

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Regular Session

September 17, 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 8:12 p.m., with Mayor Lee presiding.

2. Roll Call, Flag Salute

Upon roll call, all Councilmembers were present. Deputy Mayor Robertson led the flag salute.

(a) Proclaiming September 17-23 as Citizenship Week

Patrick Bannon, Bellevue Downtown Association, described the Naturalization Ceremony held earlier in the day in City Hall in which 46 candidates became U.S. citizens. He thanked the City for its second year of co-hosting the event. Mr. Bannon noted that approximately 15 percent of Bellevue's residents are naturalized citizens, compared to 10 percent in Seattle and King County. He said that September 17 marks the day that the U.S. Constitution was signed in 1787. Mr. Bannon welcomed and congratulated the new citizens.

Mayor Lee read a proclamation declaring September 17 through 23 as Citizenship Week in Bellevue.

(b) Proclaiming September 22 as Mayors' Day of Concern for the Hungry

Gerald Wright, Hopelink, thanked the Council for its generous and continued support of Hopelink's efforts to fight hunger and poverty and to promote self-sufficiency. He commended Bellevue's leadership in its support of social and human services. Two additional representatives of social service agencies thanked the City for their support.

Mayor Lee read a proclamation declaring September 22 as the Mayors' Day of Concern for the Hungry in Bellevue. He encouraged all citizens to join with the Emergency Feeding Program, area food banks, and local grocery stores in working to end hunger.

(c) Proclaiming September 24 as Family Day

Deputy Mayor Robertson read a proclamation recognizing September 24 as Family Day, A Day to Eat Dinner with Your Children, in Bellevue. The National Center on Addiction and Substance Abuse has consistently found that the more often children and teenagers eat dinner with their families, the less likely they are to smoke, drink and use drugs.

(d) Proclaiming September as National Recovery Month

Deputy Mayor Robertson read a proclamation declaring September as National Recovery Month in Bellevue, in recognition of programs and activities to assist those with mental health and/or substance abuse disorders.

Laura Quinn, representing the King County Community Organizing Program, accepted the proclamation. This program is focused on preventing substance abuse and violence by working with youth and their families. Ms. Quinn thanked Bellevue for its leadership in supporting social and human services and for recognizing National Recovery Month.

Councilmember Davidson reiterated his position against efforts to legalize marijuana in this state.

3. Communications: Written and Oral

- (a) Robert Rose, President of the Bellevue Rotary Club, described the Bellevue Downtown Park playground project under development by the City and Bellevue Rotary. Mr. Rose noted his experience with Rotary projects for disabled children in Nepal. He announced that an event is scheduled for September 29 to introduce the project to the community and to host booths providing information for the public on the disabled population.

Mayor Lee thanked the Bellevue Rotary Club for its sponsorship of this project. Mr. Lee confirmed the importance of providing opportunities for people of all abilities to work and play together in the community.

- (b) Jeff Borgida, General Manager for Republic Services, reported on the successful Zero Waste events held this summer in conjunction with regular community activities including the Strawberry Festival and the weekly outdoor movie nights. He thanked Jennifer Goodhart and the two Utilities Department interns who worked on this program. Mr. Borgida presented a video produced by the City and KOMO TV that was used at events throughout the summer.
- (c) Sam Bellomio noted the proclamation earlier in the meeting referencing the U.S. Constitution and opined that it has become forgotten by many elected officials. He noted the other proclamations dealing with hunger, Family Day, and National Recovery Month and said our society needs to begin to recover from the current slump. He reiterated his ongoing opposition to red light cameras and to the corporation that receives a portion of

the revenue generated by the cameras. An additional portion goes to King County. He would rather see the money going to the City. Mr. Bellomio recalled comments from the City that there has been a 10 percent decrease in accidents since installing the cameras. He said there has been a 10 percent fluctuation every three to four years in accident rates over the long term.

- (d) Alex Zimmerman, Stand Up America, said his personal case remains open beyond the statute of limitations. He accused City officials of being criminals and gangsters. He recalled his first class action lawsuit in 1998, and noted current lawsuits against City officials. Mr. Zimmerman questioned the cost of the investigation against him.
- (e) Jason Van Nort, Local Government and Community Relations Manager, Puget Sound Energy (PSE), thanked the City for considering the removal of Agenda Item 8(m) to allow time for PSE and City staff to discuss the issues. Mr. Van Nort said that PSE is concerned about potential adverse impacts.
- (f) Joe Rosmann, a Surrey Downs resident and Co-Chair of Building a Better Bellevue, thanked the Council for its measured discussion and response of the Council during the earlier Study Session with regard to the proposed Land Use process related to light rail. He said the discussion addressed a number of issues that he raised in the organization's document. Residents will be speaking with City staff about some of the regulatory process issues raised by the wording of the permit bulletin. Mr. Rosmann urged the Council to consider using the expertise found on Bellevue's Boards and Commissions to review the Land Use Overlay proposal. He observed that development agreements are essentially contracts. He urged the Council to weigh all of the issues carefully.

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

5. Report of the City Manager

- (a) Management Brief regarding Bel-Red Implementation of Street Names

City Manager Steve Sarkozy referenced page 5-1 of the meeting packet and introduced discussion regarding the naming and renaming of streets in the Bel-Red corridor. The naming of streets is implemented by Resolution of the City Council after recommendations by interested persons, community groups, the Planning Commission, and/or the designating official [BCC 14.02.060]. Staff anticipates returning to the Council later this fall with an update and recommendations after conducting public outreach to solicit proposed names.

Councilmember Davidson suggested making sure that whatever names are chosen, those names do not change. He said that both streets bordering his office have undergone name changes over the years.

Councilmember Chelminiak questioned what is driving the issue of renaming the streets (NE 14th, NE 15th/16th, and NE 18th).

Mr. Sarkozy said it is not necessary to change the names, but there is a need to formalize the street names. He said this provides an opportunity for community involvement in the process.

- (b) Management Brief providing an Update on Ongoing Appeal before the Hearing Examiner on the Spring District Master Development Plan and Associated Threshold Determination under SEPA

Mr. Sarkozy asked staff to update the Council on an ongoing appeal before the Hearing Examiner.

Myrna Basich, Assistant City Manager/City Clerk, recalled that citizens during the previous week's meeting referred to a settlement related to the Spring District Master Development Plan. She observed that some members of the Council interpreted this to refer to a settlement related to litigation. Instead, this is an ongoing matter before the Hearing Examiner and the hearings continue this week. Staff will provide an update on the matter upon its completion before the Hearing Examiner.

Councilmember Wallace said this is not the first time that a City issue has been before the Hearing Examiner and citizens and Councilmembers are asking questions. He stated his understanding that two of three parties have settled, and one is still underway. He is unsure as to why that precludes discussion of the matter, but he looks forward to a future briefing.

- (c) Management Brief providing Update on Shoreline Master Program

Mike Brennan, Director of Development Services, provided an update on the Shoreline Master Program [Page 5-11 of meeting packet]. The SMP initial draft was published in April 2011, and a public hearing on the draft was held in May. Following extensive public input, a revised draft document was published in July 2012 and is under review by the Planning Commission.

Carol Helland, Land Use Director, reported that staff has met with the Planning Commission twice since the SMP Redraft was released on July 11, 2012, to review the document, identify where it complies with previous direction from the Planning Commission, and to hear from interest groups (e.g., Washington Sensible Shorelines Association and City Boards and Commissions).

Letters from the Boards and Commissions are to be presented to the Planning Commission on September 26. Ms. Helland said that she and Mr. Brennan met with representatives of the Washington Sensible Shorelines Association and the Meydenbauer Homeowners Association to address their remaining issues. Ms. Helland said the Planning Commission anticipates two to three more meetings to finalize its report and recommendations before forwarding the overlay portion of the Shoreline Master Program to the City Council for review.

Responding to Councilmember Balducci, Ms. Helland explained that the overlay includes elements in Section 20.25E of the Land Use Code. However, the consistency amendments required in the rest of the Code will be completed later following Council direction on the overlay provisions.

Ms. Balducci expressed concern about how this item fits into the Council's work plan for the remainder of the year.

Ms. Helland said there was grant funding in the amount of \$175,000 from the state Department of Ecology for this project. The funding stipulated certain deadlines for the work.

Ms. Balducci said it has been 18 months since the first draft was released in April 2011, and she is not hearing any end in sight. She suggested that the Council, if obligated to update the Shoreline Master Program by a certain date and the Planning Commission cannot finalize its recommendation, consider moving forward to complete the plan. She is not suggesting that at this point, but believes it might be appropriate if a recommendation does not come forward over the next couple of months. Councilmember Balducci thanked staff for the update.

Councilmember Davidson requested a comparison between this overlay process and the one discussed during the earlier Study Session related to light rail regulations.

Responding to Councilmember Chelminiak, Ms. Helland confirmed that a draft was published in 2010 and reviewed by the Department of Ecology, and it has been substantially altered at this point. He questioned whether the recommended SMP will be taken back to the DOE for the agency's comments before it is submitted to the City Council.

Mr. Brennan said the plan is to bring the work forward to the Council for review. At that point, the Council can choose to send the Shoreline Master Program to the DOE for consideration before taking Council action. The City of Mercer Island chose this approach. Another option is to complete the Council's review before forwarding the program document to the DOE for consideration.

Councilmember Chelminiak said he is interested in seeing how consistent the proposed SMP is with the Council-adopted policies and principles established at the beginning of the process. He expressed concern about the potential impact of a change in the Governor, regardless of party, on the final review by the State. He is hopeful that this moves forward relatively smoothly.

Deputy Mayor Robertson commented that, typically when jurisdictions have sent their Shoreline Master Program updates to the DOE and they are approved, there is generally 20-30 pages of comments from the DOE before they are approved.

Ms. Robertson said the Planning Commission recently received the revised SMP and will discuss it on October 10. She believes the process will wrap up soon.

(d) Downtown Livability Initiative Discussion [*Continued from Study Session*]

Mayor Lee introduced continued discussion of the Downtown Livability Initiative from the earlier Study Session. His sense is that the Council is generally comfortable with staff's recommended scope of work. However, the Council had not reached a decision about additional items proposed to expand the scope of work.

Mr. Lee summarized that there was general support for the low effort/zero consultant cost items: 1) Maintenance standards for vacant sites and buildings, 2) Mechanical screening, 3) Recycling and solid waste facilities, 4) Vendor carts, and 5) Permitted uses. Additional proposed items are signage, the DT-OLB (Office/Limited Business) district (between 112th Avenue and I-405), and the Planned Action Environmental Impact Statement (EIS).

Councilmember Davidson reiterated that he would like to discuss additional items to expand the scope of work as part of the broader budget process. He questioned why the DT-OLB item is separated from the rest of the Downtown review.

Mr. Stroh said the OLB district is a vestige of more suburban style zoning and has not been revisited since 1981. Staff believes it warrants a more fundamental review versus the fine tuning envisioned for the rest of the Downtown.

Dr. Davidson said he understands the history. However, he is not convinced that it needs to be looked at separately.

Mr. Sarkozy suggested including all elements in the traditional Downtown west of the freeway as the base package, and then considering Wilburton and the Planned Action EIS as separate budget items.

Councilmember Chelminiak questioned the funding source for the \$85,000 designated for the signage item and the OLB district item. Mr. Sarkozy said staff can bring that forward as part of the budget.

Mr. Chelminiak expressed concern about expanding the scope of work. However, he concurred with the logic of including the OLB district with the rest of the Downtown. He questioned how certain items can be zero cost. He raised the issue of lots in Old Bellevue that are split by two zoning designations, and wondered whether that would be addressed as part of the work.

Mr. Stroh clarified that the items reflect zero consultant costs beyond internal staff work. The issue of split lots could be handled internally as well. However, that gets into issue of changing the Downtown Subarea boundary which is complicated given the history of the area. While the item might not require consultant work, it could potentially consume a great deal of staff time. If the Downtown Subarea boundary is changed, the matter becomes a Comprehensive Plan Amendment as well as a Land Use Code Amendment.

Mr. Chelminiak noted his understanding that the split lot issue involved a transition area but not the Downtown boundary. Mr. Stroh said that everything south of Main Street should be Perimeter A, so there should not be a split in the perimeter designation there. However, he can research the issue and get back to the Council.

Councilmember Wallace, noting that this is the first discussion of the Downtown Livability Initiative in which he has been involved, referenced his role as the President of Wallace Properties. He and City staff have looked into the potential for a legal conflict of interest

regarding his participation in the discussion of the Downtown Livability Initiative and have determined that there is no conflict of interest. Mr. Wallace said that he does not personally own any property in Bellevue other than his house. Wallace Properties does not own any property anywhere but manages property for others, including property owners in Downtown Bellevue.

Councilmember Wallace said that his parents own interests in four Bellevue properties, three are in the Downtown and one is near the hospital district. Of the three in the Downtown, one is in the OLB zone and two are in the MU (Mixed use) zone. He referred the public to www.WallaceProperties.com for a full list of the properties managed by the company. He noted that the Downtown Livability Initiative is an areawide review rather than a property-specific rezone matter.

Moving to the substantive issues, Mr. Wallace observed that there is a cost to performing all of the work items even if there are no outside consultant costs. He would like staff's proposals providing more details on the full resources needed to complete each item/task.

Mr. Wallace agreed with comments by others that the OLB zone should be considered with the rest of the Downtown zoning. He noted that traffic is not addressed in the overall Downtown Livability Initiative.

Mr. Wallace expressed support for moving forward with the suggested scope of work, excluding the Planned Action EIS and deferring the Wilburton discussion proposed by Deputy Mayor Robertson until a later date as well.

Mayor Lee concurred with Mr. Wallace that there is no reason to exclude the OLB zone from the Downtown Livability Initiative. Mr. Lee observed that there is a sense of urgency to move forward instead of waiting for the budget process to be concluded.

Deputy Mayor Robertson agreed with Mayor Lee. She observed that there is a consensus to move forward with the work affecting all areas within the Downtown west of the freeway, as suggested by the City Manager. She said she assumes this will be part of the budget as far as it affects staffing. Staff can come back later to discuss the Wilburton area and the Planned Action EIS.

→ Deputy Mayor Robertson moved to approve the scope of work for the Downtown Livability Initiative, confirming the basic scope presented in the meeting packet and adding the new elements from the expanded scope (Table 1, Page SS 2-19) with the exception of the Planned Action EIS, which will be addressed at a later date. Councilmember Balducci seconded the motion.

Mayor Lee noted that traffic issues will be addressed as part of the Downtown Transportation Plan Update. Mr. Stroh confirmed that the Transportation Commission has been working on that update for some time, and the two planning efforts will be coordinated.

Councilmember Stokes expressed support for the motion and endorsed the importance of integrating the Downtown Livability Initiative with transportation and light rail planning issues.

Councilmember Davidson said he would like the motion to be direction to the City Manager but not a final Council decision. He wants to be able to vote on items as part of the budget process.

Responding to Deputy Mayor Robertson, Mr. Sarkozy said the motion would initiate the Downtown planning process with these scoping elements and a budget allocation of \$435,000. The budget will include that amount with the elements that have been outlined in the evening's discussion. Staff will bring back, as separate items, the Wilburton Plan and the Planned Action EIS for budget consideration.

Councilmember Chelminiak highlighted that the budget allocation increased from \$350,000 in the last discussion to \$435,000 now. He recalled that \$350,000 was from the 2012 budget, but it will be necessary to identify an additional \$85,000. He questioned whether all of this work can be completed by adding the proposed half-time staffing position.

Mr. Stroh said the work will be accomplished with existing City staff in the Development Services Department (DSD) and the Department of Planning and Community Development (PCD).

Mr. Chelminiak noted the use of the word rezone and questioned the proper terminology for the work effort. Mr. Stroh described the work as a series of Land Use Code amendments that are designed to refine the Downtown Land Use Code. The current scope of work is not looking to rezone specific properties to different Land Use designations. One possible exception is the OLB district.

Councilmember Chelminiak expressed support for the motion, noting that this has been a somewhat tortured process.

Councilmember Davidson said he cannot agree that changing the FAR (Floor-area ratio) or a building height is not a rezone. He concurred with the characterization of a tortured process which, he believes, should be more straightforward.

→ The motion carried by a vote of 6-1, with Councilmember Davidson opposed.

6. Council Business and New Initiatives

Councilmember Balducci reported that she had an opportunity to meet with Claire Petersky, a longtime Bellevue resident and member of the Pedestrian and Bicycle Committee who is now the Executive Director of Eastside Friends of Seniors (formerly known as Faith in Action). The organization matches volunteers with senior adults who need help with transportation, grocery shopping, and other errands and chores. The organization is nationwide and recently opened an office in Bellevue.

Councilmember Wallace noted that he serves on the Eastside Transportation Partnership's legislative subcommittee, which has wrapped up its initial draft of the transportation policy. He suggested that the Council find time as soon as possible to solidify its legislative agenda as well.

Mr. Sarkozy said the Council's transportation priorities can be addressed on September 24 during Regional Issues.

7. Approval of the Agenda

→ Deputy Mayor Robertson moved to approve the agenda, and Councilmember Wallace 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, with the exception of Items 8(l) and 8(m). Councilmember Stokes seconded the motion.

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

- (a) Minutes of August 6, 2012 Study Session
Minutes of August 6, 2012 Regular Session
- (b) Resolution No. 8442 authorizing approval of payment in the amount of \$47,752.51 for a Release of All Claims in final settlement of a subrogation claim against the City by American Family Insurance for property damage to the Rhodea residence caused by a water system failure.
- (c) Ordinance No. 6074 amending Section No. 3.43.020, adding a new Section 3.43.055, and amending Section 3.43.320 of the City Code to be consistent with State law relating to the possession and discharge of firearms and other weapons in City parks.
- (d) Resolution No. 8443 authorizing execution of all documents necessary for approval of payment in the amount of \$20,973, to implement partial settlement of the lawsuit for personal injury damages filed by Evelyn Rissman and Donald King against the City.
- (e) Resolution No. 8444 authorizing execution of a five-year Lease Agreement with T-Mobile West, LLC, with an automatic five-year extension, for an existing monopole with antennae and site equipment at Fire Station No. 8, located at 5701 Lakemont Boulevard SE.
- (f) Resolution No. 8445 setting October 15, 2012 as the date for a public hearing to consider the vacation of a portion of NE 28th Street between 116th Avenue NE and 120th Avenue NE.

- (g) Resolution No. 8446 authorizing execution of a Memorandum of Understanding to partner with the Bellevue Rotary Club to expand the Downtown Park playground with a focus on inclusive, accessible play opportunities.
- (h) Resolution No. 8447 authorizing execution of a general services contract with the Washington State Department of Ecology (DOE), in an amount not to exceed \$138,100, for the use of a Washington Conservation Corps (WCC) crew to implement trail improvements to the Coal Creek Natural Area trail system.
- (i) Resolution No. 8448 authorizing execution of a two-year general services contract with MacDonald-Miller, in the amount of \$113,970, with the option to renew for an additional two years, in an amount not to exceed \$113,970, for HVAC maintenance and repairs at 25 Parks Department facilities.
- (j) Ordinance No. 6075 authorizing: 1) execution of an amendment to the Interlocal Agreement with King County providing the City with \$750,000 in King County Conservation Futures Levy proceeds; 2) amending the 2011-2012 General CIP Fund appropriation by \$750,000 from King County Conservation Futures Levy proceeds; and, 3) amending the 2011-2017 Capital Investment Program (CIP) Plan to increase the budget for the Parks Levy-Acquisition (CIP Plan No. P-AD-82) by \$750,000.
- (k) Resolution No. 8449 authorizing execution of all documents necessary for the purchase of the Somerset Development 1, LLC property identified by King County Assessor's Tax Nos: 152405-9148 and 152405-9019, for the purchase price of \$900,000, plus estimated closing costs of \$3,000.

Items Postponed:

- (l) Resolution No. 8450 authorizing the Police Chief to execute certain Interlocal Agreements (ILA) with other cities and public agencies to provide mutual aid, mobilization, and information sharing between law enforcement departments of the public agencies, where the ILAs have a demonstrable benefit to public safety and there is no fiscal impact to the City.
 - (m) Ordinance No. 6076 amending Chapter 14.30, Section 14.30.185 of the Bellevue City Code to address the relocation of facilities for City or other public projects in the right-of-way.
9. Public Hearings: None.
10. Land Use: None.
11. Other Ordinances, Resolutions and Motions

- (a) Resolution No. 8451 authorizing execution of an Interlocal Agreement between Governmental Agencies providing for legal challenges to the 2013-2018 Phase II NPDES permit including the joint administration and cost-sharing for outside counsel and authorizing execution of an Agreement for Professional Services between the City of Bellevue, as lead agency for the Coalition and Foster Pepper PLLC to provide legal representation and services to the Coalition to pursue the legal challenges.

City Manager Sarkozy said that Resolution No. 8451 authorizes the execution of an Interlocal Agreement between governmental agencies providing for legal challenges to the 2013-2018 Phase II NPDES (National Pollutant Discharge Elimination System) permit. He said a similar joint approach has been used in the past to appeal certain provisions in the administration of state and federal requirements.

City Attorney Lori Riordan explained that the NPDES permit regulates the City's collection and discharge of stormwater. Permits are generally issued for periods of five years, and Bellevue received its first permit in 2007. That permit was appealed as part of a coalition. The new version of the permit was issued on August 1, 2012, and is not scheduled to go into effect until 2013. However, any appeals of the permit are required to be filed within 30 days of the issuance on August 1.

When the City appealed the original permit with a coalition of more than 30 cities and counties, the appeal provided changes to the permit that allowed cities and counties to better manage their stormwater discharge and collection. The latest permit has some provisions of substantial concern, and an appeal was filed on August 31 on behalf of several cities, including Bellevue, and Cowlitz County. The interlocal agreement approved by Resolution No. 8451 creates the coalition to share costs and resources toward improving the NPDES permit conditions. Participating jurisdictions at this point are Auburn, Bainbridge Island, Bellevue, Burlington, Des Moines, Everett, Kent, Issaquah, Mt. Vernon, Renton, Seatac, Snoqualmie, Sumner, and Cowlitz County. Ms. Riordan said she was notified earlier in the day that the Longview City Council voted to join the coalition, and other cities are still considering whether to participate.

Ms. Riordan noted that the bases for the appeal are listed on pages 11-2 and 11-3 of the meeting packet. The coalition selected the law firm of Foster Pepper PLLC to file the appeal. The same attorneys handled the appeal on behalf of the coalition in 2007.

- Deputy Mayor Robertson moved to approve Resolution No. 8451, and Councilmember Davidson seconded the motion.

Councilmember Stokes expressed support for the objectives of the Federal Clean Water Act and the City's participation in this effort. He encouraged the coalition to find common ground with the State Department of Ecology and to ensure that the requirements are appropriate.

- The motion 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

At 9:57 p.m., Mayor Lee declared the meeting adjourned.

Myrna L. Basich, MMC
City Clerk

/kaw