

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Regular Session

September 6, 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 Chelminiak led the flag salute.

3. Communications: Written and Oral

- (a) Kent Bumgarner, a resident of Horizon View Division C, described differences between Division A, which is on the west side of 151st SE and has smaller lots, and Division C, which is east of 151st SE and has larger lots. He noted R-2.5 zoning for the Hilltop area, and expressed an interest in exploring that for Horizon View when it is annexed into Bellevue. Mr. Bumgarner noted that Nicholas Matz, Senior Planner, has been helpful in working with the community.
- (b) Wendy Jones, representing the Enatai Neighborhood Association, noted that the City sent letters to Enatai residents thought to be the most affected by the light rail project, including a potential HOV lane on Bellevue Way. She expressed concern that the letter was not sent to more Enatai residents, and that the HOV lane could extend north to the Y at 112th Avenue. She thanked the City for its efforts and encouraged a broader outreach. She expressed concern about the limited time remaining for citizen input. She suggested that the Council address the alignment issues separately from the issues under negotiation with Sound Transit to establish the memorandum of understanding.
- (c) Betsy Blackstock concurred with Ms. Jones' comments.

- (d) David Schooler, a member of the Hilltop annexation committee, addressed Agenda Item 11 related to South Bellevue Potential Annexation Areas (PAAs). He noted that the Hilltop community contains individuals with diverse viewpoints. The community and the area's water district are each separately negotiating agreements with the City related to annexation.
 - (e) Julia Cain, an AmeriCorps Vista member, introduced herself as a new representative of Jubilee Reach, a nonprofit sports organization. *[Citizen inadvertently spoke under Agenda Item 9 below.]*
- 4. Reports of Community Council, Boards and Commissions: None.
 - 5. Report of the City Manager
 - (a) American Public Works Association Re-Accreditation

City Manager Steve Sarkozy explained that the Utilities and Transportation Departments are working toward re-accreditation by the American Public Works Association. The Departments have completed the first phase, self-assessment, and will continue to work toward a peer review in November. Approval for re-accreditation is anticipated in the first quarter of 2012.

Mayor Davidson said that the Environmental Services Commission reviewed the Utilities Department's self-assessment report.

Councilmember Wallace observed that Bellevue's infrastructure and public works management are strong assets for both businesses and residents.

Mr. Sarkozy noted that Bellevue is one of a small group of cities that have achieved accreditation for every operating department.

Mayor Davidson believes that these achievements speak highly of the City's management and accountability.

Mr. Sarkozy commended department staff for their good work and noted that the value per taxpayer dollar is high in Bellevue.

Mayor Davidson noted that the City recently completed the annual State audit with a clean report.

6. Council Business and New Initiatives

Councilmember Balducci noted that the federal government is approaching important deadlines for reauthorizing the federal funding package for highways, bridges, and transit projects. September 30 is the deadline for passing a continuing resolution to extend the gas tax, which provides significant transportation funding. Washington state stands to lose \$158 million in highway funding and \$81.4 million in local funding if the gas tax expires.

Councilmember Balducci suggested coordinating with neighboring jurisdictions to prepare a letter in support of preserving this funding.

- Councilmember Balducci moved to authorize staff to prepare a letter, for the Mayor's signature, urging the U.S. Congress to pass a continuing resolution and to support continued investment in the nation's infrastructure. Councilmember Degginger seconded the motion.

Mayor Davidson suggested that staff develop a draft letter to distribute to Council by end of week for any additional comments prior to finalization and signature.

Councilmember Balducci accepted the Mayor's suggestion as a friendly amendment.

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

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 18, 2011 Study Session
Minutes of July 18, 2011 Regular Session
Minutes of July 25, 2011 Extended Study Session
Minutes of August 1, 2011 Study Session
Minutes of August 1, 2011 Regular Session
Minutes of August 8, 2011 Special Meeting
- (b) Resolution No. 8277 authorizing execution of a contract with Physio Control, for approximately \$243,725, to purchase eight Advanced Life Support (ALS) monitors/defibrillators.
- (c) Motion to award Bid No. 11215 to Buckley Nursery Co., as the lowest responsible bidder, in the amount of \$310,045.68, for the Kelsey Creek enhancement project at Larsen Lake.

- (d) Ordinance No. 6017 authorizing: 1) Assumption of lead agency status on a federal Scenic Byways Program grant originally secured by the Mountains to Sound Greenway Trust; 2) Execution of a grant agreement with the Washington State Department of Transportation to accept a federally funded \$158,312 grant for a Feasibility and Design study on the three-mile regional trail alignment through the Eastgate/I-90 area; 3) Amendment of the 2011-2012 general Capital Investment Program (CIP) fund to increase the appropriation by \$158,312; and, 4) Amendment of the 2011-2017 CIP Plan to increase the budget for the Pedestrian Access Improvements Program (CIP Plan No. PW-W/B-56) by \$158,312 and authorize expenditures from said fund.
- (e) Resolution No. 8278 authorizing execution of a professional services agreement with DKS Associates, in an amount not to exceed \$300,000 for the Downtown Transportation Plan Update.
- (f) Resolution No. 8279 authorizing execution of an Interlocal Agreement with King County, in an amount not to exceed \$30,000, for guardrail installation to be performed by the King County Road Services Division.
- (g) Resolution No. 8280 authorizing execution of a purchase amendment agreement with TransCore ITS, LLC, in an amount not to exceed \$240,687, to install Phase II of the SCATS traffic adaptive signal control system on key corridors in the Downtown and Hospital Districts.
- (h) Resolution No. 8281 authorizing execution of a professional services agreement with IMS Infrastructure Management Services, LLC, in an amount not to exceed \$145,500, for the 2011 Pavement Distress Survey.
- (i) Resolution No. 8282 authorizing approval of payment in the amount of \$63,068.48 for a Release of All Claims in final settlement of a claim against the City for property damage to the Burton residence caused by a water system failure.
- (j) Resolution No. 8283 authorizing approval of payment in the amount of \$22,421.31 for a Release of All Claims in final settlement of a claim against the City for property damage to the Ferreiro residence caused by a blocked storm drain.
- (k) On-Call Landscape Maintenance Services

Resolution No. 8284 authorizing execution of an amendment to the General Services Agreement with Canber Corporation to extend the term and amend other provisions of the existing agreement for on-call landscape maintenance;

Resolution No. 8285 authorizing execution of an amendment to the General Services Agreement with Total Landscape Corporation to extend the term and

amend other provisions of the existing agreement for on-call landscape maintenance;

Resolution No. 8286 authorizing execution of an amendment to the General Services Agreement with Malone's Landscaping to extend the term and amend other provisions of the existing agreement for on-call landscape maintenance; and

Resolution No. 8287 authorizing execution of an amendment to the General Services Agreement with Signature Landscape Services to extend the term and amend other provisions of the existing agreement for on-call landscape maintenance.

(l) On-Call Tree Trimming Services

Resolution No. 8288 authorizing execution of an amendment to the General Services Agreements with Davey Tree Expert Company to extend the term and amend other provisions of the existing agreement for on-call tree trimming services; and

Resolution No. 8289 authorizing execution of an amendment to the General Services Agreements with Trelstad Tree Incorporated to extend the term and amend other provisions of the existing agreement for on-call tree trimming services.

- (m) Motion to award Bid No. 11040 for AC Water Main Replacement at 390 West Lake Sammamish Parkway NE, to MVG, LLC, as lowest responsible and responsive bidder in the amount of \$80,427.75 (CIP Plan No. W-16).

9. Public Hearings

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

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

Nicholas Matz, Senior Planner, explained that the current zoning designation in place is R-3.5 (3.5 units per acre). Hilltop residents have requested the R-2.5 zoning as being more consistent with their community as developed.

Mr. Matz recalled that, during a previous discussion, Councilmembers asked about the extent of non-conformity with the proposed R-2.5 dimensional requirements. He reported that five of the 40 Hilltop lots are non-conforming to the R-2.5 and the current R-3.5 front setback dimensions.

The two Horizon View communities make up the remaining unincorporated portion of the South Bellevue PAA and currently have R-3.5 zoning. Mr. Matz said there is no proposal to change the Horizon View zoning, which appears to be aligned with existing development. However, a change in the zoning designation could be pursued if desired by the Council. Mr. Matz clarified that Agenda Item 11 does not affect Horizon View zoning. Staff will continue to work with residents and the Council to identify alternatives for consideration.

Mr. Matz explained that the Council may approve, disapprove, or modify the proposed pre-annexation zoning for the Hilltop area. Staff recommends adopting R-2.5 pre-annexation zoning for the Hilltop unincorporated area.

Responding to Mayor Davidson, Deputy City Attorney Kate Berens explained that the City does not normally have the authority to apply zoning outside of its boundaries. However, state law regarding annexation dictates the process for pre-annexation zoning. She noted that the pre-annexation zoning will not go into effect until the area is formally annexed.

- 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) David Schooler spoke on behalf of the Hilltop annexation committee and encouraged approval of the proposed R-2.5 pre-annexation zoning.
 - (2) Alex Harris noted that two of the five lots identified as non-conforming lots actually have the structure in question on the setback line, she believes, based on the level of accuracy of the information to date. She stated that this does not represent any problem. She has spoken with three of the five property owners, and they have no concerns about the non-conformity of their lots. Ms. Harris expressed support for the R-2.5 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.

Ordinance No. 6018 adopting a proposed zoning regulation to become effective upon annexation of a 63-acre area in unincorporated King County located generally south of SE 51st Street, west of 150th Place SE, north of SE 58th Street, and east of 145th Place SE, and within Bellevue's Potential Annexation Area (PAA) known as Hilltop.

Responding to Deputy Mayor Lee, Mr. Matz said staff will work with the property owners of the five non-conforming lots to document their understanding of the potential for non-conformity.

→ Deputy Mayor Lee moved to adopt Ordinance No. 6018, and Councilmember Robertson seconded the motion.

Councilmember Balducci observed that this is an important milestone in the annexation effort.

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

- (b) Public Hearing on relinquishing four water line easements no longer needed by the Water Utility at 18885, 18884, and 18881 SE 42nd Street, Issaquah, Washington.

Resolution No. 8290 authorizing execution of documents to relinquish four water line easements located at 18885, 18884, and 18881 SE 42nd Street, Issaquah, Washington, which are no longer required by the Water Utility.

Max Jacobs, Real Property Manager, described the proposal to relinquish four water line easements in Issaquah, as requested by the property owners. The Utilities Department examined the request and concluded that there were no active utility assets in the easement area. Staff recommends approval of Resolution No. 8290 authorizing the execution of documents required to relinquish the easements.

Councilmember Degginger questioned the future of Bellevue service areas that have been incorporated into Issaquah. Mike Jackman, Interim Deputy Director, said there have been discussions with Issaquah in the past about their plans to assume service in certain areas. He will provide an update on Issaquah's plan in the near future.

Responding to Mayor Davidson, Mr. Jackman said the property owner has acquired the three lots referenced in the proposed resolution and developed them as one site.

→ Deputy Mayor Lee moved to open the public hearing, and Councilmember Degginger seconded the motion.

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

No one came forward to comment on the proposed resolution.

→ 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.

→ Councilmember Robertson moved to approve Resolution No. 8290, 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

- (a) Motion to accept, with conditions, “ten-percent” threshold Notices of Intent to Petition under RCW 35A.14.120 for the South Bellevue Potential Annexation Areas (PAAs) of Horizon View and Hilltop.

Mr. Matz recalled staff’s presentation to the Council in June regarding Notices of Intent to Petition for the Eastgate and Tamara Hills areas. Staff is now requesting a motion to accept, with conditions, the ten-percent threshold Notices of Intent to Petition for the Horizon View and Hilltop areas. Bellevue currently covers approximately 31.5 square miles, and these are nearly the last remaining PAAs. Under the state Growth Management Act, cities are the appropriate providers of urban services within the urban growth boundary.

King County actively supports Bellevue’s annexation of the PAAs. Mr. Matz said that Bellevue will be able to provide more efficient City services. The vast majority of property owners will pay lower taxes than they currently have as part of unincorporated King County, and they will receive higher service levels. Mr. Matz said the City has an online calculator that can be used by property owners to determine the effect of annexation on their property, stormwater, and utilities taxes.

Mr. Matz explained that The Hilltop Community, Inc., a nonprofit community association, is requesting the City’s consideration of: 1) A separate pre-annexation agreement to address unique features of the area, and 2) Separate interlocal and franchise agreements to address future operations of their water district.

Mr. Matz asked the Council to take separate actions on the two Notices of Intent to Petition.

Councilmember Robertson asked staff to comment on Mr. Bumgarner’s comments earlier in the evening. Mr. Matz stated that the Council will not have that option this evening. Under statute, pre-annexation zoning must be adopted before the City Council directs the conditions under which it will accept Direct Petitions for Annexation. He explained that he spoke with Mr. Bumgarner, and one option for pursuing a different zoning is for them to consider a rezone action that would occur after annexation becomes effective. He clarified that these procedures are dictated by statute.

Ms. Robertson questioned whether the City would recommend R-2.5 zoning for the requested portion of Horizon View. She would prefer to wait to accept that petition if the Council is going to consider changing the zoning.

Mr. Matz said the issue was raised relatively recently in the process, and Mr. Bumgarner understands that the pre-annexation effort is foreclosed should the Council take action tonight on the Notice of Intent. If acceptance of the Notice of Intent for Horizon View is delayed, it would have implications for all of the South Bellevue annexations underway. He noted that the pre-annexation statutes specify a lengthy period of time for residents to consider a change in zoning

before moving forward to annex. Delaying action on Horizon View affects the City's ability to address the sales tax rebate in terms of all of the annexations occurring together. Mr. Matz said that more research would be needed by staff before making a recommendation.

Ms. Robertson questioned whether the lots in Horizon View Division C are consistent with R-2.5 zoning, or whether they are a mix. Mr. Matz said the average lot size in Hilltop is 43,200 square feet; the average lot size in Horizon View C is 26,000 square feet; and the average lot size in Horizon View A is less than 20,000 square feet. He confirmed that it would not be out of the question to consider different zoning for Horizon View C at some point.

Responding to Deputy Mayor Lee, Mr. Matz confirmed that current zoning in Horizon View is R-3.5. Mr. Matz explained that the Hilltop area is a unique circumstance. It has its own water district, a community association that actively represents itself in land use and other matters, and much larger lot sizes than the surrounding areas.

→ Deputy Mayor Lee moved to accept, with conditions, a "ten-percent" threshold Notice of Intent to Petition under RCW 35A.14.120 for the South Bellevue Potential Annexation Area (PAA) of Horizon View. Councilmember Robertson seconded the motion.

The conditions are as follows: 1) Property within the territory to be annexed shall be assessed and taxed at the same rate and on the same basis as the property within the City of Bellevue to pay for the outstanding indebtedness of the City existing at the date of annexation, 2) Property within the territory to be annexed shall be subject to the provisions of the Comprehensive Plan adopted under Resolution No. 5726 and subsequent proceedings pursuant thereto, and 3) Property within the territory to be annexed shall be subject to the City's proposed R-3.5 and R-2.5 zoning regulations adopted under Ordinance No. 3840, the central Newcastle Pre-Annexation Zoning Ordinance, and under Ordinance No. 6018 from the date of annexation.

Responding to Councilmember Chelminiak, Mr. Matz confirmed that Resolution No. 6018 adopted earlier this evening does not affect Horizon View.

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

→ Deputy Mayor Lee moved to accept, with the same conditions listed above, a "ten-percent" threshold Notice of Intent to Petition under RCW 35A.14.120 for the South Bellevue Potential Annexation Area (PAA) known as Hilltop. Councilmember Degginger seconded the motion.

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

Mr. Matz recalled that the Council previously directed that Eastgate and Tamara Hills undertake the Direct Petition 50% effort. Eastgate is at 34 percent and Tamara Hills is at 45 percent. A presentation and audience discussion is scheduled for September 27, to be followed by an open house on October 25 for a presentation on City services. Both events will be held at Eastgate Elementary. Additional drop-in meetings will be held in Factoria, the South Bellevue

Community Center, and other locations. Staff continues to meet at the request of homeowners associations and individuals as well.

Responding to Deputy Mayor Lee, Mr. Matz said that Bellevue covers approximately 31.5 square miles.

Responding to Councilmember Wallace, Mr. Matz said the City had until mid-2015 to have an annexation underway, so things are on track to qualify for the sales tax rebate.

12. Unfinished Business

Mr. Sarkozy acknowledged the Council's intent to resume the Study Session discussion related to East Link.

Mayor Davidson expressed concern that there is not enough time for the public process desired by the Council. He noted that staff completed its presentation earlier, and he suggested that the Council provide additional direction at this time if desired.

Councilmember Robertson noted that Sound Transit has negotiated MOUs with other municipalities and agencies, and she questioned the time periods allowed for those discussions. Ms. Berens indicated that staff has not researched the timing of those negotiations.

Ms. Robertson believes that a number of things must be resolved before entering into a MOU with Sound Transit. These include a cooperative alignment, impact mitigation, legal terms and details of the MOU itself, and the fiscal impact on the City's tax rate, Capital Investment Program (CIP) Plan, and General Fund. She said it is important that the public have information that is meaningful. She is hesitant to schedule public meetings and open houses without first knowing when full information will be available for public input. She believes that more time is needed to work out the details of the MOU. She believes there should be separate open houses and hearings on the different issues, such as the proper alignment for Segment B and the fiscal impacts of the MOU. She suggested that the hearings be held in October, at which time more information will be available for a more meaningful process. She would like to mail notices to all residents.

Mayor Davidson questioned whether designs of the South Bellevue Park and Ride to be presented for public comment will be based on its current site, or the site proposed by some on the west side of Bellevue Way. He believes this is critical information to determine the impact of both designs. He observed that plans appear to assume that the Park and Ride will remain at its existing location.

Ms. Berens said that staff will provide the level of design detail shared by Sound Transit. Mayor Davidson said that the location will dictate, to some extent, the configuration of light rail along Bellevue Way. Ms. Berens said there is an existing permitting process and codes that Sound Transit would need to comply with to allow it to go there. As far as she knows, there is no prohibition against what Sound Transit has planned. If the Council wishes to negotiate an alternative location, the issue should be raised now.

Deputy Mayor Lee said that citizen participation is important, and the City has always engaged its citizens. He commends the City Council's outreach efforts related to light rail, but is concerned about whether there is sufficient time for a meaningful process. He would like to have sufficient information and time for the process. He wondered how well the one-on-one conversations with residents will work. He noted that King County has a community forum, which might be a good model to consider for engaging citizens. Mr. Lee observed that the funding issues should be discussed separately from community impacts. Overall, he believes there needs to be a better plan and better information for reaching a decision.

Councilmember Degginger observed that when the Council adopted the last resolution regarding the MOU and Term Sheet, it was able to incorporate a good deal of earlier input and comments. He believes that staff has done a good job in this regard. He noted that this is not a new subject for the community, and the Council has spent a significant portion of its time over the past two years discussing light rail. While it is unfortunate to have a relatively short period of time at this point, he noted that the Council did not spend time exploring mitigation options for Segment B for approximately one year, but instead spent time studying other issues.

Mr. Degginger acknowledged that the public process schedule presented tonight is ambitious, but he believes it can be met. He noted discussion earlier in the evening about the linkage between different segments and portions of segments, and he therefore believes it is important to address all issues together as soon as possible, rather than separating alignment and mitigation elements from funding and tunnel issues. He wants to move forward with the current proposed process, knowing that additional public outreach can be held later as well.

Mayor Davidson observed that the plan to engage those most directly affected by the project first does not preclude expanded outreach going forward. On another topic, he has heard that light rail cannot go under 112th Avenue SE because the ground conditions are too wet. However, that was not mentioned earlier this evening when discussing an under-crossing.

Mr. Sarkozy said that the rails would be approximately nine feet under water on the retained cut. While it is technically feasible to construct an under-crossing, it would be very expensive for both construction and ongoing maintenance. The situation at the South Bellevue Park and Ride is different because Bellevue Way is higher above the water table.

Councilmember Wallace stated that, if that is the case, the City Manager has seen more information than he has seen. He recalled that the water table presented was the 100-year flood water levels, and the plan that he saw showed it was viable to go under 112th Avenue SE. He has not seen any cost estimate or value engineering work. Mr. Wallace noted that a retained cut is planned to pass the Winters House. However, he observed that there has not been a solid effort to find the least expensive way to cross 112th Avenue SE that will mitigate noise, visual and traffic impacts as well. Mr. Wallace reiterated that analysis by CH2M Hill indicates that an under-crossing at 112th Avenue SE is viable.

Councilmember Balducci urged the Council to keep the primary goal in mind, as established by the Council before its August recess. She encouraged a focus on how to meet the objective of

engaging the public and identifying acceptable and effective mitigation. She noted that certain information the community would like to see is not available at this stage of conceptual and preliminary design for any large public project. The City will continue to work on mitigation throughout and after the construction of the light rail project. She asked the Council to focus now on what is needed to continue to move forward, understanding that the City will need to continue to work diligently on issues throughout the project. She expressed concern that the Council's discussion is becoming circular at this point. She concurred with Councilmember Degginger's comments. She cautioned that the timing of the process should make sense in terms of allowing sufficient time for community input before the Council reaches a decision on the MOU.

Mayor Davidson suggested that minutes or notes from the joint Bellevue -Sound Transit meetings with elected officials present be shared with the Council as expeditiously as possible.

Councilmember Chelminiak observed that the Bellevue Way HOV lane proposal has not yet been discussed by the Council and the public to any extent. He believes this topic should be included in the first public hearing, preferably on September 26. He noted that if a large downtown project were to move forward now, it would not be possible to assess impact fees for contribution toward the HOV lane project.

Mr. Chelminiak thanked staff for establishing an aggressive plan under difficult circumstances. He believes that the one-on-one meetings and small group meetings make good sense at this point. He recalled that the B2M design option has been before the public since approximately April 2010. It was adopted by the Sound Transit Board as the preliminary preferred alternative in July 2010. At this point what is under consideration are some possible modifications to the B2M alignment. He agrees that going under 112th Avenue SE is the most desirable option, if it can be accomplished within a reasonable budget. If not, additional options should be considered.

Mr. Chelminiak thinks it is a good idea to hold the public hearing on September 26. He emphasized that the issue is not going to end with the signing of the MOU in October. The overall public process will continue as project elements are permitted and adopted. He noted that the City has been working on this project for approximately six years, and will continue to do so for a number of years to come.

Deputy Mayor Lee concurred with Councilmember Balducci's comments that the City and Council will continue to work with the community on mitigation measures as the project moves forward. However, he expressed concern about comments that certain options are too expensive. He spoke in favor of making a decision on the most desirable route, and then working together to mitigate the project and make it work.

Councilmember Wallace observed that there are two separate areas of consideration. One is a cooperative alignment for Segments B and C. He believes that more planning is needed on Segment C as well as for Segment B. He suggested engaging ARUP regarding the technical feasibility of options including the proposed under-crossing of 112th Avenue SE. He believes these elements should be the subject of one public hearing. However, a discussion about community impacts needs more information, and he believes that impacts should be addressed in a separate public hearing. He further suggested that the MOU be addressed separately as well.

Councilmember Degginger observed that Mr. Wallace is describing potentially three public hearings, because the Bellevue Way HOV lane is a separate issue as well. He believes that there is not enough time for three hearings and that the Council can listen to comments on all of the issues within a hearing. He suggested moving forward with a public hearing now, and then determining whether another one would be beneficial as well.

Mr. Wallace acknowledged that the Bellevue Way HOV lane is a separate project, and added that there are many more projects beyond that one.

Mr. Degginger said that this reflects even more reason to allow the public to speak on the whole range of issues within a combined public hearing. He said it will not be possible to have all answers to all questions before decisions are made on the MOU. However, the policy issues have been framed for quite some time.

Councilmember Robertson believes that the City can reach an agreement with Sound Transit for the downtown tunnel. However, there are many facts yet to be developed, including which alignment will be presented for public review. If postcards are to be mailed now, Ms. Robertson believes that the public hearings should be set for October instead of September. She recalled the Council's previous direction that public outreach would seek public input on the terms of the umbrella MOU. The City is pushing toward the public release of the draft MOU by October 10, and she prefers to hold a public hearing after that point.

Councilmember Balducci reviewed the logic of the proposed schedule. If the draft MOU is released in October and the Council holds a public hearing to solicit input on October 17, she questioned what will happen if there is a desire for the City to renegotiate certain provisions. She asked whether there is any example in which a MOU was negotiated in this manner. Mr. Sarkozy confirmed that this is a unique situation.

Ms. Balducci cautioned against setting up expectations that public input will automatically be incorporated into the agreement. She expressed concern that, at times, the Council has done the public a disservice throughout the light rail process. The Council has insisted on courses of action long after it knew that they were not feasible or realistic. The Council spent two years working on issues of this type when it could have been working on other issues being raised now. The Council has been discussing alignment selection for more than five years now.

Councilmember Balducci observed that the Council has put itself in the current situation by refusing to discuss potential design modifications to the B2M alternative while conducting further study of B7. She suggested not making the same mistake again and not putting an option out to the public that is unlikely to be adopted by Sound Transit. She suggested working truly cooperatively with Sound Transit.

Mayor Davidson said the final environmental impact statement (FEIS) was not released until a month ago. Sound Transit was supposed to answer all of the questions raised since the Draft EIS in 2008. However, he did not see any of these answers in the final report. He stated that Sound Transit has not cooperated with the City and has not responded to the City's concerns about

Segment B. He suggested doing this right on the Council's schedule. If Sound Transit wants to disregard Bellevue's input and to assert its authority to make the final decisions, the agency can do so. Dr. Davidson would like to hear further justification for the HOV lane on Bellevue Way South.

- Councilmember Chelminiak moved to extend the meeting by 15 minutes, and Councilmember Robertson seconded the motion.
- The motion to extend the meeting carried by 7-0.

Councilmember Degginger recapped that there was an agreement to send out public notice and to have a public hearing on September 26.

Mayor Davidson noted his concern that there will not be sufficient information available by September 26. He suggested holding a public hearing on the final MOU.

Mr. Degginger observed that that is more reason to have a hearing on September 26. Responding to Mayor Davidson, Mr. Degginger said a great deal of information is already available, and he believes these topics should be open for public comment on September 26. This would allow Council and staff to try to incorporate public input into the draft MOU. Otherwise this is just going through a process that might not have any real influence.

Councilmember Degginger asked Ms. Berens whether it would be technically feasible to have the full public review draft of the MOU available on October 3, in advance of a public hearing on October 10.

Mr. Sarkozy said that is a very aggressive timeframe. If Sound Transit agrees with all of the language provided by Ms. Berens, it is possible.

Councilmember Wallace said he is sure that that scenario is not possible. He stated that this is the largest agreement the City has ever entered into. He noted Councilmember Chelminiak's earlier comment that the B2M alternative was released by Sound Transit in April 2010. Mr. Wallace observed that Sound Transit did not suggest any revisions to the alternative since that time. At this point, what is before the Council is the biggest obligation the City has ever faced, at a time in which the City has struggled to pay its firefighters and police officers.

Mr. Wallace said the Council needs to take a reasonable amount of time. Sound Transit's schedule is not a realistic timeframe for the City to determine whether and how to allocate \$160 million to Sound Transit's light rail project.

- Councilmember Degginger moved to authorize staff to issue notice of the public hearing on September 26, and to proceed with the schedule as described in the MOU work plan. Councilmember Balducci seconded the motion.

Councilmember Robertson offered a substitute motion to send out postcards with the open house set for September 20, a City Council public hearing on September 26, a public review draft by October 10, an open house on MOU tunnel funding on October 13, and a City Council public

hearing on MOU tunnel funding on October 17.

Mayor Davidson ruled that the substitute motion died for lack of a second.

Councilmember Degginger moved the previous question.

Deputy Mayor Lee began to comment on Councilmember Robertson's substitute motion.

Mr. Degginger raised a point of order, noting that the Mayor ruled that the motion failed for lack of a second.

- Councilmember Robertson made a substitute motion to send out postcards to set the public outreach schedule of the September 20 open house on the B2M design options and the Bellevue HOV lane project; a public hearing on those two topics on September 26; the public review draft of the MOU available October 10; an open house on MOU tunnel funding on October 13; and a City Council public hearing on MOU tunnel funding on October 17. Deputy Mayor Lee seconded the motion.

Mr. Degginger questioned whether citizens would be allowed to speak on tunnel funding during the September 26 public hearing.

- Ms. Robertson accepted a friendly amendment to allow people to speak regarding MOU tunnel funding on September 26 should they wish. Deputy Mayor Lee accepted the amendment as seconder.

Councilmember Wallace reiterated that the schedule is completely unrealistic. He does not believe there can be adequate information on the topics within this timeframe to allow meaningful analysis and input.

Mayor Davidson concurred, but noted that this is the schedule established by Sound Transit.

City Manager Sarkozy confirmed that the City and Council will be putting a great deal of effort into a public process that will divert energy and resources away from gathering information and more beneficial activities. Negotiations are not progressing sufficiently at this point to indicate that October 10 is a realistic date for releasing a public review draft of the MOU.

- Councilmember Robertson moved to extend the meeting until 10:40 p.m., and Councilmember Wallace seconded the motion.

- The motion to extend the meeting carried by a vote of 7-0.

Ms. Robertson said she shares concerns about the limited timeframe. She noted that the Term Sheet states that the City anticipates an umbrella MOU by October 25, unless extended by mutual agreement. She suggested discussing an adjustment to the schedule with Sound Transit.

Mr. Sarkozy said it is prudent for the Council to take the time that it needs, and to engage with Sound Transit about the constraints of the timeframe. He believes that Sound Transit will appreciate Bellevue's interest in working with its constituents. He explained that Sound Transit is working on a number of priorities, and they will want to conduct due diligence before rolling out data.

Deputy Mayor Lee suggested that the Mayor ask Sound Transit to extend the deadline for establishing the MOU.

- Deputy Mayor Lee withdrew his second to Councilmember Robertson's substitute motion and friendly amendment.

Mr. Sarkozy observed that it is worthwhile to stay on track toward the October 24 deadline. While there is a great deal of concern about the details, he believes that working toward this deadline will demonstrate to Sound Transit that Bellevue is working diligently to move forward. However, the schedule is a topic that can be discussed in upcoming meetings between representatives of the City Council and the Sound Transit Board.

- Councilmember Balducci moved to postpone action until the following week, and Councilmember Robertson seconded the motion.

Ms. Berens stated that notices for a public hearing on September 26 need to be issued by the end of the current week.

- Councilmember Balducci withdrew her motion to postpone action.

Councilmember Degginger suggested moving forward with a public hearing now, and then revisiting the subject of holding additional public hearings.

Councilmember Robertson suggested it would be more cost effective to list all hearings on one postcard.

Councilmember Chelminiak stated that staff needs direction tonight to proceed with the September 26 public hearing. Additional outreach can be discussed next week. He acknowledged that Bellevue should continue to work toward the October deadline. However, he believes it is possible that the date will be extended into November.

Mr. Chelminiak suggested taking action on the original motion.

Mayor Davidson said he prefers a motion to set a hearing for September 26 to review key MOU provisions.

- Councilmember Degginger and Councilmember Balducci accepted the Mayor's suggestion as a friendly amendment to Mr. Degginger's original motion.

Councilmember Robertson is not in favor of sending out postcards until the October dates are set.

- Ms. Robertson made a substitute motion to authorize staff to advertise the September 26 public hearing to review the Bellevue Way HOV lane and B2M route, and to allow people to speak to the MOU and tunnel funding. The motion is to advertise the hearing but to not send postcards until additional process dates are identified and until the City Manager has a chance to speak with Sound Transit's CEO. Mayor Davidson seconded the substitute motion.
- Mr. Wallace offered a friendly amendment to ask staff to come back with a schedule that is realistic and not constrained by the October deadlines. Ms. Robertson accepted this as a friendly amendment.

Responding to Councilmember Balducci, Mr. Sarkozy stated his understanding that the motion asks staff to pursue a more realistic timeline with Sound Transit staff. He suggested it would also be beneficial for the Council to address the issue with the Sound Transit Board.

- The substitute motion by Councilmember Robertson, as amended, carried by a vote of 7-0.

13. Continued Oral Communications: None.

14. New Business: None.

15. Executive Session

- (a) Two Item of Potential Litigation

[Moved to earlier Study Session.]

16. Adjournment

Mayor Davidson declared the meeting adjourned at 10:32 p.m.

Myrna L. Basich, MMC
City Clerk

/kaw