

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Regular Session

January 22, 2013
8:00 p.m.

Council Chamber
Bellevue, Washington

PRESENT: Mayor Lee, Deputy Mayor Robertson and Councilmembers Chelminiak¹, Davidson, Stokes, and Wallace

ABSENT: Councilmember Balducci

1. Call to Order

The meeting was called to order at 8:08 p.m., with Mayor Lee presiding.

2. Roll Call, Flag Salute

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

3. Communications: Written and Oral

- (a) Alex Zimmerman, Stand Up America, stated his opposition to red light cameras. He said that issuing traffic citations increases the cost of insurance for citizens and results in court costs for taxpayers. He said the City needs a management change to bring new ideas.
- (b) Wendy Jones, President of the Enatai Neighborhood Association, expressed ongoing concerns regarding the impacts of light rail. She recalled that Councilmember Balducci previously introduced the phrase “exceptional mitigation,” and residents have been looking to the Council to define that for the East Link project. She observed that provisions of the proposed Light Rail Overlay Land Use Code amendment appear to exempt the light rail process from any of the City’s existing regulations, even to the point of allowing Sound Transit the right to apply for permits on residents’ properties without their consent. She expressed concern that the target date of February 19 for adopting the Light Rail Overlay will not provide the opportunity for public comment and involvement. She urged the City to release a draft of the Light Rail Overlay and to hold a public hearing as discussed during the earlier Study Session. She asked that the Council ensure that the regulations will provide exceptional mitigation for neighborhoods.

¹ Councilmember Chelminiak joined the meeting at 8:15 p.m.

- (c) Lori Taylor, Director of Bellevue Farmers Market, said the organization recently submitted a permit application for a new location in 2013. The Market has operated under a Temporary Use Permit for the past nine years. However, it does not qualify for that permit type this year for the Saturday Market. She was approached in August by the Old Bellevue Merchants Association regarding relocating to that neighborhood, and the Market plans to operate on 102nd Avenue this year. She said Councilmember Stokes has been present during meetings with businesses, who are supportive of the relocation of the Market. Ms. Taylor said a Temporary Use Permit does not allow street closures. However, the Market cannot fit into the Special Events category because it is a recurring event over seven months. She asked the Council to consider creating an ordinance for farmers markets in Bellevue. She noted that Seattle adopted an ordinance in 2009 to accommodate farmers markets. [Ms. Taylor submitted her comments in writing.]
 - (d) Erin Fleck, an Enatai resident, urged the Council to consider the importance of holding a public hearing on the proposed Light Rail Overlay Land Use Code amendment. She asked the City to provide sufficient opportunity for public involvement and to provide the promised exceptional mitigation for the project.
 - (e) Joe Rosmann, representing Building a Better Bellevue, commended Councilmembers who have spoken, on at least seven occasions since October, about the importance of providing an informed public review and oversight process with regard to the Light Rail Overlay. He said the community includes many individuals with extensive legal, regulatory, and technical expertise in working on related issues. He said a thorough public process will provide a better project, as it has for the SR 520 project. He is concerned that releasing the draft Land Use Code amendment only one week before the public hearing is not sufficient.
4. Reports of Community Council, Boards and Commissions: None.
5. Report of the City Manager
- (a) Management Brief regarding Proposed Winter Parking Restrictions on Highland Drive

City Manager Steve Sarkozy requested deferment of this item to allow additional time for staff to work with residents.

6. Council Business and New Initiatives

Councilmember Wallace expressed his ongoing concern regarding human trafficking in Bellevue and the region. He and Councilmember Stokes recently met with Police Department and Human Services Division staff on this topic, and a number of nonprofit organizations have been working on raising awareness about human trafficking.

Mr. Wallace said the I-405 Executive Advisory Group will begin meeting that week regarding future tolling. He requested a report from staff on the Farmers Market issue.

Councilmember Wallace noted that, as liaison to the Human Services Commission, he has discovered that it is difficult to find information about human services on the City's web site. He requested that staff provide a link to human services information on the site's Home page, noting that citizens cannot be expected to know that it falls under the Parks and Community Services Department.

Deputy Mayor Robertson and Councilmember Chelminiak voiced support for the request.

Mr. Sarkozy said he will look into the matter.

Mr. Wallace noted requests from citizens to ban roosters in Bellevue. He said that Renton and other cities have adopted relevant ordinances and he requested a discussion of the issues.

Mr. Sarkozy said it would be helpful to have general Council support on addressing the topic.

Mayor Lee noted Council concurrence to direct staff to research the issue and return to the Council.

Councilmember Chelminiak reported that he attended a meeting of the Bellevue Convention Center Authority (BCCA) Board, which oversees Meydenbauer Center. He noted that 2012 transient occupancy tax (i.e., hotel/motel tax) collections increased 10 percent over the previous year. However, this is due in part to higher weekday hotel rates, which makes it difficult to attract conventions to Bellevue. Mr. Chelminiak said Meydenbauer Center celebrates its 20th anniversary in 2013.

Councilmember Davidson reported that he attended meetings of the WRIA-8 (Lake Washington/Cedar/Sammamish) Salmon Recovery Council and the Puget Sound Regional Council (PSRC) Growing Transit Communities Committee. He testified before the state legislature's budget hearing as Vice Chair of the Puget Sound Salmon Recovery Council regarding a request for approximately \$80 million.

Deputy Mayor Robertson attended meetings of the PSRC prioritization working group (subcommittee of the Transportation Policy Board) and Bellevue's Planning Commission. The Commission voted unanimously in support of the Shoreline Master Program Update to be forwarded to the Council for consideration.

Ms. Robertson said that she, Mayor Lee, and Councilmember Davidson attended Secretary of State Sam Reed's retirement party. Ms. Robertson participated in an interview with Comcast Newsmakers about Downtown livability and in Martin Luther King Jr. Day activities with her children. She encouraged the City to work with the Farmers Market to help facilitate the new 2013 location.

Councilmember Stokes said he has been attending meetings regarding the Farmers Market and will update the Council as the issue goes forward.

Mayor Lee attended a Martin Luther King Jr. Day celebration at Crossroads Shopping Center.

7. Approval of the Agenda

- Deputy Mayor Robertson moved to approve the agenda, amended to move Agenda Item 8(f) to Agenda Item 11(b) for discussion and consideration. Councilmember Stokes seconded the motion.
- The motion to approve the agenda, as amended, carried by a vote of 6-0.

8. Consent Calendar

- Deputy Mayor Robertson moved to approve the Consent Calendar, with the exception of Item 8(f). Councilmember Stokes seconded the motion.
- The motion to approve the Consent Calendar carried by a vote of 6-0, and the following items were approved:

- (a) Minutes of November 20, 2012 Special Meeting
Minutes of January 7, 2013 Study Session
Minutes of January 7, 2013 Regular Session
- (b) Resolution No. 8505 authorizing execution of a four-year agreement with Evergreen Adjustment Service, Inc., in a total contract amount not to exceed \$100,000, to provide liability claims adjustment services.
- (c) Resolution No. 8506 authorizing execution of a four-year professional services contract with Systems Design, in a total contract amount not to exceed \$300,000, to provide Basic Life Support patient transport billing services.
- (d) Resolution No. 8507 authorizing execution of a five-year lease agreement with the Eastside Heritage Center for a portion of the historic McDowell House property located at 11660 Main Street.
- (e) Resolution No. 8508 authorizing execution of an amendment to the professional services agreement with MulvannyG2, in an amount not to exceed \$101,000 for a total contract amount of \$150,000, to provide continued planning and architectural services related to City Hall and other City facilities potentially impacted by the East Link project (CIP Plan No. PW-R-159).

9. Public Hearings: None.

10. Land Use: None.

11. Other Ordinances, Resolutions and Motions

- (a) Consideration of proposed letter to Sound Transit Board regarding schedule for processing potential Land Use Code Amendments associated with Light Rail

City Manager Sarkozy said this item is to consider the proposed letter to the Sound Transit Board regarding the schedule for processing potential Land Use Code amendments associated with light rail, as identified in the East Link Memorandum of Understanding (MOU). He noted the revised draft letter provided in the desk packet for Council consideration.

Deputy City Attorney Kate Berens recalled the Council's interest in providing the letter to the Sound Transit Board before their meeting this Thursday. The main body of the letter outlines the Council's proposed schedule for creating the Light Rail Overlay Land Use Code amendment.

Deputy Mayor Robertson expressed support for a public hearing once there is a draft Overlay to release for review and comment. She observed that, if Council review of the Overlay is to occur on February 4, she would expect it to be online and available for public review by February 1 at the latest. That would allow 10 days of public review before the public hearing on February 11. The Council would then have another week before adoption of the Overlay anticipated for February 19.

Councilmember Stokes said he supports a public hearing on February 11 and Council action on February 19.

Councilmember Wallace said he does not think the schedule provides sufficient review time. He suggested further discussion during the Council's retreat later in the week to map out a more realistic schedule. He noted his interest that the letter request an update on Sound Transit's progress in studying the cost savings options. He said it is difficult to adopt the Overlay without knowing the specific alignment and configuration. He does not believe there is sufficient time for the Council and the public to conduct an appropriate review of the Overlay.

Responding to the Mayor, Mr. Wallace recommended extending the schedule. He is skeptical that the Overlay document produced in October could be universally acceptable.

Mr. Sarkozy said staff has been working on behalf of the Council to provide a Land Use Code amendment, which is overdue according to the terms of the MOU, and to develop a permitting package for regional light rail through Bellevue. He said the timeframe for the work is at the discretion of the Council. Staff will do all it can to collect and incorporate public comments into the process.

Mayor Lee suggested that the letter to the Sound Transit Board propose working together to revise the MOU schedule.

Deputy Mayor Robertson suggested revising the schedule to potentially extend Council action to February 25. She agreed with Councilmember Wallace's suggestion to inquire about the status of the cost savings work by Sound Transit, which is also overdue according to the terms of the MOU.

Councilmembers Chelminiak and Stokes concurred.

Councilmember Davidson concurred with Councilmember Wallace that it is difficult to make decisions without knowing the cost savings options and implications.

Dr. Davidson observed that he has been unable to obtain any information about the appeal of the Record of Decision on the project. He wondered what the implications might be following the final resolution of that matter.

Councilmember Wallace said that, while it is possible that an external event or action could significantly alter the project, it is the Council's obligation to continue moving forward with the plan agreed to in the MOU. His intention is not to delay the project, but to allow adequate time for appropriately and thoroughly addressing the cost savings measures and Land Use Code amendment.

Mr. Wallace observed that the Council has not had a meaningful discussion about key elements of the proposed Overlay since it was drafted in October. Also, Sound Transit's proposed operations and maintenance facility has not been studied or discussed. He opined that the Council is not obligated to outline a schedule in the letter to the Sound Transit Board, and he is concerned about creating political pressure to approve the Overlay without a full review.

Mr. Wallace suggested that the letter communicate that the City will continue to work on the Light Rail Overlay, but that the schedule be deleted.

Councilmember Stokes said the Council has discussed the Overlay to some extent since October, and additional discussions are scheduled over the next few weeks. He said information about the cost savings options does not affect the development of the Land Use Code Overlay. He urged moving forward and expressed concern about how Sound Transit might respond if there are further delays. He believes that submitting a schedule is the responsible thing to do.

Mayor Lee concurred with Councilmember Wallace that the Overlay has not changed much since it was presented in October. However, the Council needs to move forward. He said the Council needs to have the opportunity in the future to address more detailed aspects of the project and to exercise authority for exceptional mitigation. Mayor Lee believes that a framework should be set now and details should be addressed later.

Councilmember Wallace opined that discussions to date have focused on details instead of the overall framework. He agreed that the discussion needs to be about the framework and reiterated that the letter should not commit to a specific schedule. While he would like to accomplish the work as soon as possible, Mr. Wallace wants to have the right information to do so. He suggested developing a schedule to reach a decision on the framework proposed in the draft Light Rail Overlay.

Councilmember Wallace questioned whether staff will be able to provide the Council's input on the framework before the public hearing.

Ms. Robertson asked to address other issues first. With regard to the Land Use Code amendment, she said she had hoped to see updates as the Council discussed items. However, that has not occurred and staff has indicated it will come back with a major redraft.

Ms. Robertson said the Council still needs to talk about the permit process which she feels should be modified since the original discussion. The Council also needs to discuss the operations and maintenance facility as well as the standards and process to be applied to that project. She noted the need to discuss the project within the context of the City's Noise Code.

Ms. Robertson recalled that one detail raised early in the process is whether the Council wants to allow a regional transit facility to apply for permits for properties that Sound Transit does not own or have permission to use.

With regard to the letter, Ms. Robertson said she will support including or not including a schedule, depending on how the rest of the Council feels on that. She does want to approve a letter tonight and to provide direction to staff to schedule a public hearing for February 11.

Councilmember Chelminiak said he is disappointed in the disagreement about the letter. He noted comments tonight regarding a proposed change in approach to incorporate the Hearing Examiner. He said it is unclear whether the Noise Code is to be addressed at this point.

Mr. Chelminiak suggested utilizing a decision matrix to reach agreement on the framework for going forward. He believes there are good reasons to address the operations and maintenance base in the Light Rail Overlay. He observed that the base qualifies as an essential public facility, which makes it a conditional use. However, he does not want to delay creating the Overlay based on that facility. He suggested that a decision matrix, with Council votes on specific elements, would move the process along. Mr. Chelminiak said he is concerned about the slippage in time for this process.

Councilmember Stokes said he is open to not including a specific schedule in the letter. He suggested that the letter state that the Council intends to take final action on or about February 19 and that a public hearing will be scheduled for February 11.

Councilmember Wallace suggested that the Overlay review could be accomplished if the Council could agree to replacing the Retreat agenda items with the Overlay discussion. He observed that nothing is more important at this point than completing this task.

Deputy Mayor Robertson said she supports devoting as much time as needed, during and after the Retreat, to finish this work.

Ms. Robertson suggested revising the desk packet version of the letter to the Sound Transit Board to delete the schedule referenced in bullet points and to modify the last two sentences of the first paragraph as follows, based on suggestions by Councilmembers Wallace and Stokes: "The Council has been meeting consistently on this topic throughout the fall of 2012 and has made significant progress, and will continue to do so. The Council plans to hold a public hearing on February 11 and anticipates completion of this process by the end of February."

Mr. Robertson further suggested rewording the last sentence of the letter: “Despite these additional schedule challenges, the City Council is continuing its discussions of the Light Rail Overlay and anticipates completing that work in an expeditious and thorough manner.”

→ Deputy Mayor Robertson moved to approve the desk packet version of the letter to the Sound Transit Board, as amended by discussion. Councilmember Stokes seconded the motion.

Mayor Lee expressed support for the revisions. He would like to review the Retreat agenda with the Deputy Mayor and City Manager based on tonight’s discussion. He said changing that agenda might be a good way to make progress on the Overlay.

→ The motion carried by a vote of 6-0.

→ Deputy Mayor Robertson move to direct staff to set the public hearing on the Light Rail Overlay for February 11, and Councilmember Stokes seconded the motion.

→ The motion carried by a vote of 6-0.

(b) Consent Calendar Item 8(f)

Motion to award Bid No. 13000 for AC Water Main Replacement (2013) - Phase 1, to B&B Utilities & Excavating LLC, as the lowest responsible and responsive bidder, in the amount of \$1,382,271.06 (CIP Plan No. W-16).

Deputy Mayor Robertson recused herself from consideration of this item. The project involves water main replacement in front of her house and she wants to avoid the appearance of any conflict of interest by voting on the contract. She has been advised that this project is part of a citywide AC Water Main replacement program. Ms. Robertson left the Council Chamber.

→ Councilmember Davidson moved to award Bid No. 13000 to B&B Utilities & Excavating LLC, and Councilmember Chelminiak seconded the motion.

→ The motion carried by a vote of 5-0, with Deputy Mayor Robertson recused and Councilmember Balducci absent.

12. Unfinished Business [from earlier Study Session]

Deputy Mayor Robertson returned to the Council Chamber.

Mr. Sarkozy requested Council direction on the Downtown Livability Initiative Council Principles, as revised following the earlier discussion.

Planning Director Dan Stroh reviewed the changes to the draft principles pursuant to the Council’s earlier discussion. The revised document combines the items included in the project

scope with the Council's principles to guide the work.

The Mayor and Deputy Mayor expressed support for the revised draft.

→ Deputy Mayor Robertson moved to adopt the Downtown Livability Initiative Council Principles as amended. Councilmember Stokes seconded the motion.

→ The motion carried by a vote of 6-0.

13. Continued Oral Communications: None.

14. New Business: None.

15. Executive Session: None.

16. Adjournment

At 9:48 p.m., Mayor Lee declared the meeting adjourned.

Myrna L. Basich, MMC
City Clerk

/kaw