

CITY OF BELLEVUE  
CITY COUNCIL

Summary Minutes of Special Meeting

May 31, 2011  
6:00 p.m.

Council Conference Room  
Bellevue, Washington

PRESENT: Mayor Davidson and Councilmembers Balducci<sup>1</sup>, Chelminiak, Degginger, Robertson, and Wallace

ABSENT: Deputy Mayor Lee

1. Study Session

The meeting was called to order at 6:08 p.m.

- (a) Consideration of a Moratorium on Acceptance and Processing of Conditional Use Permit (CUP) Applications to Establish Helicopter Landing Facilities for Non-Emergency Uses

City Manager Steve Sarkozy opened discussion regarding the Council's interest in considering a moratorium and/or Land Use Code amendment to deal with applications for helicopter landing facilities in Bellevue. He recalled that on May 16, following the discussions regarding the Kemper Development Company helistop permit approval process, Councilmembers expressed concerns about the adequacy of the current Code with regard to the siting of helistops.

Mike Brennan, Director of Development Services, explained that regulations for the siting of helistops or heliports were developed in 1989 and have not been updated since that time. Downtown densities have increased significantly since that time, including residential development. He recalled that the Council recently approved a helistop to be located on the top of the Bank of America building for the Kemper Development Company. In 2009, a helistop was added at Overlake Hospital Medical Center for emergency transport. No other applications have been received by the City, and any applications require a pre-application meeting with the City.

Mr. Brennan referred the Council to the meeting packet for three options for addressing helicopter landing regulations.

Carol Helland, Land Use Division Director, explained that the first option is to adopt a moratorium. The second is a targeted Code amendment to prohibit all but emergency helicopter landing facilities citywide, and to conduct a broad study of private helicopter landing facilities as

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<sup>1</sup> Councilmember Balducci arrived at 6:14 p.m.

part of a future Code amendment work program item. The third option is to take no action, and to direct staff to include the evaluation of helicopter landing facility regulations as part of a future Code amendment work program item.

Ms. Helland said that the adoption of a moratorium would preclude the City from accepting any new applications related to establishing a helicopter landing facility in Bellevue. The City would then study the issue and the potential impacts of additional helistop facilities.

Ms. Helland said staff recommends excluding emergency helistops from the moratorium. The establishment of a moratorium involves a stringent timeline, and a public hearing is required within 60 days. Any extension of the moratorium would be in six-month increments, following a public hearing and a new finding of necessity.

Responding to Mayor Davidson, Ms. Helland confirmed that declaring a moratorium requires findings to support the decision. She referred the Council to page 1-5 of the meeting packet for the proposed Ordinance, which outlines findings to support a moratorium.

Councilmember Chelminiak said he is unsure about the need for a moratorium, given that no one has expressed an interest in establishing a helistop facility. However, if the Council chooses to take such action, he suggested it would be helpful to inform any party currently interested in constructing a high-rise building and potentially interested in adding a helistop in the future.

Mr. Chelminiak noted that he has spent a great of time flying in helicopters, including over urban areas. He prefers the option of creating a targeted ordinance that would limit helicopter landing facilities to emergency uses. What he finds lacking in the Code is the consideration of residential development within commercial zones.

He noted concerns by himself and the public about the overflight issue. He believes that the City should become involved in regulating an operation such as a landing, for example through the City's Noise Code. The handling of the Kemper Development Company application demonstrated that the City had authority over noise levels only once the aircraft lands on the helistop, but not while it is in flight. Mr. Chelminiak suggested that, if private helicopters are to be allowed to land, the Code should be amended to enable the City to regulate noise related to the flight path.

Mr. Chelminiak recalled that the FAA looked at the issue of obstructions. However, the FAA report did not address whether it had the latest information on file, or whether the City should be considering obstructions. It also did not address whether future structures might create obstructions and how this would be handled.

Mr. Chelminiak observed that the regulations do not address indoor air quality related to helistop operations. When he worked in a building with a helistop facility on the roof, the fumes related to the aircraft's operation seeped into the building itself. In general, he believes the City should not allow helistops. However, if they are needed on a case-by-case basis (e.g., moving construction equipment), the City should regulate this activity through a temporary use permit.

Councilmember Balducci observed that one issue that has been raised is that no one currently has the sufficient building height or has expressed an interest in adding a helistop. However, she would like to address regulatory amendments before another application can be submitted. A moratorium would provide the opportunity to review noise and safety issues, and to study the regulatory approaches of other cities.

Ms. Balducci recalled that significant concerns, including noise and safety, were raised by residents during the recent consideration of an application. She said that if the City is encouraging residential development in the Downtown, it should address residents' concerns about helistop facilities. She encouraged the Council to declare a moratorium, excluding emergency use, and to initiate a targeted Code amendment process.

Ms. Helland clarified that staff's intention, in part, for providing the second option was to be relieved of the mandatory public hearing and process required by the declaration of a moratorium. She noted that the moratorium process will impact the work program of the Development Services Department. However, it is an option for addressing Councilmember Chelminiak's interest in sending a message that the City and Council have concerns, and that they are receptive to responding to requests for Code amendments to accommodate uses. Ms. Helland said it would send a message that, in the future if someone requests a helistop, a Code amendment would be needed and the proper analysis could be conducted at that time. However, she noted the implications of temporarily directing attention away from other staff work program items.

Councilmember Wallace agreed that it makes sense to look at the issue, especially in light of residents' concerns about noise and safety. He does not favor a moratorium, but he likes the idea of analyzing the issue and the current regulatory approach. Mr. Wallace supports reviewing the Noise Code to determine whether it is consistent with residential development in the Downtown. He noted that concerns about noise, generated from a number of sources, have increased as residential development has increased. He agrees with the suggestion to look into how other cities have addressed these issues.

Councilmember Robertson agrees that a moratorium is not a desirable avenue, given the requirements related to the timeline and the impact on staff's workload. She is open to considering a short-term, targeted amendment in the near future. Ms. Robertson noted her interest in reviewing and updating the City's overall zoning regulations, including noise issues, within the next 12-24 months.

Mayor Davidson restated his understanding of Councilmember Robertson's position. She does not want to pursue a quick fix, however, she would support that approach as long as the Council could address the broader issues within the next 12-24 months.

Ms. Robertson suggested it would be helpful to address the Noise Code sooner, as this has a number of implications related to Downtown development. She would like to get an overall update of the Zoning Code onto the Council's agenda.

Councilmember Degginger supports Option 2 and would like to resolve the issue rather quickly. The other items mentioned by Ms. Robertson will require a more extensive review, and he does not want this issue to become lost in that effort.

Mayor Davidson agrees with Option 2 as well. He noted the current planning process for the Eastgate/I-90 corridor, and the potential for helicopter landing facilities becoming an issue in that area.

→ Councilmember Balducci moved to direct staff to initiate a targeted Code amendment immediately, to prohibit all but emergency helicopter landing facilities citywide, and to conduct a broad study of private helicopter landing facilities as part of a future funded Code amendment work program item. Councilmember Chelminiak seconded motion.

Councilmember Wallace reiterated that the noise issue is a fundamental concern for residential development in the Downtown.

Councilmember Balducci expressed support for a directive that staff come back to the Council to set priorities for the issues to be addressed in the short term.

Councilmember Chelminiak said it is reasonable to initiate a review. He believes there is a need for a threshold decision to determine whether there is any place in the community that helicopter landing facilities should be allowed as a conditional use. If so, Mr. Chelminiak believes that noise regulations should address the flight path, as well as the noise on the landing facility. He would like to move forward on the helistop issue within a year. However, he believes that the broader concept of noise and overall zoning regulations will require more time for review. Mr. Chelminiak suggested beginning with changing the Code to allow helicopter landing facilities for emergency uses only, and to work from there.

Seeking clarification, Councilmember Wallace questioned whether the motion simply amends the Land Use Code to state that helistops can only be permitted for emergency purposes, or whether it states that the Council will do what is needed to change the regulations.

Mayor Davidson said he believes that that will be the first move. The second move is to get in line in a year or so to review the broader issue. If an application for a helistop is submitted, the Council can address it at that time along with noise and other issues.

Councilmember Wallace would like to immediately initiate a discussion about noise issues in the Downtown.

Councilmember Balducci recalled that there was a proposed budget item to review the Downtown Livability program, including noise issues, but that this was not included in the budget. She supports Ms. Robertson's suggestion to address the helistop issue now, and to discuss overall zoning and noise issues in the future.

- The motion to direct staff to initiate a targeted Code amendment immediately, to prohibit all but emergency helicopter landing facilities citywide, and to conduct a broad study of private helicopter landing facilities as part of a future funded Code amendment work program item, carried by a vote of 6-0.
  
- Councilmember Robertson moved to direct staff to come back to discuss a work plan for updating the Land Use Code which includes, but is not limited to, the following topics: 1) Helipad standards, 2) Noise Code, 3) Development Agreement and Concomitant Agreement standards, 4) Changing to a Hearing Examiner system for direct judicial review (i.e., Excluding Council from the quasi-judicial process), 5) Concurrency standards, 6) Downtown Livability, and 7) A general Code update. Councilmember Balducci seconded the motion.

Ms. Helland explained that staff's preference is to address the helistop targeted amendment with the Planning Commission in the near future. However, the review of the Shoreline Management Program is at a busy and critical point. She said it is possible that the Planning Commission will prefer to take up the topic of work program priorities at the same time that staff brings back the helistop issue for the Council's consideration. Staff's intent is to do this within 60 days, before the Council's August recess. This would allow the Council to discuss how it fits within the funded budget and within the current work program.

With regard to the targeted amendment, Councilmember Robertson suggested that, if the Planning Commission's workload is too full, the Council could take up the issue directly. Ms. Robertson said she does not object to the 60 days. However, the Noise Code is the most pressing issue for her because it has implications for other activities currently underway. She would like to move forward with the Noise Code review in June. She questioned the possibility of scheduling a preliminary discussion of some of the broader issues included in her motion.

Mr. Brennan stated that many of the issues are interrelated and would be difficult to address separately. However, staff could outline the Land Use Code amendment docket, and talk about existing issues as well as those raised tonight to determine the Council's priorities for additional work.

When staff returns for discussion of the work program, Councilmember Degginger said it will be helpful for the Council to understand which LUCA items are funded and which are not.

Councilmember Chelminiak observed that addressing the Noise Code issues is possibly a year-long process, although he is in favor of reviewing the Code. He questioned taking action on Ms. Robertson's motion at this time, as it goes beyond the scope of the meeting's agenda. He agrees with comments about reviewing the overall work program and reassessing the Council's priorities.

Ms. Helland clarified that the Planning Commission has the flexibility to address targeted issues. However, the issue is staff's capacity to prepare for the Planning Commission meetings related to the ongoing Shoreline Master Program review. She noted that there are process deadlines

associated with meeting the requirements of the State Environmental Policy Act (SEPA). If the Council decides to circumvent the Commission's process, the Council would be required to hold a public hearing instead of the Planning Commission.

Councilmember Wallace said that an issue he would like to add to the broader discussion is that banks are not permitted in many of the Downtown retail properties. He believes that more banks will come into the community if the regulations are amended, and that this would bring jobs as well.

→ The motion to direct staff to come back to discuss a work plan for updating the Land Use Code carried by a vote of 6-0.

2. Executive Session

(a) Potential Litigation

At 6:52 p.m., Mayor Davidson declared recess to Executive Session for approximately two hours to discuss one item of potential litigation. He noted that the meeting would adjourn immediately following the Executive Session.

The Executive Session concluded at 10:10 p.m., and the meeting was adjourned.

Myrna L. Basich, MMC  
City Clerk

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