms. Riordan said she has received approximately 15 comments or questions from the Council via email. One expressed concern about the lack of definition in the Kirkland ordinance of "financial interest." She said there are some limitations expressed in the draft code under the section after definitions (3.92.030.A.4). However, in order to provide more clarity and transparency about what types of financial interests cause problems for officials, Ms. Riordan said she conducted additional research for examples of financial interest. She found none. However, she found some similar language in an Attorney General Opinion and added that under section 3.92.020.C. She said she added further language to section 3.92.030, which is highlighted in red in the draft code. Ms. Riordan said one option is to use the term "remote interest," which is in the Council's existing ethics code and adopted by reference to state law (RCW 42.23).

Ms. Riordan said she received a comment that the definition of "relative" seemed awfully broad. She said the definition is up to the Council's discretion.

The next question related to the scope of the appearance of conflict of interest (3.92.030.B). Ms. Riordan said this section is intended to deal with issues that are not covered under sub-section A as specifically prohibited conduct. The purpose of an ethics officer is to guide Councilmembers

through the question of whether or not there is information requiring disclosure. This does not mean that a Councilmember is disqualified from participating, but rather that they would disclose the facts on the record. Ms. Riordan said it is important for elected officials to be aware of relatives' financial dealings and to consult with the ethics officer as appropriate.

Ms. Riordan said she received a comment expressing concern about the timing of the response from the ethics officer. The Kirkland model provides for 45 days for the ethics officer to come back with a determination. She suggested that the Council could identify a shorter time period. Another option would be to allow the City Attorney to provide advice on the appearance of a conflict and to leave the formal advisory opinion to the ethics officer. These are departures from the Kirkland model that are being raised for the purpose of discussion.

Ms. Riordan said the next issue related to gifts and favors and whether a ticket to a City-sponsored event was a gift. She said the draft code does not consider that a gift.

Ms. Riordan said that, in addition to a reference in section 3.92.040, Ethical Standards to RCW 42.23, she incorporated the actual language from state law into the City's draft ordinance. She received a suggestion that the provision on Nepotism should be expanded to prohibit appointing relatives of staff to Boards and Commissions.

Moving to sub-section 050, Ms. Riordan said she received a question about whether the ethics officer could be an attorney. She said the officer could be an attorney. However, the Council would still obtain legal advice from the City Attorney about the implications of any possible violation.

Ms. Riordan said she received a concern that the ethics officer not discuss particular cases in social situations. She said the code and/or contract with the ethics officer would state that the officer is not permitted to discuss his or her advisory opinions with anyone other than the Council, City Manager, or City Attorney unless directed to do so by subpoena or Council direction.

Ms. Riordan said she received suggestions on the timing of filing complaints. One was a limitation of the period to 18 months, and another was to expand the period to four years. She said this is a departure from the Kirkland code but up to the discretion of the Council.

Commenting on another issue raised via email, Ms. Riordan said the City provides a legal defense for all officials and employees. If there is ever a recall petition filed against an elected official, the City is obligated to represent the Councilmember or other official as well.

At 10:11 p.m., Councilmember Wallace apologized and said that he need to leave to get his son home. He commented that one objective of the code should be to provide more clarity and not less. He noted two items needing further review and clarity. One relates to a provision about disclosing a reasonable presumption of a conflict. The other is the financial interest issue when trying to apply it beyond immediate relatives or direct interests. He said one suggestion might be to look at state law or a precedent to shape the boundaries of that provision.

Mr. Wallace said he would like to defer action on the ethics code to allow Councilmember Davidson the opportunity to review and comment.

Councilmember Wallace left the meeting at 10:13 p.m.

Continuing, Ms. Riordan said she received a request that the code include a provision requiring that the ethics officer provide a review, report and proposal to the Council regarding any recommended changes to the code every two years.

Regarding Mr. Wallace's concerns about the appearance of fairness or conflict of interest, Ms. Riordan said this issue could be researched further by staff to find other examples of specific language. With regard to financial interest, Ms. Riordan said she provided one option for consideration. She reiterated that there is not a definition of "financial interest" in state law but she was able to find one Attorney General Opinion that might be applicable.

Ms. Riordan requested further Council direction, especially regarding the three alternatives for the role of the Ethics Officer.

Mayor Lee thanked Ms. Riordan for her work. He commented on the volume and complexity of the information and said he wants the Council to have plenty of time for review and discussion.

Councilmember Stokes would like to finalize an ethics code by the next week's meeting and he would like staff to define the options for Council consideration. Mr. Stokes said he objects to any Council involvement in making a judgment on another Councilmember. He supports the third alternative for handling complaints, which states that the ethics officer will be responsible for creating procedures by which he or she will investigate complaints and determine whether a violation has occurred. Mr. Stokes wants to avoid any provisions that refer an issue to the Council for sanctions.

Councilmember Balducci concurred with finalizing the code by next week. She would like the topic to occur as the first agenda item, if possible. She said the Mayor declared the establishment of an ethics code as a priority more than two years ago. She suggested reaching decisions on the issues reported by Ms. Riordan and finalizing the ordinance. She thanked Ms. Riordan for her work.

Mayor Lee said this is a difficult issue. He agreed with Councilmember Wallace's comment about the need for greater clarity in certain provisions. Mayor Lee said Ms. Riordan has done a good job on this draft, including incorporating the Council's interests and questions. He said he wanted to hear input from all Councilmembers.

Deputy Mayor Robertson expressed support for enhanced clarity. She said she will hold other comments until next week. She observed that this is the least time-sensitive item on next week's agenda, however, and would like to allow additional time for Councilmember Davidson to review and comment. She said she has always supported postponing action on items if

Councilmembers are gone and have expressed an interest in participating and voting. Ms. Robertson said that Dr. Davidson has served on the Council for many years and it would be respectful to allow time for his input.

Councilmember Chelminiak said he sees no reason to wait to take action. He would have liked to finalize an ethics code long ago. He described the draft code as a moderate ethics ordinance and not a strict ethics ordinance. He believes this is a reasonable approach for a part-time Council. It indicates that if anyone thinks he or she might have a potential conflict of interest, they should raise it with the City Attorney. Mr. Chelminiak observed that the ethics code should stop what was continually happening a couple of years ago in terms of allegations of conflicts of interest.

→ At 10:30 p.m., Councilmember Balducci moved to extend the meeting to 10:45 p.m. Mr. Chelminiak seconded the motion.

→ The motion carried by a vote of 5-0.

Continuing, Mr. Chelminiak said that, under this ordinance, a person cannot make unfounded claims against anyone, and a threshold determination is required. Regarding the three alternatives for the role of the ethics officer, he said he prefers Alternative A, which includes the option for the ethics officer to find that a formal hearing is necessary to determine whether an ethics violation has occurred. However, he could support any of the alternatives.

Mr. Chelminiak said that Councilmember Stokes raised a good question about whether a matter would come back to the Council. He requested clarification from staff next week on this issue.

Deputy Mayor Robertson observed that there seems to be agreement that a more definitive code is needed and that this draft needs more work. She reiterated, however, that she would prefer to wait for the opportunity for Councilmember Davidson to participate in discussion and voting. She would like all Councilmembers to be treated with the same regard.

Mayor Lee concurred with Ms. Robertson about waiting for Dr. Davidson. He said this is not about politics but about full participation.

Councilmember Balducci reiterated that this issue has been circulating for two years. She said it is being addressed because she has kept pushing for it. She feels like it keeps being delayed.

→ Ms. Balducci moved to place the Ethics Code on the following week's agenda, and Councilmember Chelminiak seconded the motion.

Mayor Lee said the Council and staff have had to deal with a number of competing priorities and agenda items. He does not believe that anyone is deliberately trying to stall this issue.

→ At 10:43 p.m., Ms. Balducci moved to extend the meeting to 10:55 p.m., in order to take a vote on her motion. Mr. Stokes seconded the motion.

→ The motion to extend the meeting carried by a vote of 5-0.

Councilmember Stokes said he appreciates Dr. Davidson's role in all of this, but he feels the Council needs to move forward. He wants to overcome perceptions that the Council is avoiding this issue. He would like to wrap up the matter the next week and move forward.

Deputy Mayor Robertson said there have been a number of issues she and the Council have wanted to address (e.g., the Council's quasi-judicial role). However, the East Link project and other issues have dominated the Council's agendas for the past couple of years. She reiterated her position on waiting for Councilmember Davidson, noting that he has been on the Council for 20 years. She does not see a time sensitivity and is disappointed by comments implying that anyone is trying to stall a decision. She believes the code could potentially be finalized in June, after receiving more information and clarification from the City Attorney.

Mr. Stokes said he would like to be on the record as stating that he is not implying that anyone is purposely trying to defer a decision. However, he would like to finalize the ordinance the following week.

Mayor Lee reiterated that he does not see any reason to rush and to not wait for Dr. Davidson.

→ The motion to place the item on the following week's agenda carried by a vote of 3-2, with Mayor Lee and Deputy Mayor Robertson dissenting.

12. Unfinished Business: None.

13. Continued Oral Communications: None.

14. New Business: None.

15. Executive Session: None.

16. Adjournment

At 10:51 p.m., Mayor Lee declared the meeting adjourned.

Myrna L. Basich, MMC  
City Clerk

/kaw