

CITY OF BELLEVUE  
CITY COUNCIL

Summary Minutes of Regular Session

July 16, 2012  
8:00 p.m.

Council Chamber  
Bellevue, Washington

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

ABSENT: None.

1. Call to Order

The meeting was called to order at 8:14 p.m., with Mayor Lee presiding.

2. Roll Call, Flag Salute

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

(a) 2012 Transportation Planning Excellence Award

Franz Loewenherz, Senior Planner, reported that the City received the 2012 Transportation Planning Excellence Award from the Federal Highway Administration and the Federal Transit Administration working in partnership with the American Planning Association and the Transportation Research Board. The award is given every two years, and Bellevue received the award for its use of technology in working toward Americans with Disabilities Act (ADA) compliance. Mr. Loewenherz explained that jurisdictions nationwide use this technology developed by the City to quickly and accurately identify sidewalk facilities that limit access for disabled individuals.

Councilmember Balducci explained that staff trained interns on Segways to utilize the technology to accurately complete an ADA public rights-of-way condition assessment inventory. The technology was developed through the City's partnership with the Federal Highway Administration and King County Metro Transit.

3. Communications: Written and Oral

(a) Robert Thorpe, a planning economics consultant, proposed a Land Use Code Amendment to allow indoor sports/recreation instruction and recreational sports centers as permitted

uses in the Bel-Red Medical Office/Node (BR-MO/MO-1) zoning designations. He noted his previous experience as president of the American Planning Association. He has represented approximately 20 Bel-Red property owners over the past few years. Referring to the earlier Study Session discussion, Mr. Thorpe encouraged the Council to consider extending the time period for non-conforming uses, which in this case is East Beach Volleyball. He submitted copies of his proposed amendment.

- (b) Brian Park, owner and operator of East Beach Volleyball Center, explained that they are in danger of being closed because zoning does not allow sports or recreation instruction. He asked the Council to consider the amendment presented by Mr. Thorpe.
- (c) Kim Faust, representing Main Street Property Group (Kirkland), said the company owns property on 116<sup>th</sup> Avenue and NE 19<sup>th</sup> Street in the Bel-Red area's MO zone. She asked the Council to consider incentives or additional density in the MO zone. It is one of the few zones that cannot take advantage of the floor-area ratio (FAR) density bonus. With the current parking and FAR restrictions, Ms. Faust said it is not possible to achieve anywhere near the height limit proposed for the zone. The company wants to develop the property but current FAR regulations limit the building size to two or three stories.
- (d) Charlie Klinge encouraged the Council to hold a public hearing and to consider the proposed East Beach Volleyball text amendment. With regard to the Council's earlier Bel-Red corridor discussion about discontinuing a use after 12 months of vacancy, Mr. Klinge noted language stating that a vacancy for 12 months or more constitutes prima facie evidence of the intention to abandon. However, he believes that the critical question is whether the use was actually abandoned. As a separate issue, Mr. Klinge said that proportional compliance presents a significant problem. The concept is that if \$250,000 is spent on tenant improvements, another \$50,000 must be spent to comply with parking and landscaping improvements. Mr. Klinge said a provision exempting tenant improvements within the footprint from this requirement recently expired but should be extended. In the broader context, Mr. Klinge expressed concern that a Park and Ride facility is identified in the second development node on land that could be developed as a high-rise building based on the underlying zoning. He cautioned against spending a lot of money to develop NE 15<sup>th</sup>/16<sup>th</sup> as a wide light rail and transportation corridor that, he believes, will not be conducive to pedestrian and street-level activity. He suggested placing light rail behind buildings and designing a more pedestrian/user-friendly street experience (e.g., sidewalk cafes, retail activity).
- (e) Sam Bellomio observed that security personnel were present at the meeting, which he believes is directed at Mr. Zimmerman and himself. Mr. Bellomio expressed his opposition to red light cameras. He said the cameras have not decreased accidents, and he characterized the practice as racketeering. He expressed concern that another company reviews the tickets and collects 40 percent of the revenue.
- (f) Alex Zimmerman, Stand Up America, said that, for three months, he has been requesting the cost of the four-year, 300-page investigation. He noted that the Mayor previously

asked him to use appropriate language. Mr. Zimmerman said he has the right to freedom of speech. He questioned whether he can use words such as small town crook, clown and psychopath. They are all in the American dictionary. Mr. Zimmerman said that he pays the Council and is their boss. He presented legal service to Councilmember Davidson for alleged bad service, abuse of the system, corruption, and mismanagement. He again asked the City to provide the cost of the four-year investigation.

- (g) Robert Burke said he is not being adequately helped at the State Department of Social and Health Services (DSHS) office in the Crossroads area. He requested the Council's help to get him on the newer blind and disabled program as quickly as possible. He asked the Council to call the local DSHS office or the headquarters office in Olympia on his behalf.
- (h) Pete Marshall, an Enatai resident, spoke to the Transportation Facilities Plan and the proposed southbound HOV lane on Bellevue Way. He recalled that he previously urged the Council to support cost-saving idea Option 1b (moving the Winters House) for the East Link light rail project. He opposes Option 1a, shifting Bellevue Way to the west. He believes that both options should be thoroughly studied. He observed that adding a new vehicle lane is counter to the concept of providing mass transit (i.e., light rail).
- (i) James Lowe thanked the Council for listening to his request. He asked that the interpretations of Land Use Code Section 20.20.140 regarding the definition of single-family residences be overturned and deleted from practice. He noted the inconsistencies in the interpretations and asked the City to stop the practice of allowing more than two unrelated people to live in a single-family residence. Mr. Lowe submitted his comments in writing.

Deputy Mayor Robertson asked the City Manager to get back to Mr. and Mrs. Lowe. She stated her understanding that federal law requires the City to allow up to six unrelated individuals in a single-family home.

#### 4. Reports of Community Council, Boards and Commissions

- (a) Transportation Commission transmittal of Preliminary 2013-2024 TFP Project Priority List

Ernie Simas, Transportation Commission Chair, provided a briefing to the Council regarding the 2013-2024 Transportation Facilities Plan (TFP) Preliminary Project Priority List recommendation. The Commission recommends 43 projects for inclusion in the TFP, which includes 32 roadway/intersection projects and 11 pedestrian/bike projects.

Mr. Simas explained that the plan's development is led by the Mobility and Infrastructure Initiative and the development of light rail. He highlighted key projects and discussed the next steps in the process. In September, staff will seek Council authorization of the TFP Environmental Impact Statement consultant agreement, if needed.

As part of the budget process this fall, Mr. Simas said staff will report on the Transportation Impact Fee review. Environmental review associated with the TFP is slated for October through December. The Transportation Commission will submit its final recommendation early next year. Council review and approval of the Final 2013-2024 TFP will be requested during the first quarter of 2013.

Mayor Lee thanked Mr. Simas for the presentation and recognized Scott Lampe, Vice Chair of the Transportation Commission, seated in the audience.

Responding to Councilmember Wallace, Mr. Simas said the NE 2<sup>nd</sup> Street project is a placeholder due to the lack of available revenues at this time.

Noting that Council review and action on the final TFP is scheduled for early next year, Councilmember Balducci suggested that the Council provide input on projects and priorities now.

Ms. Balducci expressed concern that, given the controversy over the proposed HOV lane on Bellevue Way, the Council has not been presented with an analysis or justification for the project. She said the Transportation Commission should not be asked to take on this significant community issue. She suggested earlier Council involvement and public outreach.

Mr. Simas said the Commission will be prepared to present its rationale when its final recommendations are submitted to the Council.

Councilmember Balducci requested a Study Session item on the Bellevue Way HOV lane project before it moves forward to the detailed environmental analysis.

City Manager Sarkozy said that the results of an analysis of all of the projects will be completed before the package is presented to the Council.

Ms. Balducci clarified that she is requesting further analysis of the HOV project specifically before the modeling work goes forward. She noted that the modeling looks at the overall group of projects in assessing environmental and other impacts. She believes this extensive work should not be completed before knowing whether there is Council support for the HOV project. She expressed concern that this has been a fairly controversial project for the community.

Mr. Sarkozy confirmed that a preliminary discussion of the HOV project can be scheduled, with the Council's concurrence.

Councilmember Davidson said that Bellevue Way is a congested area already, and he is concerned about the impacts of adding another southbound lane leading to I-90. He agreed with Councilmember Balducci that the project should be discussed further with the Council before conducting extensive analysis.

Councilmember Chelminiak asked Commissioner Simas about the level of information provided to the Transportation Commission to date on the proposed Bellevue Way HOV lane project.

Mr. Simas said the Commission has not reviewed specific traffic counts or similar data. Rather, the Commission discussed its interest in identifying an overall strategy for addressing current and future congestion in the corridor.

Councilmember Chelminiak observed that I-90 is a primary contributor to the bottleneck on Bellevue Way. He questioned whether there are any Comprehensive Plan transportation policies to deal with HOV lanes within Bellevue. He does not want to prevent the TFP from moving forward. He noted that the cost-saving measure of shifting Bellevue Way to the west has the advantage of reducing costs for the City because Sound Transit would pay for the wall. Mr. Chelminiak said that Sound Transit is willing to consider shifting Bellevue Way if the HOV lane is completed. He said his personal preference would be to go back to the original alignment of placing light rail in a trench.

Mr. Chelminiak stated his understanding that the SR 520 tolls are not causing significant traffic diversions to Bellevue Way/I-90 because the area is already congested at rush hour. He wondered whether adding the HOV lane would result in simply a wider congested roadway.

Mayor Lee thanked Commissioner Simas and the Transportation Commission for their work. Mr. Simas said he appreciates the feedback, which he will take back to the Commission.

Deputy Mayor Robertson thanked Commissioners Lampe and Simas for attending the meeting, and extended her appreciation to the Transportation Commission for its work. She is interested in further study of the proposed HOV lane project, regardless of the final light rail alignment. For her, the HOV lane is not a mitigation project for light rail. She believes it will help to mitigate the additional trips to the South Bellevue Park and Ride facility. She said the HOV lane would also be beneficial during light rail construction, which will take place over several years.

Deputy Mayor Robertson said she would like the Council to accept the Transportation Commission's current recommendation for moving the list of projects forward for further study. She would object to removing the HOV project from the list and considering it separately. She noted that staff, the Transportation Commission, and citizens are interested in completing an analysis of the HOV proposal.

Councilmember Wallace thanked the Transportation Commission for its work. He supports having a discussion of the Bellevue Way HOV project sooner than what is reflected by the proposed next steps in the process. While the HOV and light rail projects are not absolutely linked, he believes it is important to discuss them in the same conversation before it gets too late in the year. Mr. Wallace said he could not make a rational decision on either project without discussing them together.

Councilmember Stokes said he appreciates the Commission's work on the Transportation Facilities Plan, and he anticipates that all of the projects will be studied going forward. He is

interested in the NE 16<sup>th</sup> project and the timing of that as it fits into the Spring District development. He wants to ensure that it is phased in so that it is ready to go when needed. He said he would save his more detailed comments and questions until further study is completed and presented to the Council.

Deputy Mayor Robertson questioned whether staff's plan is to bring a more detailed report on the HOV project back to the Council before taking action on the consultant agreement in September.

Mr. Sarkozy stated his understanding, from the immediate discussion, that the Council would like more information on the HOV project before it proceeds any further. Staff will come back to the Council on this topic in September/October, and the TFP will not be fully scoped until after the HOV project discussion.

In further response, Mr. Sarkozy said he will speak with staff to determine how much information can be compiled within a given timeframe. He explained that usually the TFP triggers the planning process that informs the Capital Investment Program (CIP) decision making. He is not certain about the level of information available at this point that will help to inform the Council's decision on a course of action.

Councilmember Balducci explained that the Sound Transit Board's position on cost-saving measures identified through the collaborative design process was that the City Council would need to initiate the Bellevue Way HOV lane project in order for Sound Transit to agree to study cost-saving Option 1a, which shifts Bellevue Way to the west.

Ms. Balducci said she recently reviewed some of the 2003 City Council minutes. At that time, there was discussion about whether to put a reference to Bellevue Way widening into the Comprehensive Plan, which is more detailed and long term than the Transportation Facilities Plan. She questioned what specific data was available at that time. She suggested that, if the HOV project is to come back for discussion before finalizing the modeling and scoping for the TFP analysis, she would like a better understanding of the NE 15<sup>th</sup>/16<sup>th</sup> Street project and how it matches with the phasing of anticipated development.

Mr. Simas confirmed that the NE 15<sup>th</sup>/16<sup>th</sup> corridor project is expensive and a subject of concern for the Commission as well. He said the Spring District plans to start construction next year. There is design funding in the TFP for the first phase of development. However, there is currently no construction funding for NE 15<sup>th</sup>/16<sup>th</sup> Street.

Councilmember Davidson said he would like information, for the next discussion, on how the Critical Areas Ordinance regulates a retaining wall on a steep slope.

Councilmember Chelminiak observed that the Transportation Commission's current submittal recommends moving the Bellevue Way HOV project into the next Capital Investment Program (CIP) Plan. He is uncomfortable with attaching his name to that course of action. He is generally opposed to the concept unless there is good data to support it.

With regard to the prioritization of the NE 15<sup>th</sup>/16<sup>th</sup> Street project, Councilmember Wallace said he would like to understand the overall transportation impacts, including to 120<sup>th</sup> Avenue NE and NE 4<sup>th</sup> Street.

Mayor Lee said that Bellevue Way is an important north-south arterial that needs to be carefully considered. He summarized that the Council is interested in more information on the HOV project before a broader discussion of the TFP.

Deputy Mayor Robertson expressed concern about how the timeline for reviewing the TFP matches with the collaborative design work with Sound Transit under the East Link Memorandum of Understanding (MOU).

Mr. Sarkozy acknowledged Ms. Robertson's urgency regarding this topic and need for information. He said he will talk to staff to determine how much information is available at this point. Typically, the process is to move the TFP forward and to generate information on the feasibility of the projects. Mr. Sarkozy said staff will make every effort to return to the Council as soon as possible.

Ms. Robertson reiterated her concern about how this discussion relates to the Sound Transit work plan.

→ Deputy Mayor Robertson moved to advance the Transportation Facilities Plan (TFP) for further review, with the expectation that the Council and staff will take a more in-depth look at the Bellevue Way HOV lane project and the NE 15<sup>th</sup>/16<sup>th</sup> Street project before entering into a contract. Councilmember Wallace seconded the motion.

Councilmember Chelminiak observed that the City Manager has indicated that he does not know what information is currently available to support the HOV lane project. He questioned why the HOV lane project should move forward with the TFP at this time.

Deputy Mayor Robertson said she supports the motion because the purpose of the TFP at this point is to take the Transportation Commission's recommendation forward for further study. She said the Council wants early results on the Bellevue Way HOV lane. However, she believes it is important to take action tonight because the Council voted 6-1 to include the project for consideration as part of the cost savings work through the collaborative design process. She does not want to run afoul of that process.

Councilmember Chelminiak clarified that Sound Transit, not the Council, advocates for a link between the Bellevue Way HOV project and the light rail cost saving option of shifting Bellevue Way to the west.

Councilmember Wallace said he supports the request for further information on the projects referenced in the motion. He said that requesting more information is reasonable and consistent

with how other road projects are considered. He supports moving forward with an analysis of the TFP, while compiling more information and deciding which TFP projects will actually be funded.

Councilmember Stokes expressed concern that the Council is debating and attempting to resolve the issue now. At this point, Sound Transit is interested in moving the HOV lane project forward for further study. This is not a final decision about whether the project will be funded and implemented. Mr. Stokes wants to continue to have a full discussion of the TFP.

Councilmember Davidson expressed concern that the TFP indicates full implementation of the HOV lane projects versus moving forward for further study only.

Councilmember Balducci said it feels like the Council is being asked to state at this stage whether or not it approves further study of the HOV lane project concept. She said she does not approve of the concept. However, perhaps she could be convinced by the appropriate information. She is surprised that more information has not been provided. Ms. Balducci observed that the Council can make time for a discussion of whatever information is currently available.

Mayor Lee said he believes that the Bellevue Way corridor warrants further study.

→ The motion carried by a vote of 4-3, with Councilmembers Balducci, Chelminiak and Davidson opposed.

Mr. Sarkozy reiterated that staff will bring back information as soon as possible.

(b) Arts Commission Transmittal of 2012 Funding Recommendations

Arts Commissioner Brad Smith noted that Agenda Item 8(h) transmits the Arts Commission's 2012 funding recommendations for Eastside Arts Partnerships and Special Projects funding programs. He thanked the Council for its support of the 2012 Bellwether Sculpture Exhibition, and acknowledged the efforts of Mary Pat Byrne, Arts Specialist, and Councilmember Balducci.

Commissioner Smith described the two programs. Eastside Arts Partnerships (EAP) funds Bellevue organizations and artists. The Special Projects program funds applicants from throughout the region, but the artistic outcome of the funded project must be displayed or presented in Bellevue. Mr. Smith said that fewer applications were received this year, which he attributed to the reduction in available funding. Most of the groups funded received a reduced allocation compared to previous years.

Mr. Smith thanked the Council for its support of the arts on behalf of the community.

Councilmember Balducci reported that nearly all of the artists in this year's Bellwether Exhibition, including from out of state, attended the opening. She said the visiting artists were impressed and enthusiastic about the City's support of the arts and the quality of public art.

Councilmember Balducci thanked Ms. Byrne, Commissioner Smith, and the Arts Commission for their ongoing work.

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

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

5. Report of the City Manager

(a) Management Brief on Lakemont Boulevard SE Boundary Adjustment Action

City Manager Steve Sarkozy noted the management brief in the meeting packet [Page 5-1] regarding the requested boundary adjustment action for Lakemont Boulevard SE.

Nicholas Matz, Senior Planner, explained that King County has asked the City to adjust its boundary via an interlocal agreement to annex a remnant of unincorporated right-of-way on Lakemont Boulevard SE. This request is consistent with state law that allows the revision of City boundaries to fully include the segment of a public street within the corporate limits of the City.

Mr. Matz recalled that a series of annexations have taken place in South Bellevue in recent years. Normally the City annexes to the edge of a right-of-way. However, the Lakemont Boulevard segment appears to have been overlooked in the course of the multiple annexations.

Mayor Lee noted Council consensus to move forward with preparing the item for action on the August 6 Consent Calendar.

6. Council Business and New Initiatives

[No reports.]

7. Approval of the Agenda

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

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

8. Consent Calendar

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

Mayor Lee noted that there was discussion of Agenda Items 8(c) and 8(d) during the Mayor's Meeting. He requested one-page summaries of those two items.

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

- (a) Minutes of June 11, 2012 Extended Study Session
- (b) Resolution No. 8421 authorizing approval of payment in the amount of \$21,218.93 for a Release of All Claims in final settlement of a claim against the City for property damage to the Peterson residence caused by a wastewater system failure.
- (c) Resolution No. 8422 authorizing execution of an agreement with Gimmel, LLC, in an amount not to exceed \$341,564.86, for IT architecture assessment services and the purchase of electronic records management software, installation and implementation services, and a related software maintenance agreement.
- (d) Resolution No. 8423 authorizing execution of a job order contract Berschauer Phillips, for general horizontal construction (public works projects), for an initial term of two years with an option to extend for an additional year, and Resolution No. 8424 authorizing execution of a job order contract with Centennial Contractors Enterprises, Inc., for general vertical construction (building renovation), for an initial term of two years with an option to extend for an additional year.
- (e) Resolution No. 8425 authorizing execution of a two-year Lease Agreement with KandD Business, Inc., dba Choice Vendors/Choice Espresso, for the lease of space at City Hall, to operate an espresso cart.
- (f) Resolution No. 8426 authorizing execution of Community Connectivity Consortium Project Agreement #63, to provide the King County Regional Communications and Emergency Coordination Center a fiber connection to the Community Connectivity Consortium fiber backbone, which will be utilized for emergency communication between the City and King County.
- (g) Motion to award Bid No. 12145 to Interstate Sheet Metal, Inc., in the amount of \$87,099.39, as the lowest responsible and responsive bidder, for the replacement of the mansard siding at the North Bellevue Community Center.
- (h) Motion authorizing allocation of funds to artists and arts groups serving Bellevue through the Eastside Arts Partnerships and Special Projects Funding Programs.

9. Public Hearings

(a) Public Hearing and Consideration of Ordinance Annexing the South Bellevue Hilltop Area to the City

Ordinance No. 6067 annexing to the City of Bellevue 63 acres known as the South Bellevue Hilltop Annexation, located south of I-90 in the Newcastle Subarea Potential Annexation Area (PAA), by Direct Petition under RCW 35A.14.120.

(1) Staff Report

Nicholas Matz, Senior Planner, introduced the public hearing held in the consideration of Ordinance No. 6067 annexing to the City of Bellevue 63 acres known as the South Bellevue Hilltop Annexation in the Newcastle Subarea. He briefly reviewed the process to date, noting the proposed effective date of July 31 for the annexation.

(2) Motion to open public hearing

→ Deputy Mayor Robertson moved to open the public hearing, and Councilmember Chelminiak seconded the motion.

→ The motion to open the public hearing carried by a vote of 7-0.

(3) Public Testimony

Alex Harris thanked the Council on behalf of the Hilltop community for its support of the annexation.

(4) Motion to close public hearing

→ Deputy Mayor Robertson moved to close the public hearing, and Councilmember Balducci seconded the motion.

→ The motion to close the public hearing carried by a vote of 7-0.

(5) Council Discussion and Action

→ Deputy Mayor Robertson moved to adopt Ordinance No. 6067, and Councilmember Chelminiak seconded the motion.

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

10. Land Use: None.

11. Other Ordinances, Resolutions and Motions: None.

12. Unfinished Business: None.
13. Continued Oral Communications: None.
14. New Business: None.
15. Executive Session: None.
16. Adjournment

At 10:01 p.m., Mayor Lee declared the meeting adjourned.

Myrna L. Basich, MMC  
City Clerk

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