

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Regular Session

August 1, 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 8:06 p.m., with Mayor Davidson presiding.

2. Roll Call, Flag Salute

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

(a) EPA Clean Air Excellence Award for City's Carbon Yeti Program

Nav Otal, Interim Utilities Director, announced that the City received the U.S. Environmental Protection Agency's Clean Air Excellence Award for the Carbon Yeti Program. Ms. Otal described this education and outreach program targeted toward achieving the community-wide emission reduction goals. The program has been recognized by a number of awards, and the Carbon Yeti appears at many City and local events.

Mayor Davidson congratulated staff on the program's achievements and awards.

Councilmember Robertson noted that the Carbon Yeti has a Facebook page.

3. Communications: Written and Oral

(a) Scott Rodgers, speaking on behalf of Move Bellevue Forward, expressed support for Sound Transit's light rail preferred alignment, which was approved by the Sound Transit Board by a vote of 15-2. He urged the signing of the City-Sound Transit Term Sheet by August 10, and moving forward to establish a memorandum of understanding this fall.

He expressed concern about a proposal to move the SE 8th Street Station to Main Street, and recommended keeping the station at SE 8th Street. He urged the Council to continue to pursue exceptional mitigation and to negotiate for design changes along the B2M route. He thanked the Council for its work, and stated that Move Bellevue Forward looks forward to this important addition to the public transit infrastructure.

- (b) Renay Bennett said she is pleased that the City and Sound Transit are exploring exceptional mitigation measures for the alignment along Bellevue Way and 112th Avenue SE. However, she continues to support the B7-Revised route, and encourages the Council to retain its right to protect the City and its residents. Ms. Bennett expressed concerns regarding environmental, traffic, and noise impacts, as well as implications for the Winters House. She questioned how Councilmember Balducci's representation on the Sound Transit Board failed to bring up the ARUP study citing cost savings and higher ridership for the B7-Revised route as compared to the B2M option. Ms. Bennett asserted that Ms. Balducci's vote was in direct violation of the majority opinion of Bellevue residents and the City Council. She expressed concern that Bellevue is asked to help fund a tunnel, even though Seattle tunnels were funded by Sound Transit. Ms. Bennett questioned why the City's 20-year-old policy placing light rail along I-405 has been disregarded by Councilmembers Balducci, Chelminiak, and Degginger.
- (c) Representatives of the Bellevue Botanical Garden Society thanked the Council for its work on behalf of the community. Denise Lane, Capital Campaign Chair, announced the receipt of a pledge of \$200,000 from the Tateuchi Foundation.
- (d) Former Councilmember Margot Blacker thanked the Council for negotiating with Sound Transit. Noting that nearly 60 percent of Bellevue voters supported the East Link project, she suggested that citizens will not support spending tax dollars on litigation, especially with so many other capital needs. She believes there would be significant adverse impacts to the local economy if light rail were to bypass Bellevue. She urged the Council to approve the proposed Term Sheet presented during the earlier Study Session, and asked them to consider a west side-running configuration along Bellevue Way. She asked the Council to keep moving in negotiations with Sound Transit about the alignment and mitigation measures.
- (e) Loyd Jacobs summarized his research on rail transit noise and mitigation. He described the attributes of Hong Kong's light rail system, and encouraged the City to study it further. He submitted his comments in writing.
- (f) Scott Lampe, representing the Surrey Downs East Link Committee, said that Surrey Downs residents continue to support the B7 alignment. He thanked the Council for studying B7 alternatives. He asked that all residents adjacent to the B2M alignment be included at the negotiations table, and that their contributions be incorporated into plans developed with Sound Transit. Mr. Lampe urged the Council to protect neighborhoods.
- (g) Joe Rosmann, a Surrey Downs resident, talked about neighborhood character and called for the preservation of Bellevue's quality of life within the context of light rail planning.

He noted that Councilmember Balducci has visited his home and observed noise from I-405 from his deck. He has used Hong Kong's light rail. He commented that Sound Transit has not invested in adequate mitigation. Mr. Rosmann said that Councilmember Degginger has visited his home to talk to residents about a Downtown Tunnel. Mr. Rosmann said that, in 2006, he wrote the first letter to the City Council asking for a Downtown Tunnel.

- (h) Jack McCullough, representing HEI Bellevue, encouraged the Council to approve Resolution No. 8275 presented under Agenda Item 11(b).
- (i) Martin Paquette, an Enatai resident, expressed concern that certain individuals are opposed to the overall light rail project, and that they will continue to use controversy related to Segment B to attempt to stop the project. He noted that more than 50 percent of Bellevue voters supported the project, and he would like to see it move forward.
- (j) Bill Eager, a resident of Bellefield Park, expressed concerns regarding noise, traffic, and environmental impacts related to the East Link project. He suggested that the East Link project is not a transportation solution, and encouraged the Council to focus on more effective ways to handle downtown traffic.
- (k) Richard Lee asked the Council to continue working to prevent the increasing helicopter noise in Bellevue. He said residents would like Sound Transit to develop a model demonstrating its plan for Bellevue before moving forward.
- (l) Bill Popp, an Enatai resident, noted his opposition to the design of the Rapid Ride stations on NE 8th Street.

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

5. Report of the City Manager

City Manager Steve Sarkozy introduced Chris Salomone, the City's new Director of Planning and Community Development. Mr. Salomone has worked in Carlsbad, California; Chula Vista, California; and Tempe, Arizona.

Mr. Salomone said he looks forward to serving the City and working with staff and the Council.

Mayor Davidson welcomed Mr. Salomone.

6. Council Business and New Initiatives

Mayor Davidson noted the Council's discussion during the earlier Study Session, and observed that it will be necessary to schedule a special meeting to complete discussion of the updated Term Sheet with Sound Transit. He suggested that the meeting include an Executive Session as well as a Study Session to address the Term Sheet.

Councilmember Balducci requested an agenda item to vote on appointments to the Arts Commission. Mayor Davidson agreed.

→ Deputy Mayor Lee moved to schedule a Special Meeting for August 8, and Councilmember Robertson seconded the motion.

Councilmember Chelminiak suggested that the agenda be limited to the Sound Transit Term Sheet, Resolution regarding further negotiations with Sound Transit, Arts Commission appointments, and an Executive Session. He noted the need to reflect that the Council anticipates taking action on the Term Sheet and the Commission appointments.

→ The motion to schedule a Special Meeting for August 8, with the agenda as outlined by Councilmember Chelminiak, carried by a vote of 7-0.

Councilmember Chelminiak attended a meeting of the Probation Board, which included a discussion about an expert hired to review the Probation Services division. A preliminary report is expected in September, and the final report is anticipated in October.

Councilmember Robertson reported that Bellevue, in partnership with Republic Services (formerly Allied Waste), recently launched the first organic composting program for multifamily properties. She recognized Mark Van Hollebeke of the Parks and Community Services Board for suggesting this initiative involving his condo residence in Old Bellevue after reading Ms. Robertson's environmental article in *It's Your City*. Ms. Robertson attended meetings of the PSRC Growth Management Planning Council, Bellevue Parks and Community Services Board, and PSRC prioritization working group. Last Thursday she represented the Council in providing oral comments to the Sound Transit Board.

Recalling the Study Session discussion regarding the East Link project Term Sheet, Ms. Robertson said she would like language in the accompanying resolution to address subarea equity. She noted that the section of the East Link line between Seattle's International District and Mercer Island is in the North Subarea, not in the East Subarea. She asked staff to work through this during the negotiations with Sound Transit.

Deputy Mayor Lee reported that he played softball for the seniors and they won. He attended the Transportation Commission's retreat, Neighbor Link picnic at Crossroads, fire fighter recruits graduation ceremony, a tour of the Coca Cola bottling plant, and a meeting regarding economic development.

Councilmember Balducci completed her comments from the earlier Study Session on the Sound Transit Term Sheet. She concurred with Ms. Robertson's comments on subarea equity, and noted the importance of light rail grade separation in Downtown Bellevue. She recalled past policy direction to concentrate growth in the Downtown, which requires a 49 percent mode split by 2030 to avoid significant traffic congestion. Ms. Balducci said that light rail grade separation is consistent with this goal.

Ms. Balducci noted that the East Link ballot measure did not include tunnel funding, and both the City and Sound Transit continue to work toward achieving the needed funds. She observed that Bellevue's neighborhoods are its gems. She noted recent negotiations with Sound Transit, involving Councilmembers Degginger and Wallace, to identify a cooperative alignment providing exceptional mitigation for the B2M alignment. This includes minimizing traffic, noise and visual impacts. Following these discussions, Sound Transit developed several options including an elevated crossing over 112th Avenue SE. Councilmember Balducci said this was an initial attempt to address the City's concerns. However, it was not expected to be a final solution. Ms. Balducci acknowledged that there is more work to be done on the B2M alternative, and she believes that impacts can be mitigated.

Recalling Councilmember Robertson's comments during the earlier Study Session, Councilmember Balducci observed that some of the topics are addressed in the draft Term Sheet. However, some are not, including a clear statement that calls for the City and Sound Transit to work cooperatively to reduce costs. Ms. Balducci spoke in favor of a Term Sheet or resolution provision about formal information sharing between the two agencies. She observed that tonight's debate is about a non-binding Term Sheet. While it should be clear about the City's intentions, a binding memorandum of agreement is anticipated this fall.

Councilmember Wallace attended the Coca Cola plant tour, which was primarily a networking opportunity related to human services funding. Mr. Wallace said he has been meeting with a number of neighborhood groups in recent weeks to discuss interests and concerns regarding the light rail alignment. He noted that he attended the Bellevue Arts and Crafts Fair.

Councilmember Degginger reported that he and Mayor Davidson attended the Cascade Water Alliance Board meeting. Mr. Degginger attended the PSRC Executive Committee meeting, and noted that \$3.3 million in federal funds were allocated to the City of Bellevue's NE 4th Street project. He thanked Councilmember Balducci for her work as Chair of the PSRC Transportation Policy Board and for her participation on the Sound Transit Board.

Mayor Davidson attended the Bellevue Arts and Crafts Fair, which is sponsored by the Bellevue Arts Museum, and participated in serving ice cream. He attended a meeting of the Puget Sound Salmon Recovery Council, which involved regional directors from federal agencies and directors from state agencies, and a meeting of the King County Flood Control District advisory committee. He noted a proposal by the Flood Control District to add six employees.

Mayor Davidson said he appreciates the Sound Transit Board's identification of the C9T as the light rail preferred alternative .

7. Approval of the Agenda

- Deputy Mayor Lee moved to approve the agenda, and Councilmember Robertson seconded the motion.
- The motion to approve the agenda carried by a vote of 7-0.

8. Consent Calendar

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

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

- (a) Minutes of July 5, 2011 Study Session
Minutes of July 5, 2011 Regular Session
Minutes of July 11, 2011 Extended Study Session
- (b) Resolution No. 8267 authorizing execution of an amendment to the professional services agreement with Graham & Dunn, PC to increase the total contract amount from \$300,000 to \$380,000, for legal services in the lawsuit of Weinsteins and Newport Yacht Club v. City of Bellevue, USC No. C09-0589-MJP.
- (c) Resolution No. 8268 authorizing execution of a two-year performance-based energy services contract with MacDonald Miller Facility Solutions, in an amount not to exceed \$257,515, for energy conservation measures.
- (d) Resolution No. 8269 authorizing execution of a community solar lease agreement with Tangerine Power until June 30, 2020, with the option for a five- year extension, for the lease of roof space for roof-top solar panels which will generate electricity at the Bellevue Service Center located at 2901 115th Avenue NE.
- (e) Ordinance No. 6013 amending the Bellevue Land Use Code related to ensuring consistency with FEMA's National Flood Insurance Program minimum floodplain management requirements; specifically amending Land Use Code sections 20.25H.175, 20.25H.177, 20.25H.180; providing for severability and establishing an effective date.
- (f) Resolution No. 8270 authorizing execution of an amendment to the contract with COBRA Management Services, LLC, in an amount not to exceed \$13,000, for a total contract amount of \$58,000, for professional services related to COBRA administration and extending their contract twelve months at a reduced rate.
- (g) Fiber Optic Cable Installations

Resolution No. 8271 authorizing execution of a grant-reimbursed general services contract with NetVersant Solutions, LLC, in an amount not to exceed \$90,565, for the installation of fiber optic cables, and,

Resolution No. 8272 authorizing execution of a grant-reimbursed general services contract with Powercom, Inc., in an amount not to exceed \$408,060, for the

installation of fiber optic cables.

- (h) Motion to reject all bids for Bid No. 11174 for the construction of the Coal Creek Newcastle Trailhead project located along Newcastle Golf Club Road.
- (i) Motion to award Bid No. 11187 to Danneko Construction, as the lowest responsible bidder, in the amount of \$84,700.00, for delivery and installation of two sections of cantilevered boardwalk with stairs and trail improvements on the Lewis Creek Trail in Lakemont Community Park.
- (j) Motion to award Bid No. 11198 to Roof Toppers Inc, as the lowest responsible bidder, in the amount of \$169,460.00, for roof replacements located at Kelsey Creek Park, Meydenbauer Marina, and the Bellevue Botanical Garden.
- (k) Resolution No. 8273 authorizing execution of an interlocal cooperation agreement with King County regarding renewal of the HOME Investment Partnerships Program for years 2012-2014.
- (l) Ordinance No.6014 authorizing execution of a one-year grant agreement with the Washington State Department of Commerce to accept \$171,797 in grant funding for the Eastside Narcotics Task Force (ENTF); amending the 2011-2012 budget of the Operating, Grants, Donations and Special Reserve Fund in the amount of \$171,797; and authorizing expenditures of said funds.
- (m) Ordinance No. 6015 authorizing: 1) execution of a grant agreement with the Washington State Department of Transportation to accept a state-funded \$355,000 Pedestrian and Bicycle Safety Program grant to enhance pedestrian crossing facilities and access on Northup Way from 156th to 164th Avenues NE; 2) amendment of the 2011-2012 general Capital Investment Program (CIP) fund to increase the appropriation by \$355,000; and, 3) amendment of the 2011-2017 CIP Plan to increase the budget for the Minor Capital Traffic Operations Program by \$355,000 and authorizing expenditures from said fund (CIP Plan No. PW-M-2).
- (n) Resolution No. 8274 authorizing execution of a consultant agreement with Kleinfelder, Inc., in an amount not to exceed \$58,677, to provide a geotechnical engineering assessment and evaluation of 72 existing rockeries located throughout the City to be implemented through the Major Maintenance Program, 108th Avenue NE to NE 24th Street (CIP Plan No. PW-M-19).
- (o) Motion to award Bid No. 11125, Lake Hills Connector and SE 8th Street Signal and Intersection Improvements to New West Development, Inc., as the lowest responsible and responsive bidder, in the amount of \$365,185.00 (CIP Plan Nos. CD-22, PW-M-19, and PW-M-1).
- (p) Motion to reject Bid No. 11094 for Kelsey 450 - Water Main Extension at NE 10th Street and re-bid at a later date (CIP Plan No. W-69).

- (q) Motion to award Bid No. 11103 for PRV Replacement 2011, Phase 1, to Bonner Brothers Construction, Inc., as lowest responsible and responsive bidder, in an amount not to exceed \$552,553.42 (CIP Plan No. W-67).
- (r) Motion to approve an increase to the construction contract with Road Construction Northwest, Inc., Bid No. 11050, by \$46,434.57 to \$240,753.13 for Kelsey Creek Culvert at NE 8th Street Fish Passage Improvements (CIP Plans No. D-64 and D-81).

9. Public Hearings

- (a) First of two required public hearings to consider R-2.5 (Single Family Residential - 2.5 units per acre) pre-annexation zoning for unincorporated area, known as Hilltop, in the Potential Annexation Area.

Mr. Sarkozy introduced the first of two public hearings to consider pre-annexation zoning for the Hilltop unincorporated area.

Nicholas Matz, Senior Planner, explained that the Council has the policy guidance and the statutory authority to establish pre-annexation zoning in advance of annexation. He noted the proposal to consider R-2.5 pre-annexation zoning (Single family residential, 2.5 units per acre) for the Hilltop area, which is consistent with the Comprehensive Plan. Upon completion of this public hearing, staff recommends scheduling a second public hearing for consideration of the pre-annexation zoning.

Responding to Mayor Davidson, Mr. Matz explained that the existing R-3.5 zoning established in 1987 was largely consistent with King County's R-4 zoning. Hilltop residents have raised the issue that their lot configurations are not consistent with the higher density, and that moving to a lower density is more appropriate for the stability of this community.

Responding to Councilmember Chelminiak, Mr. Matz said the pre-annexation zoning falls fully within the City Council's authority. The final annexation action, however, will go before the Boundary Review Board.

Responding to Councilmember Robertson, Mr. Matz said staff will be presenting a Notice of Intent to annex the Hilltop and Horizon View areas for Council consideration on September 6. Residents have submitted petitions sufficient to exceed the 10 percent threshold. In further response, Mr. Matz said the R-2.5 zoning is consistent with the existing Comprehensive Plan designation of single family-medium density for the area.

Responding to Councilmember Balducci, Mr. Matz said the proposed zoning designation will reduce the number of non-conforming properties. He noted that these are largely dimensional in nature as opposed to non-conforming uses. In further response, Mr. Matz said staff is fully engaged in the Eastgate and Tamara Hills direct petition annexation effort. A full report will be provided during the Council's September 6 meeting, at which time the Council will be asked to

consider the Notice of Intent for the remaining two potential annexation areas (PAAs). Councilmember Balducci thanked Mr. Matz for his work.

Responding to Deputy Mayor Lee, Mr. Matz said that the area is fully developed, and moving to a zoning designation of R-2.5 is not expected to trigger any new non-conforming situations. He offered to provide an analysis of this potential impact during the September 6 Council meeting. Mr. Matz said that non-conforming properties are dimensional in nature for redevelopment consideration.

- Deputy Mayor Lee moved to open the public hearing, and Councilmember Robertson seconded the motion.
- The motion to open the public hearing carried by a vote of 7-0.

The following citizens came forward to comment:

- (1) Abby Ismond, a member of the Hilltop community, spoke to the R-2.5 pre-annexation zoning proposal. She explained that her ideal solution would have been a combination of the City's R-1 zoning designation and King County's more lenient R-4 setbacks. This would have met the goal of one house per lot per acre, and would have best met the topography of the Hilltop area.
- (2) Greg Gorman noted that he is a Hilltop resident, a physician at Overlake Hospital, and an elected commissioner for Water District 117, which currently serves the Hilltop area. He noted the District's interest in establishing a pre-annexation agreement with the City in order to maintain the water district.
- (3) Alex Harris, President of the Hilltop Community Association, spoke in support of the proposed pre-annexation zoning designation.

- Deputy Mayor Lee moved to close the public hearing, and Councilmember Robertson seconded the motion.
- The motion to close the public hearing carried by a vote of 7-0.

Responding to Deputy Mayor Lee, Mr. Matz said the zoning designations available, based on the Comprehensive Plan, are R-2.5 and R-3.5.

- Councilmember Balducci moved to direct staff to schedule a second public hearing, at least 30 days in the future, on the proposal to enact R-2.5 pre-annexation zoning for the Hilltop unincorporated area. Councilmember Chelminiak seconded the motion.
- The motion carried by a vote of 7-0.

- (b) Public Hearing on Ordinance No. 6009 Extending the Life of Certain Preliminary Short Plat Approvals

Carol Helland, Land Use Division Director, recalled the Council's adoption on July 5 of Ordinance No. 6009, which imposes an interim extension on the maximum life of preliminary plat approvals from three years to four years. The state Growth Management Act (GMA) requires that a public hearing be held within 60 days of adoption of the ordinance.

- Deputy Mayor Lee moved to open the public hearing, and Councilmember Robertson seconded the motion.
- The motion to open the public hearing carried by a vote of 6-0, with Councilmember Balducci away from the dais.

No one came forward to comment on the proposed ordinance.

- Councilmember Robertson moved to close the public hearing, and Councilmember Wallace seconded the motion.
- The motion to close the public hearing carried by a vote of 6-0.

10. Land Use: None.

11. Other Ordinances, Resolutions and Motions

- (a) Planning Commission recommendation on Land Use Code Amendments to prohibit non-emergency helicopter landing facilities citywide.

Ordinance No. 6016 amending the Bellevue Land Use Code relating to the prohibition of helicopter landing facilities citywide except for emergency purposes; specifically amending Land Use Code sections 20.10.440, 20.20.450, and 20.25D.070; providing for severability and establishing an effective date.

Mr. Sarkozy summarized Ordinance No. 6016, which amends the Land Use Code relating to the prohibition of helicopter landing facilities citywide, except for emergency purposes.

Ms. Helland was available to answer questions.

Councilmember Robertson noted a pending LUPA (Land Use Petition Act) appeal on a conditional use permit application, which the court reviewed as a closed record. She questioned whether there would be a reason to wait until that is resolved to take action on this ordinance.

Kate Berens, Deputy City Attorney, explained that the conditional use permit is vested to the code that was in effect at the time of the application, so it will not be affected by Ordinance No. 6016.

Mayor Davidson expressed concern that, when the Eastgate Subarea study is completed, the Council might decide to consider allowing non-emergency helicopter landings at some location

in the I-90 corridor. He noted that the Washington State Patrol has an office in the Eastgate area.

Ms. Helland said that emergency landings would be permitted, and the Council could decide to amend the Land Use Code in the future to allow non-emergency landings, if desired.

Councilmember Balducci noted that the Planning Commission's recommendation also requests that the Council add a review of helicopter regulations to the Land Use Code amendment work program, and that the Council commit to initiate a review of helicopter regulations within a reasonable time period, taking into account competing development priorities. Ms. Balducci said she would like to move to adopt Ordinance No. 6016, with this added language.

City Clerk Myrna Basich suggested that the Council introduce separate motions to take action on the ordinance and to provide additional direction as outlined by Councilmember Balducci.

→ Councilmember Balducci moved to adopt Ordinance No. 6016, and Councilmember Robertson seconded the motion.

Councilmember Balducci commented that this is not necessarily intended to be a permanent policy. However, she would like the opportunity for the Council to fully consider the appropriate regulations, especially related to noise and safety. She noted that the Planning Commission raised concerns that the timing of the prohibition creates potential fairness issues.

Deputy Mayor Lee said he has similar concerns about the timing and fairness issues. He believes the topic should be studied further before taking any action. He noted there is not likely to be any new application for a helicopter landing in the foreseeable future.

→ The motion to adopt Ordinance No. 6016 carried by a vote of 6-1, with Deputy Mayor Lee dissenting.

→ Councilmember Balducci moved that the Council add a review of helicopter landing regulations to the Land Use Code amendment work program, and that the Council commit to initiate a review of helicopter regulations within a reasonable time period, taking into account competing development priorities. Councilmember Robertson seconded the motion.

Councilmember Robertson noted that, approximately two months ago, the Council asked staff to come back with a code development work plan. She thought helicopter landings would be part of that work plan.

Ms. Helland said staff is scheduled to present the work plan in September, and helistop regulations are on the list to be prioritized in discussion with the Council.

Councilmember Chelminiak expressed support for the motion. He questioned how the Council should provide input to staff regarding what should be included in the review of helistop regulations.

Mayor Davidson suggested that the Planning Commission will address issues raised during the Council's consideration of the helistop permit application.

Ms. Helland said staff has documented Council direction throughout all of the discussions about helistop policies. As Land Use Code amendments are initiated, staff will seek Council direction on the appropriate scope of work for the Planning Commission.

Councilmember Wallace looks forward to further discussion of a number of potential amendments, including allowing banks in downtown retail spaces. He observed that the Council's intensive discussions about light rail have diverted attention away from addressing issues that could help to stimulate job creation. He looks forward to working on a broader range of issues beginning in September.

→ The motion to direct staff to add a review of helicopter landing regulations to the Land Use Code amendment work program, and to initiate a review within a reasonable time period, recognizing competing priorities, carried by a vote of 7-0.

- (b) Resolution No. 8275 authorizing execution of the First Amendment to Easement Agreement for Open Space, Passive Recreation, Pedestrian and Recreational Use and Access by the Public with HEI Bellevue, LLC, and related documents, extending certain deadlines for completion of the contemplated construction of interim park improvements.

Mr. Sarkozy opened discussion regarding an easement agreement with HEI Bellevue, LLC, related to their plans to develop a hotel along NE 2nd Place, and to the City's easement for public park purposes.

Kate Berens, Deputy City Attorney, referred the Council to materials in the meeting packet describing HEI's obligation to prepare plans for park improvements and to contribute to the construction of these improvements.

Councilmember Degginger noted that the property is being marketed by the current owner, and questioned the status in this regard.

Jack McCullough said there has been active interest during the past six months from a national investor, who would be seeking a time extension for the completion of the hotel and park project. He is hopeful that the investor will follow through to purchase the site.

Councilmember Robertson questioned how the City secured the \$250,000 contribution toward the construction of park improvements. Ms. Berens said a \$500,000 completion bond was issued to ensure compliance before construction of the underground parking garage can begin.

Responding to Mr. Degginger, Ms. Berens explained that the completion bond was associated with the original design review approval, and it has therefore expired. For a new project, a new bond would be required as a condition of commencing construction under the new design review and construction permits.

Councilmember Robertson questioned what the City and taxpayers gain by extending the project completion deadline.

Ms. Berens said there is no monetary consideration associated with the amendment. However, a time extension recognizes the change in the economy since the time that the original agreement was established.

Councilmember Robertson expressed concern that there is no guarantee that a project will move forward.

Ms. Berens said the underlying agreement contemplates that: 1) The project will go forward, 2) The design review is for a hotel that includes an underground parking garage, and 3) There will be a public park easement. A performance bond comes into play when construction begins. If construction is never initiated, the City retains a reversionary interest. Rescheduling the deadline for project completion essentially resets the entire process, in recognition of the change in the market.

Councilmember Robertson observed that in the meantime, the public does not have a park at the site for its use.

Mr. McCullough stated that the reversionary right is favorable to the City. HEI bought the property from the City at the height of the market in 2008. The City retained the right to take the property back if a project does not move forward within the specified time limit. This provision has been a concern to potential investors and buyers of the site.

Responding to Councilmember Wallace, Ms. Berens said that the property owner is aware of Sound Transit's interest in the property. The City has not been a party to those conversations, however. In further response, Ms. Berens acknowledged the possibility that Sound Transit could ultimately take the site for the East Link light rail project.

→ Councilmember Degginger moved to approve Resolution No. 8275, and Councilmember Balducci seconded the motion.

→ The motion to approve Resolution No. 8275 carried by a vote of 7-0.

12. Unfinished Business: None.

13. Continued Oral Communications: None.

14. New Business: None.

15. Executive Session: None.

16. Adjournment

Mayor Davidson declared the meeting adjourned at 9:55 p.m.

Myrna L. Basich, MMC
City Clerk

/kaw