

CITY OF BELLEVUE  
CITY COUNCIL

Summary Minutes of Study Session

May 7, 2012  
6:00 p.m.

Council Conference Room  
Bellevue, Washington

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

ABSENT: None.

1. Executive Session

At 6:04 p.m., Deputy Mayor Robertson opened the meeting and declared recess to Executive Session for approximately 30 minutes to discuss one item of potential litigation.

The meeting resumed at 6:42 p.m., with Mayor Lee presiding.

Mayor Lee recognized King County Councilmember Jane Hague in the audience and invited her to comment on the pending annexations.

Councilmember Hague recalled the Council's previous discussions and the anticipated effective date of June 1 for the South Bellevue annexations. She said the Interlocal Agreement between the City and King County has been modeled after the agreement used with the City of Kirkland in its most recent annexations.

Councilmember Hague thanked Chris Salomone, Director of Planning and Community Development; Dan Stroh, Planning Director; and Nicholas Matz, Senior Planner for their work with the community and her staff.

Deputy Mayor Robertson thanked Councilmember Hague for her involvement in advocating for the annexations.

Mayor Lee thanked Ms. Hague for her role in bringing the community together and supporting the annexations.

---

<sup>1</sup> Councilmember Balducci arrived at 6:46 p.m.

2. Study Session

(a) South Bellevue Annexation Interlocal Agreement

Deputy City Manager Brad Miyake opened discussion regarding the South Bellevue Annexation Interlocal Agreement. He noted that formal Council action will be requested on May 21.

Planning Director Dan Stroh explained that the Interlocal Agreement will manage the orderly transition of governance between King County and Bellevue for the South Bellevue annexations of Eastgate, Tamara Hills, and Horizon View. The draft agreement is presented tonight for the City Council's review, and will be discussed by the King County Council on May 15. The intent is for both Councils to take final action by May 21.

Nicholas Matz, Senior Planner, said the Interlocal Agreement covers all of the South Bellevue annexation areas of Eastgate, Tamara Hills, and Horizon View (and ultimately Hilltop, if property owners there submit a direct petition to annex). The agreement supersedes the existing, separate Interlocal Agreement for annuity payments on the 150<sup>th</sup> Avenue SE road improvements project. The agreement clearly articulates the intent and process for transitioning development review and permitting authority.

Deputy Mayor Robertson stated her understanding that projects vested by King County will continue to be permitted under the County's code.

Mr. Matz confirmed that her understanding is correct. Permits issued by the County stay under County regulations. However, whether or not a hearing has been held will determine how the permit comes to the City. In instances that remain under County regulations, the City will enforce those regulations within the City's process.

Continuing, Mr. Matz said the Interlocal Agreement covers a five-year term, with an effective annexation date of June 1. It transfers real property and road-related property and includes general implementation provisions. The Development Services section addresses transfer, processing, vested rights status, permit expiration, monitoring, SEPA (State Environmental Policy Act) considerations, and code enforcement.

Councilmember Stokes referred to page SS 2-3 of the meeting packet and questioned Item 7(b) regarding vested land use applications.

Kate Berens, Deputy City Attorney, said that some of the vested permits could come to the City as quasi-judicial matters. Councilmembers will be informed about those as they arise.

Councilmember Chelminiak noted that he has been receiving emails about Cougar Mountain Montessori school.

Ms. Berens said the school's conditional use permit pending with King County will likely be transferred to the City to complete processing. She advised Councilmembers to not have any ex parte communications regarding this application.

Continuing, Mr. Matz said the Interlocal Agreement also contains a financial guarantees (bonds) provision and addresses fees and reimbursement for certain services by the City and County.

Mayor Lee questioned what is changing. Mr. Matz said the new agreement supersedes the 150<sup>th</sup> Avenue SE cost-sharing agreement with King County. Under the old agreement, the City would have had to make payments to King County beginning after annexation. That provision does not appear in the new Interlocal Agreement.

Mr. Stroh explained that the old agreement would essentially have discouraged annexation. However, King County's stand on its potential annexation areas have changed since that time to encourage annexation.

Responding to Councilmember Chelminiak about the reference to state law regarding the County Sheriff's Department, Ms. Berens said that section of the Interlocal Agreement is written essentially the same as state law. It describes an obligation, if there are Sheriff's Deputies who would be laid off as a result of the annexation, that the City provide notice to them if the City is hiring.

Councilmember Hague confirmed that the County is not planning any related layoffs.

Councilmember Wallace suggested striking the paragraph if it is already addressed in state law.

Ms. Berens said she made that request. The response was that the County is comfortable with the Interlocal Agreement template and would like to keep the language consistent with other agreements that have gone before the King County Council. Having the section in the agreement does not add any new obligation for the City, but states what the City is already obligated to do under state law.

Responding to Councilmember Balducci, Ms. Berens said that state law requires that the City notify Sheriff's Deputies of any job openings with the City, if they are laid off by the County due to annexation.

Councilmember Wallace questioned the indemnification provisions and the implications for liability.

Ms. Berens said there are three indemnification provisions in the Interlocal Agreement pertaining to: 1) Roads and drainage-related properties, 2) The agreement in general and how the parties operate under the agreement, and 3) The handing of permitting. In general, the approach for all of them is a negligent standard mutual indemnification that one would expect to see in many contracts, including many of the City's professional services agreements.

With respect to the roads and drainage-related facilities, Ms. Berens said the City is taking a limited number of properties. City staff is inspecting those properties and, upon annexation, will receive records that will give the City information about any conditions on those properties that are likely to give rise to any third party claim. If an incident occurs prior to annexation on these properties, claims will be handled by King County even if the claim is filed after annexation.

Councilmember Chelminiak referred back to the Sheriff's Department issue, noting that he assumes that state law requires the County to notify the City and to provide the names of individuals if they are laid off. He questioned whether the law also requires the County to affirmatively tell the City that no one was laid off.

Ms. Berens said she will check the RCW for the specific language.

Mr. Matz reiterated that Council action is scheduled for May 21. The proposed annexation effective date is June 1 for Eastgate, Tamara Hills, and Horizon View.

(b) Hilltop Annexation Agreement

Mr. Miyake recalled that, on April 16, the Council directed staff to continue to work with the Hilltop community on a solution to address the management of habitat outside of traditionally regulated critical areas.

Mr. Stroh said that Hilltop residents submitted a proposal for a site plan review process, which is provided in the meeting packet beginning on page SS 2-10. The process affects habitat only and not other critical areas. Mr. Stroh noted the presence of Hilltop residents in the audience, who were available to respond to questions if asked.

Mr. Matz explained that the City was looking for a proposal that would be able to meet relevant Comprehensive Plan policies about critical areas habitat and that would be consistent with the requirements of the City's Land Use Code.

Mr. Matz described the site plan review process, which applies to individual properties whose owners opt into the process and to Hilltop Community, Inc. (HCI)-owned properties. Site Plan Committee review is required for all removals or pruning of significant trees. The Site Plan Committee reviews and permits balanced vegetation management activities in areas of critical habitat. The Site Plan Committee consults and applies Best Management Practices of federal, state and county agencies, and the City's Critical Areas Ordinance habitat standards. The Site Plan Committee will track the performance of the site plan process as a means of reporting back to the City.

Responding to Councilmember Davidson, Mr. Matz said the City does not give up any of its authority under the agreement.

Ms. Berens said the final step and link to the City's process is that each site plan will be authorized as a programmatic clearing and grading permit. The programmatic clearing and

grading permit is a tool used by the City that recognizes the need to manage vegetation in a more holistic approach for certain situations. It has been used with other homeowners associations and with the City's Utilities Department to allow them to manage vegetation under a set of guidelines instead of issuing permits for each individual action. If an action (i.e., tree clearing or trimming) occurs that is not consistent with the clearing and grading permit, it is treated as any other Code violation and enforced through the City.

Responding to Councilmember Davidson, Ms. Berens said the regulations do apply to Hilltop's community-owned property. Citizens can choose to opt into the site plan review process as well. If they do not, they are subject to the City's standard permitting requirements.

In further response to Dr. Davidson, Ms. Berens said that vegetation management plans associated with programmatic clearing and grading permits are approved through the Development Services Department at the administrative level.

Responding to Mayor Lee, Ms. Berens said the Land Use Code sets the criteria and performance standards for vegetation management plans. They are typically consistent with the Washington State Department of Fish and Wildlife's best management practices for habitat management. Ms. Berens said there is a proactive annual recording requirement to monitor the program's effectiveness.

Deputy Mayor Robertson stated her understanding of the process. The applicant would be issued an umbrella permit, and all of the internal issues of how they administer it within the Hilltop community would be decided by the residents and not directly involve the City. Ms. Berens said that is correct. In further response, Ms. Berens confirmed that HCI and the residents who opt into the site plan review process will report annually, comply with the City Code, and be subject to City enforcement for non-compliance.

Ms. Robertson said she wants the community to be one Bellevue after annexation is complete, and she believes that this approach accomplishes that goal. She noted that another community association has a similar programmatic permit approach.

Responding to Dr. Davidson, Ms. Berens said that applicants will have to pay the permit fees for the programmatic permit.

Councilmember Stokes expressed support for moving forward with the Interlocal Agreement. He believes it serves everyone well. He thanked staff and residents for the work.

Councilmember Chelminiak thanked staff and the community for all of their work on this issue. He observed that, while he endorses the idea of one Bellevue, he believes it is important to recognize that neighborhoods vary and have different characteristics or elements that are important to them. Mr. Chelminiak believes that Hilltop residents will continue to manage their habitat well.

Councilmember Wallace observed that he supports the proposed agreement and site plan review process as summarized by Deputy Mayor Robertson. However, he does not see that clearly stated in the meeting packet materials. Mr. Wallace said he is eager to complete the annexation, but suggested that the City avoid creating special exceptions as much as possible. He is comfortable with the proposal, however, because it establishes a permit that enforces the City's standards.

Councilmember Balducci said she supports the agreement. She thanked staff and residents for their work, and suggested cancelling the public hearing tentatively set for May 21.

Ms. Berens confirmed that, if the Council is comfortable with what has been discussed, there is no need to hold a second public hearing. She did not see the need for a formal motion, but requested a general consensus of the Council.

Dr. Davidson expressed his support for the proposal.

Deputy Mayor Robertson agreed with cancelling the second public hearing. However, she wants the annexation agreement to clearly state that the site plan review approach is a master permit under the City's regulations. She wants it to be clear that the Hilltop association is not administering the City Code, and the City is not delegating its authority to a homeowners association.

Ms. Robertson said that this item is scheduled to come back to the Council on May 21, and water agreements are to be presented during the May 14 Extended Study Session. The Council will be asked to take action on the agreements on May 21 without having 60-percent petitions, which seems backwards to her. Ms. Robertson noted that she wanted to go on the record with that comment. She said it seems that the City should have the petitions before taking action on the contract for annexation.

Mr. Stroh said Council action is scheduled for May 21 because Hilltop has been asking for certainty that all of the negotiations that have led to these agreements will result in an understanding of the conditions under which the annexation would occur. He confirmed that annexation will not go into effect unless sufficient petitions are received. May 24 is the latest date to have the petitions in hand in order to meet the August 1 effective date for annexation.

Mr. Stroh said staff scheduled a discussion on the water district agreements for May 14 to enable the Council to be ready to take action on the overall annexation package on May 21.

Responding to Dr. Davidson, Mr. Stroh said the Hilltop area will not come into the City's sewer system. He noted that there are other areas within the city limits that are not on the City's sewer system.

Councilmember Stokes observed that code enforcement will be handled by the City. However, the process enables the community to continue to be stewards of their habitat. He suggested coming up with some language in the agreement to make that clear.

Mayor Lee commended staff and residents for sticking with the annexation effort and for working so hard to resolve the habitat regulation issue. He summarized that the City will enforce its regulations and does not lose any of its permitting and regulatory authority. For clarification purposes, he suggested that staff prepare a chart showing how specific provisions are enforced and monitored.

Mayor Lee noted a Council consensus to not hold a second public hearing.

3. Council Business [*From Regular Session Agenda, Item 6*]

Councilmember Chelminiak attended meetings of the Economic Development District Board, Mental Illness and Drug Dependency (MIDD) Oversight Committee, and the Committee to End Homelessness. He highlighted the ongoing need for emergency housing for the homeless in addition to more permanent or transitional housing.

Councilmember Wallace participated in interviewing candidates for the Human Services Commission.

→ Councilmember Wallace moved to appoint James McEachran to the Human Services Commission, and Councilmember Chelminiak seconded the motion.

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

Councilmember Wallace reported that he attended the Transportation Commission meeting. He met with King County staff and City Utilities Department staff regarding the wastewater capacity charge.

Mr. Wallace said he met with the Police Chief, Fire Department staff, and Parks Department staff to discuss their priorities. He noted past discussions about locating a Downtown Fire Station, and suggested that it could be co-located with a Police Station and Parks facility. He requested discussing this in a future Study Session.

Deputy City Manager Miyake said that item was discussed during the Mayor's Meeting. Staff will provide an update and work plan for moving forward on that topic.

Responding to Councilmember Chelminiak, Mr. Miyake confirmed that there is a CIP project for Downtown Fire Station planning. Mr. Chelminiak requested an update on that issue as well as on Ashworth Park and other potential locations. Mr. Miyake said staff will bring back that history.

Councilmember Balducci met with the Arts Commission's outgoing Chair, Bill Ptacek, and Mary Pat Byrne, the City's Arts Specialist. Interviews will be conducted the following week to fill three vacancies on the Arts Commission. Ms. Balducci attended the Kelsey Creek Farm sheep shearing event.

Councilmember Davidson attended the East Link open house at City Hall and meetings of the WRIA 8 Executive Board, Cascade Water Alliance Board, and Regional Water Quality Committee.

Councilmember Stokes attended an open house on capital projects hosted by the Environmental Services Commission and the East Link open house on cost-saving proposals for the light rail project.

Deputy Mayor Robertson reported that she and Councilmembers Stokes and Wallace attended East Link Leadership Team and Core Team meetings. Ms. Robertson attended a meeting of the Puget Sound Regional Council (PSRC) Transportation Policy Board's prioritization working group. She attended the East Link open house at City Hall, met with the Bridle Trails Community Club to discuss the electrical reliability study, and met with the Chair of the Bellevue Library Board.

Mayor Lee attended the Washington State Parks and Recreation breakfast, 10K run at Downtown Park, Kelsey Creek Farm sheep shearing event, Youth Link conference, and Bellevue College fundraising event.

At 8:09 p.m., Mayor Lee declared recess to the Regular Session.

Myrna L. Basich, MMC  
City Clerk

kaw