

CITY OF BELLEVUE  
CITY COUNCIL

Summary Minutes of Extended Study Session

January 23, 2012  
6:00 p.m.

Council Conference Room 1E-113  
Bellevue, Washington

PRESENT: Mayor Lee, Deputy Mayor Robertson, and Councilmembers Balducci, Chelminiak, Davidson, Stokes, and Wallace

ABSENT: None.

1. Executive Session

Deputy Mayor Robertson called the meeting to order at 6:01 p.m., and declared recess to Executive Session for approximately 20 minutes to discuss one item of potential litigation.

[Councilmember Balducci arrived at 6:15 p.m.]

The meeting resumed at 6:33 p.m., with Mayor Lee presiding.

2. Oral Communications

- (a) Bill Hirt spoke in opposition to Sound Transit's East Link light rail project, and submitted his comments in writing.
- (b) Max, representing the Bellevue Youth Council, invited the City Council to Youth Link's annual Gumbo Night on February 8. Michelle Mattson-Hamilton, an adult member of the Bellevue Youth Link Board, provided an update on the Kids Care coat drive. The Bellevue Youth Council and the Bellevue High School Fashion Club collected nearly 3,500 coats, and two distribution events were held in December. This project involved 38 youth and adult volunteers, two in-kind supporters (Bel-Red Self Storage and Bellevue Home Depot), and 35 collection sites.

Mayor Lee thanked the youth for all of their work and said that the Council looks forward to spending time with them on Gumbo Night.

- (c) Sarah Hoisington said that she and her family live one block west of First Presbyterian Church. She asked the City Council to overturn a recent decision to allow the church to

open two group homes for at-risk teens. She said that members of the 98<sup>th</sup> Avenue Homeowners Association were not informed about the plans for group homes. The two homes will house six girls and six boys who attend Eastside Academy in the church. Ms. Hoisington expressed concern about having this type of home in a single-family area and about the lack of a public process. She said the church owns six homes in the neighborhood, and the teens potentially have criminal records, histories of substance abuse, and violent behavior. Ms. Hoisington said that Councilmember Wallace was an Elder at First Presbyterian Church from 2005 to 2009, and he is Council liaison to the Planning Commission, which reviews zoning issues. She believes that this represents a conflict of interest for Mr. Wallace.

City Manager Steve Sarkozy said staff is prepared to provide a report on this issue following Oral Communications by the public.

- (d) Leslie Lloyd, Bellevue Downtown Association, congratulated Mayor Lee, Deputy Mayor Robertson and Councilmember Stokes on their new positions. She encouraged the Council to move forward with the Downtown land use and livability work plan and the Downtown Transportation Plan Update. Ms. Lloyd submitted her comments in writing.
- (e) Marty Nizlek requested the Council's attention to proposed state legislation. HB 2335 would require independent peer-reviewed science in decisions involving, wildlife and ecology. He noted concerns throughout the community about the lack of such science in decision-making regarding the Shoreline Management Program. He encouraged the Council's support of HB 2335. Mr. Nizlek spoke against SB 6369 which would invoke the precautionary principle, under which demands for public funds would increase significantly. He expressed concern that this legislation would abandon sound scientific reasoning in favor of projects and programs based on conjecture.
- (f) Arjun Sirohi spoke regarding the East Link light rail project and related property acquisition. He referenced Section 3 of Resolution No. 8322, which was adopted by the Council on November 14, 2011. He questioned the status of the development of the work plan referenced in this section, which is to evaluate the potential public uses of any property along 112<sup>th</sup> Avenue SE to the extent that properties are not acquired by Sound Transit for the East Link project. He suggested a tracking system to monitor completion of the work plan as well as the Collaborative Design Process Management Plan. Mr. Sirohi submitted his comments in writing.

Responding to Mayor Lee, Mr. Sarkozy recalled that, earlier in January, staff introduced the proposed Collaborative Design Process action plan to the Council. This includes specific actions that would affect properties along 112<sup>th</sup> Avenue SE south of Surrey Downs Park. Mr. Sarkozy said it will be some time before a final alignment is defined and before Sound Transit is allowed to expend dollars on property acquisitions. Mr. Sarkozy said the City is not able to take any specific action on the properties until more work is completed.

- (g) January Colacurcio, a resident of Newport Shores, distributed copies of an article citing that I-405 has one of the worst afternoon commutes in the country. She expressed concern about the diversion of overflow traffic to 118<sup>th</sup> Avenue SE, which is parallel to I-405. She expressed concern that a Walmart store at Factoria will increase traffic in this area as well.
- (h) Scott Dudley, Senior Pastor of First Presbyterian Church of Bellevue, said the church owns four group homes in the surrounding neighborhood, and has co-invested in two others with two of the church's pastors, who live in the homes. The teen group homes will be staffed with married house parents on site, and backed up by staff from the church, Seattle Union Gospel Mission, and Eastside Academy. Staff are licensed, certified and trained above minimum standards for this type of facility. Mr. Dudley said the group homes will have no adverse impact to the neighborhood. The church has a long history of being able to work very effectively with at-risk youth. Their hope is to provide needed community services without involving taxpayers' dollars. Students who do not abide by the rules and neighborhood standards will not be allowed to continue to live there. Mr. Dudley clarified that the church never contacted Councilmember Wallace about this issue, and these plans emerged long after Mr. Wallace was an elder. Mr. Dudley said many of the teens are currently homeless, and the church would like to get them off the streets as soon as possible.
- (i) Tim Swift said he and his family have lived near the church for 20 years. He said that First Presbyterian Church has been a good neighbor and an asset to the community. He likes how the church has offered its facilities, including hosting scout meetings, Bellevue Farmers Market, and recycling events. He said that Eastside Academy has been in place for 11 years, and he has never heard of any difficulties related to the school. Mr. Swift said he has not been able to attend any of the public meetings held by the church on this issue. However, when he called Eastside Academy, his questions were answered openly and candidly. He welcomes the church's plans for the group homes, and is pleased that the community has a chance to give something back.
- (j) Chanel Federspiel said she lives near First Presbyterian Church. She said that neighbors do not object to the church's work. However, their objection is that the neighborhood is not zoned for teen group homes. Residents are concerned about the safety of their own children, and believe the use is not appropriate in their neighborhood.
- (k) Charles McDowell lives near the church. He expressed an interest in knowing whether the teens have histories of violence or drug felonies. He questioned whether the facilities are licensed and the criteria for placing youths in the homes.
- (l) Toni Esparza, Executive Director of Eastside Academy, spoke in favor of the youth family residences. She said the Academy is committed to serving both the youth and the neighbors of the church. She said the Academy considers its facility a privilege and not a right, and the school has been working effectively with at-risk youth for 11 years. Ms. Esparza said that the staff involved in the homes are licensed counselors, social workers,

and teachers with years of experience serving those in need. The homes will observe all zoning regulations applied to single-family residences. Resident house parent couples will live at the homes to create an environment of nurture, accountability, and structure. A maximum of six students will live in each home. Youth will enroll with written parental permission, and students will be held to a high standard of conduct to benefit themselves, fellow residents, and the community. Most of the students have been in this community for 11 years, and the Academy provides services to its students and the broader community. The next neighborhood meeting will be in early February. Support services and staff provided through Eastside Academy, Seattle Union Gospel Mission, and First Presbyterian Church of Bellevue provide a staff to student ratio of 19:12. Ms. Esparza expressed appreciation for the City's commitment to youth.

3. Study Session

(a) Council Business and New Initiatives

(1) First Presbyterian Church of Bellevue Youth Homes

Mr. Sarkozy said the City has received a number of emails and phone calls raising concerns about the youth homes. Staff is researching the issue and will provide a written update.

City Attorney Lori Riordan recalled litigation related to group homes approximately 15 years ago, and noted that she has teenagers and understands parents' concerns.

Carol Helland, Land Use Director, provided background information on the First Presbyterian Church situation. Last October, the Church contacted the City to research the use of homes in the vicinity of the church. The Church later submitted a proposal for two youth homes with up to six residents each.

Ms. Helland recalled that, after the federal lawsuit in 1996, the City was required to amend its Code to include a definition of family that allowed up to six unrelated individuals to live together in a dwelling unit. The limit can be exceeded when the individuals are in a familial status or have a handicap. The City Code continues to reflect this definition of family, which is consistent with the youth homes proposed by First Presbyterian Church. When the City added the definition of family, it also adopted a group home for children community involvement process. However, the process specifically exempts foster family homes and homes not licensed by the Department of Social and Health Services (DSHS). The State does not license homes of this type for churches and schools when permission is given by the parents for their children to live in them.

Ms. Helland said the matter is not a regulatory issue under the terms of the City Code. Neighborhood outreach staff planned to attend the meeting last week, but were unable to do so due to the snow and ice storm. City staff will attend the next meeting scheduled for February. Ms. Helland said a letter went out to residents earlier in the day.

Ms. Riordan said no permit is required for the youth homes, and the City Council was not involved in any action regarding the homes. Referring to the past litigation, Ms. Riordan said the Court was emphatic that the City could not prevent group homes for children in single-family neighborhoods. While the proposed homes qualify as families rather than group homes, the City cannot prohibit group homes for youths.

Ms. Helland said the Church has, although not required, tried to follow some of the terms of the neighborhood outreach process. The Church is holding neighborhood meetings, and is developing an operations plan that will be shared with residents when completed.

Mayor Lee asked staff to continue to monitor the issue.

Deputy Mayor Robertson thanked staff for the report, and for clarifying that the homes were not subject to a Council decision because federal law requires that the City allow this type of use in residential homes. She noted a public comment that the matter was reviewed by the Planning Commission. Ms. Helland clarified that the topic has not been addressed by the Planning Commission.

Deputy Mayor Robertson asked staff to ensure that information on the homes and upcoming meetings is made available to the public.

Councilmember Davidson noted that he was the Mayor during the original litigation on group homes. He commended the Church for its contributions to the community, including its support of the Jubilee Reach program.

Councilmember Wallace described his involvement as a volunteer for youth-related activities before joining the City Council, as well as his membership with the First Presbyterian Church of Bellevue. As an elder, he chaired the building committee that oversaw construction of the building that houses the Eastside Academy. He said the program has benefited many young people and it is an asset for Bellevue. Mr. Wallace said he is committed to working with the church and residents to address issues of concern.

Councilmember Chelminiak noted an upcoming meeting in February to discuss related topics, including how the faith-based community is dealing with homeless and housing issues. He said that churches in single-family areas typically operate under a conditional use permit (CUP), and he questioned whether the youth housing falls under this permit.

Ms. Helland said the homes do not fall under the church site's permit. The school obtained an amendment to the CUP to operate on the same site, but the school and church are separate uses. As currently planned, the homes are treated as families, and the use cannot be denied. She noted that the Church is not required to conduct any specific public process, but it is voluntarily working to establish a rapport with neighbors.

Responding to Councilmember Chelminiak, Ms. Helland said the homes will be operating with the permission and consent of the parents of the children placed in the homes, and this meets the definition of familial status.

Councilmember Chelminiak suggested that the Church and residents might want to explore establishing a voluntary agreement of mutual expectations and commitments. He said he could provide some examples of this type of agreement.

Councilmember Balducci noted that she lives in East Bellevue, where there are a number of group homes. She reiterated that the Council cannot prohibit the youth homes. Ms. Balducci noted her job as director of the King County Jail system, and said that at least 70 percent of adult criminals start by committing crimes as youths. She said it is critical to have programs that intervene with at-risk youth to help prevent future criminal activity. She recalled how well the Police Department was able to work with churches hosting tent cities and the surrounding residents in addressing issues and resolving problems, and suggested that residents might want to establish a similar relationship with the Police Department for this situation.

Councilmember Stokes thanked residents for their input to the City and the Council. He noted his work with Jubilee Reach and Eastside Pathways in the past, and expressed an interest in being involved in the dialogue related to the First Presbyterian Church youth homes.

Mayor Lee thanked everyone for their comments, and noted that he was on the Council in 1996 when the group homes litigation occurred. He encouraged the City and the community to continue to communicate to explore concerns.

## (2) Update on West Lake Sammamish Parkway Landslide

Mr. Sarkozy introduced staff's update on the weekend landslide on West Lake Sammamish Parkway. A management brief is provided in the Council's desk packet.

Mayor Lee thanked staff, on behalf of the Council, for the excellent response to snow and ice events.

Mike Jackman, Interim Deputy Director of Utilities, described the landslide on the east side of the road at 540 West Lake Sammamish Parkway SE. Mud and debris from the slide affected four properties between Lake Sammamish and the parkway, but no one was injured. The slide damaged the water main and Puget Sound Energy gas lines.

Mr. Jackman described the procedures taken to secure the site and to communicate with other agencies. Staff used the City's reverse 911 system to notify residents about the roadway impacts. West Lake Sammamish Parkway is closed at this location until further notice. The multi-agency team will continue to work with residents and to rebuild the roadway and infrastructure. Mr. Jackman said the cause of the mudslide has not yet been determined.

Mr. Jackman commended the residents whose property was damaged in this event, stating that they have been extremely cooperative and patient in dealing with this very difficult situation. He noted that an emergency declaration will be coming forward for Council action, which will allow the City to expedite permitting, contracting and other processes.

Ron Kessack, Interim Assistant Director of Transportation, provided additional details on the roadway damage and the City's response. Geo-technical and structural engineering firms have been on-site to evaluate the situation and are working to develop options. On-call contractors will provide site security during non-work hours.

Responding to Councilmember Davidson, Mr. Kessack said the City anticipates that the consultant team will present a report and options on Friday. Mr. Jackman said the roadway will be closed for at least two weeks, and updates will be provided as information becomes available.

Councilmember Balducci thanked staff for the report. Responding to Ms. Balducci, Mr. Jackman said that alternative access routes are available for all residents in the area.

Mayor Lee said it is important to continue to provide updates to the media and community.

Moving to Council reports, Councilmember Balducci referred to Mr. Sirohi's comments during Oral Communications. She observed that he was inquiring about a work plan regarding properties on 112<sup>th</sup> Avenue SE and not necessarily formal decisions at this point. She believes that residents would appreciate a schedule for the collaborative design process as it relates to 112<sup>th</sup> Avenue SE properties.

Mr. Sarkozy stated his understanding, from speaking with staff, that the handling of individual properties south of Surrey Downs Park will be part of the discussion of design and mitigation issues. He said staff can provide a general timeline as well as information on the types of uses that might occur along 112<sup>th</sup> Avenue SE including open space, bikeways, etc.

Councilmember Balducci said it would be helpful to have a timeline of key decisions to provide some expectation of the schedule for residents.

Mr. Sarkozy said staff will work with Sound Transit to provide something to the Council within the next few weeks.

Deputy Mayor Robertson noted Mr. Sirohi's written comment that he has emailed the City Attorney, Real Property Manager, and the East Link Project Manager, and has not heard back from any of them. She asked staff to respond, even if the response is that no new information is available at this time.

Deputy Mayor Robertson commended staff's snow response, noting that she has received a number of positive comments from citizens.

Councilmember Wallace noted Mr. Sirohi's inquiry about the monitoring of the East Link Collaborative Design Process, and suggested careful tracking of issues and actions affecting private properties along 112<sup>th</sup> Avenue SE.

Mr. Wallace referred to Mr. Hirt's earlier comments, and said it would be interesting to understand the process, from an engineering standpoint, for placing light rail on the I-90 bridge.

Mayor Lee said there are a number of questions raised in Mr. Sirohi's letter, and he would like the City Manager to review this and provide a response.

(b) Regional Issues

(1) State Legislative Update

Joyce Nichols, Interim Director of Intergovernmental Relations, noted meeting packet materials regarding key legislation and the potential negative impacts to the City's budget. She said the state legislature is in a short, 60-day session, which is scheduled to be completed on March 8. The House has moved its deadline for policy bills to get out of the house of origin to January 31. The legislature is working to close a \$1.5 billion budget gap between revenues and expenditures. Individuals writing the budget have indicated that they cannot protect the City's State-shared revenues, and that, given the budget shortfall, the City should expect to experience negative revenue impacts. There has been discussion about establishing some type of offsetting revenue authority to help cities.

Ms. Nichols said the Governor is proposing that a ½-cent increase in the State sales tax be placed before the voters on the May ballot. The deadline for submitting the ballot measure is February 17. The Governor proposes using the revenues to restore certain items to the budget, including additional school days, health and human services, and funding to prevent the early release of certain prisoners. Ms. Nichols noted that the Governor's budget is the starting point. The House and the Senate each develop their own budgets.

Ms. Nichols reviewed a list of the proposals that would have the greatest negative impact for Bellevue. She noted that Mike Doubleday, lobbyist, and Lucy Liu, Tax Manager, continue to participate in meetings regarding proposed legislation affecting the local business and occupation (B&O) tax and licensing authority. The revenue impact to the City of the current proposal ranges from \$1.6 million to \$6 million. Ms. Nichols said that 82 percent of Bellevue businesses are not required to file or pay the B&O tax due to exemptions reflected in the City's tax plan.

Responding to Councilmember Davidson, Mr. Doubleday said there is some legislative support for the proposed bill. It has been introduced into the House and Senate, but does not have a hearing scheduled. Dr. Davidson observed that approximately 20 percent of the City's revenue is generated by the B&O tax, and it is therefore an important revenue source to protect. He noted that some cities have been working together to develop a consolidated approach that would resolve some of the issues that the legislation is attempting to address.



Councilmember Chelminiak suggested that if the State takes over and streamlines the B&O tax system, more cities might be likely to impose a B&O tax. Mr. Doubleday concurred and noted that the proposal is being pushed by the Governor's Office more than anyone else.

Mayor Lee said the proposal is being presented as enhancing efficiency in the collection of the B&O tax. However, he observed that this has not been demonstrated.

Mr. Chelminiak expressed concern that Bellevue businesses not currently paying the B&O tax will be required to pay under a State B&O tax plan. He questioned the level of utility tax that could offset the lost B&O tax revenue.

Budget Manager Toni Rezab said a one percent increase in the City's utility tax equates to approximately \$2.5 million annually.

Dr. Davidson observed that the utility tax is embedded in utility rates, and the tax is a general government tax that does not go specifically to utilities.

Responding to Councilmember Wallace, Ms. Liu referred to page 3-4 of the meeting packet, which lists the major areas of legislation that would impact Bellevue, including the mandatory issuance and renewal of business licenses through the Department of Revenue, changes to elements of the City's tax structure (e.g., apportionment methods, collection, and administration), restrictions on the City's fee structure, and a reduction in the number of B&O tax classifications. In further response, Ms. Liu said the City's current B&O tax rate is 0.1496 percent, and the B&O tax authority extends to a 0.2 percent rate cap. The proposed legislation does not affect this maximum rate.

Mr. Wallace said that Bellevue might be the only city in the state that has sufficient banked property tax capacity to offset the revenue loss. He said this is not the case for Seattle and many other cities. He said it would be helpful, in reviewing the City's budget, to be able to understand all of the current and potential revenue sources in both the General Fund and Capital Investment Program.

Responding to Mr. Wallace, Ms. Nichols said the Governor's budget does not include the cell phone sales tax exemption. However, it is included in this discussion due to the potential impact to the City if it were to move forward. She said the issue was raised as the result of a court case in which the Thurston County Superior Court ruled that the retail sales tax exemption for residential phone service also applied to cellular service for non-business customers. The case was brought by Sprint Spectrum on behalf of its customers. The State has historically limited the sales tax exemption to landline services. HB 2128 clarifies and codifies that cellular phone service and VOIP do not qualify for the sales tax exemption. If passed, there would be no fiscal impact to the City. If the legislation is not passed, the result is an estimated one-time City refund of \$5.6 million in sales tax revenue to Sprint, as well as an ongoing sales tax revenue loss.

Ms. Nichols noted that the cell phone sales tax exemption is not included in the Council's legislative agenda. However, staff recommends that the Council support HB 2128.

Councilmember Davidson said the State already has a B&O tax, yet is proposing to take over the local B&O tax authority as well.

Deputy Mayor Robertson expressed support for HB 2128, and suggested that the City should take every action to preserve the revenue stream. She noted that the City has cut \$24 million from the General Fund during the past two years due to declining revenues.

Ms. Nichols said that although Mr. Doubleday is in Olympia daily advocating on the City's behalf, individual calls to legislators by Councilmembers have proven to be effective as well. She said that Mr. Doubleday can advise about the most effective timing of input on specific issues.

Responding to Mayor Lee, Mr. Doubleday said that he and staff continue to work with legislators and the Governor's Office. They have indicated that while they have shielded City revenues in the past, that is not possible given the current budget shortfall.

Ms. Nichols described legislation affecting the liquor excise tax and liquor profits. Initiative 1183 approved last November helps to prevent the complete elimination of liquor profits' distribution to cities, which was proposed by the Governor. However, two challenges to the initiative have created uncertainty about future liquor sales. If I-1183 is implemented as approved, the City is anticipated to increase its liquor profits revenue by \$100,000 annually. With regard to liquor excise tax sharing, Ms. Nichols explained that prior to the passage of I-1183, 35 percent of liquor excise tax collections were distributed to cities and counties. The Governor's budget released November 21 eliminates this sharing with local governments.

Moving on, Ms. Nichols said the Governor proposes reducing the annexation sales tax credit by 10 percent annually until the funding is depleted. The credit currently covers cities that have completed annexations. If Bellevue is not eligible to receive this money for the pending South Bellevue annexation, the loss is estimated at \$1.2 million annually.

Ms. Nichols described the streamlined sales tax mitigation fund, which was established a few years ago when the State moved from a tax system based on the point of sale to one based on the point of delivery. The fund was intended to mitigate the impacts for cities that were adversely affected. The Governor's budget proposes a 10-percent reduction, which is an annual loss for Bellevue of \$10,000.

Mr. Doubleday referred the Council to page 3-6 of the meeting packet, and briefly reviewed transportation and infrastructure issues. The Governor has proposed a new 10-year, \$3.7 billion transportation package that contains operations and maintenance funding only. It includes a \$1.50 per barrel fee on oil, which raises more than \$3 billion. If classified as a fee, a 50-percent vote of the legislature is needed for approval. If it is deemed a tax, a two-thirds vote of approval would be required.

Mr. Doubleday said that two local options are: 1) Raise the limit on the vehicle license fee that can be imposed by a Transportation Benefit District from \$20 to \$40 through councilmanic action, and 2) Implement a councilmanic one percent motor vehicle excise tax (MVET) for local transportation and transit purposes.

Councilmember Balducci observed that the transportation package does not address projects on SR 520 and I-405.

Mayor Lee said he would be attending the Washington Mayors Transportation Forum in Olympia the next day. He believes it is necessary for cities to work together to achieve desired funding.

Mr. Doubleday said that the \$1.50 per barrel of oil fee is being challenged. If it is ruled as a tax instead of a fee, it will not achieve a two-thirds vote of support within the legislature. He observed that the Governor's strategy was to propose a ballot measure for the sales tax and to present the transportation package to the state legislature.

Councilmember Balducci said the Council needs to continue to work collectively and aggressively within regional and local forums to advocate for needed transportation funding.

Councilmember Wallace concurred that the City needs to continue to push for funding for the SR 520 project and the second phase of the I-405 plan. He said Bellevue is bearing the full brunt of tolling initiatives, and the City should seek special attention with regard to the infrastructure that comes with tolled freeways. He observed that the fees in the Governor's transportation package are not sufficient to achieve transportation goals. Mr. Wallace suggested that the Council should realistically consider the vehicle license fee and MVET revenue options proposed by the Governor.

Councilmember Stokes said that the education community and the health and human services community are both struggling for funding as well.

Deputy Mayor Robertson observed that transportation is key to many objectives including economic development and education.

Responding to Ms. Robertson, Ms. Nichols said the Governor's transportation package does not identify specific projects. It represents approximately \$31 million annually statewide for local purposes. Half of that money goes to counties, and half is distributed to help cities.

Ms. Robertson noted that the \$20 vehicle license fee option would raise \$1 million annually for Bellevue. Councilmember Chelminiak observed that bonds could be issued related to this revenue to produce fairly significant funding.

Mayor Lee suggested having an overall strategy in place to pursue funding.

Mr. Doubleday said a coalition in support of a new gas tax or a ballot measure for transportation funding has been active during the past year, and he has attended some of those meetings.

Ms. Nichols noted that the Council's legislative agenda identifies specific transportation projects, some of which are on a list with the Puget Sound Regional Council for federal grant funding.

Responding to Councilmember Wallace, Ms. Nichols said a jobs package is being developed to fund local government CIP projects in need of financial support. Bellevue staff is currently developing a list of projects to submit including an AC Water Main project, Coal Creek Parkway culvert project, 120<sup>th</sup> Avenue NE Phase 2 project, NE 15<sup>th</sup> Street Corridor (Zone 2) project, and a portion of the West Lake Sammamish Parkway Phase 1 project. Projects in the \$3 million to \$5 million range, primarily in the areas of transportation and infrastructure, are the most likely to be funded. Staff's criteria are projects that are shovel ready, could be implemented relatively quickly, and provide the highest number of jobs.

Moving to the medical marijuana legislation, Ms. Nichols explained that Senate Bill 6265 follows legislation passed last session, approximately half of which was vetoed by Governor Gregoire. The legislation is sponsored by Senator Jeanne Kohl-Welles, who represents part of the Seattle area, and the bill had a hearing last week. The Association of Washington Cities (AWC) testified against a number of features of the bill, including a provision requiring cities to allow collective gardens and private dispensaries. Ms. Nichols requested the Council's feedback on the draft guiding principles developed by staff regarding the medical use of marijuana.

City Attorney Lori Riordan said the bill discussed during last week's hearing does not allow cities to opt out of permitting collective gardens, but it does allow cities and counties, under certain circumstances, to opt out of allowing nonprofit cooperative dispensaries. The bill retains certain zoning, permitting, licensing, health and safety authority for local jurisdictions. A concern has been raised that the bill is somewhat ambiguous in this area.

Ms. Riordan explained that the draft guiding principles represent a range of possible responses to this type of legislation, with the most conservative being to bar all production and distribution of medical marijuana by private persons and to support that marijuana should be regulated according to the federal schedule for drugs and dispensed through pharmacies like other drugs. If the current bill moves forward, the draft guiding principles list a number of potential provisions and responses for the Council's consideration. Ms. Riordan noted that the bill allows cities to actively ban nonprofit patient cooperatives (NPCs) as potential distribution points.

Ms. Riordan expressed concern about armed robberies that have occurred at grow operations and collective gardens, and about the potential liability of government employees who would be administering these programs with regard to federal laws. Staff proposes a provision that City employees would be protected from prosecution.

Deputy Mayor Robertson concurred that it is important to protect City employees from prosecution. She suggested deleting the end of the sentence that addresses this issue: "if cities are

not allowed to opt out of permitting collective gardens.” She stated that employees administering state law should be protected regardless of whether cities are allowed to opt out.

Ms. Robertson requested clarification about the consistency with federal law. She noted that voters approved a medical marijuana initiative, and the state legislature is attempting to implement legislation that is consistent with that action. She questioned the practical effect of the principles that refer to legislation that is in conflict with federal laws.

Ms. Riordan said that the principles are intended to remove any confusion about what is safe or not safe in terms of the City’s administration of state law.

Deputy Mayor Robertson said it is important to retain local zoning authority related to medical marijuana, and she would like the City to focus on lobbying strongly in this regard.

Councilmember Davidson is opposed to the concept of a state system dealing with controlled substances. As a dentist, he is accustomed to writing prescriptions, including for narcotics, which are regulated by the federal government. He noted that marijuana is mind altering and often smoked, which is not healthy for individuals. Dr. Davidson believes the drug should be treated as any other drug by the federal government.

Councilmember Balducci questioned whether medical marijuana would be taxable. Ms. Nichols said it could be taxed but, given the federal prohibition, it is likely that the federal government would seize the proceeds. Ms. Balducci said she shares Dr. Davidson’s frustration. She observed that this is a half-hearted attempt to legalize marijuana, and she believes that related problems will fall to the cities. Councilmember Balducci said the City must be able to control zoning and other local authority.

Responding to Ms. Balducci, Ms. Riordan said the proposed legislation has a provision stating that cities cannot ban collective gardens. The prior legislation did not include an opt out provision. The current bill does allow cities and counties to opt out of allowing nonprofit cooperatives, depending on the size of the jurisdictions and other criteria to be considered.

Ms. Balducci acknowledged that some individuals have benefitted from the legitimate prescription of medical marijuana. However, private dispensaries and gardens appear to be more focused on recreational use. She is concerned that cities would have no power to distinguish between the two types of uses. Ms. Balducci said that she wishes this was not an issue before the Council and legislature at all.

Councilmember Chelminiak said there is a great deal of frustration within local government about addressing medical marijuana, which apparently is supported by a majority of the state legislature. He agreed with Councilmember Balducci that the drug benefits some individuals with certain medical conditions. He expressed concern about private collective gardens and nonprofit collectives, and about the ability of local government to regulate these. If the state legislature wants to move forward with regulating marijuana, he believes that private collective groups should not be allowed.

Mr. Chelminiak said residents are concerned about the potential for such operations within neighborhoods. He observed that the Council is in a position of having to respond to issues that it does not like at all. He said it is important to protect neighborhoods and to have a reasonable way of assuring that usage is truly medical. He noted that Deputy Mayor Robertson has shared information with the Council from AWC and neighboring cities regarding approaches to regulation.

Councilmember Stokes concurred that the City is in a difficult place with regard to the issue. He observed that the legislative efforts are a proxy for legalizing marijuana altogether. He said it is important to protect neighborhoods and the overall community, and to be able to manage state law in an effective manner. He would like to be able to tax the activity if at all possible.

Mayor Lee summarized that the Council is frustrated with the issue and with the conflict between federal and possible state laws. He is concerned about unintended consequences that will affect local governments. If the legislation is passed, Mr. Lee questioned whether cities could object to the law as an unfunded mandate.

Ms. Nichols noted that Mr. Doubleday and staff have heard the Council's comments, which provides a framework to guide their comments to state legislators regarding the City of Bellevue's position.

Mr. Lee reiterated his concern about unintended consequences and about costs related to enforcement and other issues.

Responding to Deputy Mayor Robertson regarding proposed legislation on SEPA (State Environmental Policy Act) reform, Ms. Nichols confirmed that the language in the packet materials [Page 3-8] reflects the Council's previous direction to reduce costs and the duplication of efforts while retaining environmental protection.

Ms. Robertson requested information on the bills discussed by Mr. Nizlek including HB 2335 and SB 6369. Ms. Nichols said that neither of the bills are represented in the Council's current legislative agenda, and therefore any position would require formal Council action. Responding to Ms. Robertson, Ms. Nichols said she does not believe that legislative action will occur before February 6. She noted that Legal Planner Catherine Drews has been working on those bills and can provide information to the Council shortly via email.

Councilmember Wallace said he supports the consideration of the two bills mentioned by Mr. Nizlek. Mr. Wallace highlighted SB 6207, which proposes to extend the deadline for the NPDES (National Pollutant Discharge Elimination System) permit to June 2015. He would like the Council to take a position in favor of this bill.

Ms. Nichols said that an administrative review of that bill identified provisions that the City would like to work on amending. The bill retains the requirement for issuing a draft permit in 2012, which is not preferred. The City would like the State Department of Ecology to issue the

stormwater manual before requiring issuance of the draft permit. The City will continue to work to amend the bill. Councilmember Wallace expressed support for this approach.

Councilmember Wallace noted SB 6093, which provides for optional cash mitigation payments for environmental mitigation related to infrastructure projects. With Sound Transit light rail coming to Bellevue, as well as other transportation projects moving forward, Mr. Wallace observed that this might be an option that the City would like to evaluate. He said he has not read the entire bill yet, however. Ms. Nichols said that staff will provide more information on the proposed legislation.

## (2) Federal Legislative Update

Ms. Nichols referred the Council to the draft 2012 Federal Legislative Agenda provided in the meeting packet. She noted that specific appropriations requests are not included due to the elimination of earmarks within the current federal budget process.

Councilmember Chelminiak referred to the item listed as economic development focused on clean technology on page 2 of the Federal Legislative Agenda. He suggested that an opportunity exists within the I-90 corridor and Richards Road redevelopment for facilities related to clean technologies.

Mr. Chelminiak observed that the section in the Agenda on City transportation investment priorities lists State projects. He believes that taxpayers' investment in federal taxes should come back to local projects as well. He noted that some of the City's 2011 projects provided connections to State projects. He believes there are opportunities to achieve federal funding for projects of this type, as well as for the NE 15<sup>th</sup>/16<sup>th</sup> Corridor, 124<sup>th</sup> Avenue NE, the NE 6<sup>th</sup> Street extension, and the East Link light rail tunnel or other aspects of the light rail project. His understanding is that the federal government is looking at reducing its 50 or so funding programs to six or seven. Ms. Nichols said staff will add more local projects back into the Federal Legislative Agenda.

Kim Becklund, Transportation Policy Advisor, said there will not be formal requests for federal funding until at least next year. As staff develops the project list, a number of bills will be tested this year. She suggested that staff provide a more detailed update on federal transportation trends in a future meeting.

Councilmember Wallace would like the City to continue to advocate for the Internet sales tax legislation, which would allow Bellevue to collect local sales tax on Internet sales. Ms. Nichols said there is currently a bill within Congress. The Association of Washington Cities and the National League of Cities have this on their federal priorities list.

Responding to Mayor Lee, Ms. Nichols said staff has not worked with local businesses on the Internet sales tax issue to any extent, primarily because proposed legislation has never made much progress.

Responding to Mayor Lee, Ms. Nichols said the City is interested in legislation that would preserve a block of broadband access for public safety use.

Mayor Lee noted the role of broadband services in enhancing economic development as well.

Responding to Councilmember Stokes, Ms. Nichols said the City is working with the National League of Cities on the issue of preserving the benefits of open competition on the Internet through the principle of network neutrality. The issue is that it should not be commercially acceptable for a network provider to decide or control whose information travels faster and can be therefore be accessed more quickly and easily.

- (c) Refinancing of 2004 LTGO Bonds (City Hall) and discussion with Council concerning ordinances authorizing the issuance of these bonds.

Finance Director Jan Hawn presented a proposal to refinance the 2004 limited term general obligation (LTGO) bonds issued for the new City Hall. The City's financial advisor routinely reviews all of the City's issuances to determine whether any outstanding debt is eligible for savings through refunding of the bonds. This proposed refinancing achieves an 8.35 percent savings of the refunding debt, for a net present value (NPV) savings of \$8.6 million total or \$450,000 per year. The final maturity date remains at 2043 as established with the original bonds.

If Council would like to proceed, staff will bring an Ordinance for Council action on February 6. A Council Special Meeting is tentatively set for Wednesday, March 14, for approval of the bond sale. As an option, the Ordinance to be considered on February 6 could grant authority to staff to approve the bond sale without the need for a special meeting.

Responding to Deputy Mayor Robertson, Ms. Hawn said the total debt is approximately \$100 million. The cost of refinancing/refunding is approximately \$1 million.

Deputy Mayor Robertson said she supports including a delegation of authority provision within the Ordinance to allow staff to execute the bond sale.

The City's financial advisor provided a brief explanation of how LTGO bonds are structured and issued. Responding to Councilmember Wallace, she acknowledged that it is possible the City could save more money if it waited another year to refinance. However, there would also be the risk that interest rates would increase.

Councilmember Stokes expressed support for the proposal and the savings of \$8.6 million.

Councilmember Chelminiak concurred and said he feels comfortable moving forward with an Ordinance authorizing staff to proceed with the sale.

Ms. Hawn clarified that the current proposal reflects a premium, which could change by the time of the bond sale. She said that the delegation of authority to staff will require detailed language



in the Ordinance to indicate a range of how the parameters could be structured. The total dollar savings of the refunding will remain the same, however.

Councilmember Balducci supports moving forward.

→ Deputy Mayor Robertson moved to extend the meeting to 10:05 p.m., and Councilmember Balducci seconded the motion.

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

(d) Utility Occupation Tax

Resolution No. 8360 authorizing execution of certain agreements with the cities of Clyde Hill, Issaquah, Medina and Kirkland, and the Towns of Hunts Point and Yarrow Point related to City of Bellevue Utility Taxes;

Mr. Sarkozy said that Resolution No. 8360 is proposed to ensure that the general government costs associated with providing fireflow capacity are appropriately addressed. There is no fiscal impact for customers within Bellevue's city limits.

Mayor Lee noted that these items have been discussed by the Council in previous meetings.

→ Deputy Mayor Robertson moved to approve Resolution No. 8360, and Councilmember Stokes seconded the motion.

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

Ordinance No. 6040 relating to the utility occupation tax of the City of Bellevue; amending Sections 4.10.025, 4.10.055, and 4.10.060.B of the Bellevue City Code; providing for referendum as set forth in Chapter 1.12 of the Bellevue City Code; providing for severability; and establishing an effective date

→ Deputy Mayor Robertson moved to adopt Ordinance No. 6040, and Councilmember Stokes seconded the motion.

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

Ordinance No. 6041 establishing revised charges for water service, water consumption, and water standby capacity charges for customers outside the City of Bellevue; providing for severability; and establishing an effective date.

→ Deputy Mayor Robertson moved to adopt Ordinance No. 6041, and Councilmember Stokes seconded the motion.

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

At 10:00 p.m., Mayor Lee declared the meeting adjourned.

Myrna L. Basich, MMC  
City Clerk  
kaw