

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Regular Session

December 2, 2013
8:00 p.m.

Council Chamber
Bellevue, Washington

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

ABSENT: Councilmembers Davidson and Wallace

1. Call to Order

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

2. Roll Call, Flag Salute

All Councilmembers except Councilmembers Davidson and Wallace were present. Deputy Mayor Robertson led the flag salute.

- (a) Commendation of Former Mayor Nan Campbell's Years of Service to the City and Community

Mayor Lee read a commendation honoring Nan Campbell's service as a Human Services Commission Member, City Councilmember, and the city's first woman Mayor and as a volunteer and Board Member for community organizations. Mayor Lee presented the commendation to Ms. Campbell's daughters, Patty Campbell and Ann Spangler, and opened the floor to public comments about Ms. Campbell.

Jan Stout, Human Services Commissioner, spoke about the contributions of Nan Campbell to the community, beginning with her advocacy for schools in the 1970s and as a founder of the Crossroads Citizens Committee. Ms. Stout described Ms. Campbell's work at Harborview Hospital in the role of determining who needed uncompensated care. This experience made a lasting impression and fostered her commitment to community service, including the creation of the City's Human Services Commission.

Terry Lukens, former Bellevue Mayor and Councilmember, recalled his vote for Nan Campbell to be the first female mayor of Bellevue. He admired her grace, style, commitment to human services and neighborhoods, and her recognition of the importance of a strong urban business and retail core. Mr. Lukens said Ms. Campbell set an example for every citizen and made this community a better place.

Pam Toelle remembered Ms. Campbell as a good friend who taught to involve others, do your homework, collaborate and form coalitions, show up, and listen.

Ron Sher said he has been involved with Crossroads Shopping Center for 25 years. He praised Nan Campbell's leadership as an effective role model and credit to the community.

Rob Beam said he worked for the City of Bellevue for a number of years that coincided with Ms. Campbell's tenure on the Council. He worked with Ms. Campbell in starting the Human Services Commission and Bellevue Youth Link. He described her dedication to an all-inclusive community in which everyone could participate and develop to their full potential. He said Ms. Campbell was a rare individual and positive force in the community.

Alex Zimmerman said Nan Campbell represented all of America and showed respect to everyone. He praised her for her service to individuals and the overall community.

Councilmember Balducci said she shares everyone's respect for the legacy of Nan Campbell. Ms. Balducci said she met Ms. Campbell when Ms. Balducci first ran for the City Council, and she was in awe of her and appreciative of her contributions to the community. Ms. Campbell encouraged her as a Councilmember to represent all members of the community and provided valuable advice over the years. Ms. Balducci said Nan left this community a better place.

Councilmember Stokes said he met with Ms. Campbell after he was first elected to the City Council. She provided an extensive history of storm water and other issues in Bellevue. Mr. Stokes observed that she was an effective collaborator with a progressive, action-oriented approach in her service.

Councilmember Chelminiak expressed appreciation to Nan's family and acknowledged the impact that her devotion to her community must have had on her family. He said she co-chaired his first campaign and provided valuable advice and encouragement. Mr. Chelminiak said Ms. Campbell genuinely cared about people, good public policy, and the public process. She was a strong advocate for Bellevue's role within the region and made both the city and the region better through her efforts.

Deputy Mayor Robertson said she did not know Ms. Campbell very well. However Ms. Robertson, in her years serving on the Planning Commission and City Council, heard from Ms. Campbell regularly. Ms. Robertson said Nan sent thoughtful, concise emails that were always looking out for the community's best interests. Her legacy will be felt for many years.

Deputy Mayor Robertson read letters from former City Manager Phil Kushlan and former City Clerk Marie O'Connell.

Mr. Kushlan's letter stated that he enjoyed working with Nan Campbell over a number of years and that Bellevue is, without question, a better place due to her vision and commitment. She provided early leadership in regionalism and in guiding a reluctant community to develop a commitment to human services. Her role in founding the Youth Link program brought national recognition to Bellevue, and her support of the Sister Cities program helped Bellevue embrace the global community. Mr. Kushlan said Ms. Campbell's efforts produced long-term good for a grateful community.

Ms. O'Connell's letter praised Ms. Campbell's influence within Bellevue and with other cities and counties. The two women worked together for 14 years and Ms. Campbell never stopped caring about the community up to her last days. Ms. O'Connell said Nan studied every issue and always cared about the effects of enacted legislation on citizens. Ms. Campbell was always respected and admired by staff as informed, fair, honest and compassionate. Ms. O'Connell said Thanksgiving is an appropriate time to be thankful of Ms. Campbell's dedication to our community.

Mayor Lee said Bellevue has much to be thankful for in remembering Ms. Campbell's public service. He cited her ethic of: do your homework, involve others, and collaborate. He commended her effective outreach and inclusion of citizens throughout the community. Mayor Lee said he did not know her personally, but he has always respected and admired her grace and commitment. He said she sets an example for all of us.

3. Communications: Written and Oral

Mayor Lee reminded the audience that the Council temporarily amended the rules for oral communications on November 4, which authorizes the Mayor/Chair to determine the length of time, if any, to be allotted to speakers based on their frequency of speaking.

- (a) Joe Tovar spoke on behalf of the applicants for the Bellevue Apartments Comprehensive Plan Amendment (CPA). He addressed some of the issues raised by the Council during the earlier Study Session and said he will submit his comments in writing as well. He noted that the Planning Commission recommended approval of the CPA proposal.
- (b) Nina Tsai McKay noted that her family owns the Bellevue Apartments property. She encouraged the Council to approve the CPA application.

Sam Bellomio, representing StandUP-America, approached the podium.

Mayor Lee advised that he would determine whether the Council would hear from Mr. Bellomio and Mr. Zimmerman based on whether the comments repeat previous comments to the Council.

- (c) Mr. Bellomio said the government is abusing its power by telling him how he can speak and what he can say.

Mayor Lee asked Alex Zimmerman to sit down.

Continuing, Mr. Bellomio said they repeatedly speak about red light cameras because they receive support from citizens who are concerned about the issue as well. He said the Bellevue Police Department does not track its hours for investigations and spends money without the Council knowing how it is spent. Mr. Bellomio disagreed that repeating comments on issues is irrelevant. He said that any death is a sad day, especially when it is a person who has contributed so much to the community. However, he expressed concern about the homeless people who have died this year and questioned what the government will do about that.

Mayor Lee asked Mr. Bellomio to be respectful and to quickly state his issues.

Mr. Bellomio said the Mayor cannot stop him from speaking and that the City will be sued, which will waste the City's money. He characterized the Mayor as a criminal and alleged treason.

Mayor Lee asked Mr. Bellomio to sit down and said he would not be allowed to speak any further that evening.

- (d) Alex Zimmerman, StandUP-America, said he has never seen anything like this. He said the Council is imposing conditions that are similar to German Nazis and Chinese Communists. He believes the Council is in an era of corruption and stupidity. He said the constitution allows citizens to speak. He said the Councilmembers are sick people.

Mayor Lee indicated that Mr. Zimmerman would not be allowed to speak any further.

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

5. Report of the City Manager: None.

6. Council Business and New Initiatives

- (a) Library Board and Planning Commission Appointments

Councilmember Balducci reported that she represented the Council at the official lighting of the Bellevue Botanical Garden's d'Lights display. She attended the Thanksgiving dinner at Crossroads Community Center and noted the upcoming holiday party there as well.

Councilmember Stokes noted the holiday season and said there is much to be thankful for in this community.

Councilmember Chelminiak reported that he attended meetings of the Bellevue Convention Center Authority (BCCA) Board and the Eastside Human Services Forum. He noted winter shelters available in the community including a men's shelter on property owned by Sound Transit.

Deputy Mayor Robertson noted an email from a citizen expressing concern about a homeless woman who was being seen regularly in a bus stop overnight. She thanked City staff for intervening and helping the woman to receive assistance.

Ms. Robertson said she has been interviewing candidates for vacant positions on the Planning Commission and the Library Board. She was impressed with the number of well-qualified individuals who want to serve the community and said it was difficult to choose her nominees.

→ Deputy Mayor Robertson moved to appoint Barbara Spindel to the Library Board, and Councilmember Balducci seconded the motion.

→ The motion carried by a vote of 5-0.

→ Ms. Robertson moved to appoint John DeVadoss to serve on the Planning Commission, and Councilmember Stokes seconded the motion.

→ The motion carried by a vote of 5-0.

Deputy Mayor Robertson announced that Snowflake Lane is requiring the closure of Bellevue Way for a period of time each evening. She said the show is bigger and better than ever, and the group has been asked to perform at a Seahawks game immediately before Christmas. Ms. Robertson read a letter to the Council from The Bellevue Collection. They were initially concerned about the impacts of closing Bellevue Way but are very pleased with how the City is handling the brief closures (approximately 10 minutes). The letter specifically thanked Tim Stever of the Transportation Department, Lt. Dave Sanabria, Community Liaison Officer Richard Burke, and Fire Prevention Officer Dennis Warner for their efforts in working with Kemper Development Company staff.

Mayor Lee said he attended the Thanksgiving dinner at Crossroads Community Center with Councilmember Balducci. He reported on his trade mission to China with Governor Inslee's delegation. He said the Governor could not attend the beginning of the trip due to negotiations with The Boeing Company. Mayor Lee said the City of Bellevue completed memoranda of understanding regarding trade relations in three cities in China.

Responding to the Mayor, City Manager Brad Miyake said he will make sure staff receives a copy of the letter regarding Snowflake Lane.

7. Approval of the Agenda

→ Councilmember Balducci moved to approve the agenda, with the addition of Agenda Item 11(b), Ordinance No. 6137 amending the construction contract for the West Lake Sammamish Parkway project. Councilmember Chelminiak seconded the motion.

→ The motion to approve the agenda, as amended, carried by a vote of 5-0.

8. Consent Calendar

→ Deputy Mayor Robertson moved to approve the Consent Calendar, including the revised version of Ordinance No. 6139 [Agenda Item 8(h)] provided in the desk packet. Councilmember Chelminiak seconded the motion.

→ The motion to approve the Consent Calendar, as amended, carried by a vote of 5-0, and the following items were approved:

(a) Minutes of October 28, 2013 Extended Study Session
Minutes of November 4, 2013 Study Session
Minutes of November 4, 2013 Regular Session

(b) Resolution No. 8656 authorizing execution of a two-year contract with First American Title Insurance Company, in an amount not to exceed \$200,000, with the option to renew for an additional two years, for a contract total not to exceed \$400,000, for provision of ongoing title and escrow services.

(c) Resolution No. 8657 authorizing execution of the ORCA card agreement with King County, in an amount not to exceed \$276,885.40, for the purchase and distribution of the annual 2014 ORCA cards to City of Bellevue employees.

(d) Ordinance No. 6138 authorizing execution of any and all documents necessary to establish the Washington Multi-City Business License and Tax Portal Agency, including an Interlocal Agreement, Articles of Incorporation, and Operating Policies.

(e) Landscaping Services

Resolution No. 8658 authorizing execution of a two-year General Services Contract with Badgley's Landscape Services, with the option to renew for an additional two years, for a total amount of \$68,657 for landscaping services at various street tree and arterial landscape sites; and

Resolution No. 8659 authorizing execution of a two-year General Services Contract with Canber Corps, with the option to renew for an additional two years,

for a total amount of \$137,455 for landscaping services at various street tree and arterial landscape sites.

- (f) Resolution No. 8660 authorizing execution of a two-year General Services Contract with Malone's Landscape Management, with the option to renew for an additional two years, for a total amount of \$79,246.02, for landscaping services at three Park sites.
- (g) Resolution No. 8661 authorizing execution of a four-year General Services Contract with Jon Abood, dba Jonny's Truck, in an amount not to exceed \$149,461.68, for caretaking services at Bellevue Marina at Meydenbauer Bay.
- (h) Ordinance No. 6139 authorizing execution of an Interlocal Agreement with the Washington State Department of Ecology to accept \$178,079 in grant reimbursement funds from the Coordinated Prevention Grant Program (CPG) to implement recycling and hazardous waste prevention and education programs; establishing a project within the Operating Grants and Donations Fund; appropriating unanticipated and future revenues to that fund; and authorizing expenditures of said funds. *[Replaced with Desk Packet Version]*

9. Public Hearings

- (a) Public hearing on Ordinance No. 6133 B-1 imposing an interim zoning ordinance regulating recreational marijuana producers, processors, and retailers.

(1) Staff Report

City Manager Miyake introduced the public hearing on Ordinance No. 6133 B-1 imposing an interim zoning ordinance regulating recreational marijuana producers, processors, and retailers. The Council passed this emergency ordinance on October 21, and a public hearing is required within 60 days.

Catherine Drews, Legal Planner, referred the Council to page 9-1 of the meeting packet and summarized the provisions of the ordinance. The Council is being asked to affirm that the ordinance should remain in effect for the allowed six-month period and to adopt the proposed Planning Commission Principles to be used to guide the development of permanent regulations.

Responding to Councilmember Balducci, Ms. Drews confirmed that most of the applications are for areas in which the recreational marijuana uses are not permitted. Ms. Drews said the State Liquor Control Board released a list of applicants on November 26 and will continue to release updated lists every Tuesday through December 18, which is the deadline for the 30-day application window. One application is for an area in which the use would be allowed.

In further response to Councilmember Balducci, Ms. Drews said staff is working to verify

whether the addresses provided on applications are the actual addresses for the locations of the uses.

Deputy Mayor Robertson noted that some of the applications do not meet the State's standards; for example, one address is located across the street from a child care facility.

(2) Motion to Open

→ Deputy Mayor Robertson moved to open the public hearing, and Councilmember Stokes seconded the motion.

→ The motion carried by a vote of 5-0.

(3) Public Testimony

1. Alex Zimmerman, StandUP-America, said a great deal of money has been spent fighting the black market of marijuana. He believes the sale of marijuana should be handled like anything else (e.g., tea, cigarettes, water) in our capitalist society. He believes that State regulation will result in the continuation of the black market.

No one else came forward to comment.

(4) Motion to Close

→ Deputy Mayor Robertson moved to close the public hearing, and Councilmember Stokes seconded the motion.

→ The motion carried by a vote of 5-0.

(5) Council Discussion and Action

Deputy Mayor Robertson thanked staff for their work on this difficult issue. She supports the proposed principles for the Planning Commission's consideration in developing permanent regulations to recommend to the City Council.

Councilmember Stokes concurred and thanked staff as well.

Ms. Robertson said she supports maintaining the emergency ordinance in place for the allowed six-month period.

Mayor Lee noted Council support for affirming the emergency ordinance and approving the Planning Commission principles.

10. Land Use: None.

11. Other Ordinances, Resolutions and Motions

(a) Mid-Biennium Budget Update

City Manager Miyake recalled that the ordinances presented for action have been previously discussed with the Council.

(1) Development Services Fees

Ordinance No. 6140 regarding development services under the Bellevue City Code; fees for applications requiring construction, land use, fire, survey, sign, transportation, utility, and clearing and grading review and inspection services; repealing Ordinance No. 6084.

→ Councilmember Chelminiak moved to adopt Ordinance No. 6140, and Deputy Mayor Robertson seconded the motion.

Mayor Lee said he is pleased to see increased development activity and expressed support for the motion.

→ The motion carried by a vote of 5-0.

(2) 2014 Property Tax Levy and Banked Capacity

Ordinance No. 6141 establishing the amount of property taxes to be levied for the year 2014, the second year of the City of Bellevue's 2013-2014 fiscal biennium; and

Resolution No. 8662 providing for the banking of levy capacity pursuant to RCW 84.55.092.

→ Deputy Mayor Robertson moved to adopt Ordinance No. 6141 and Resolution No. 8662. Councilmember Stokes seconded the motion.

Deputy Mayor Robertson noted that this is the fifth consecutive year in which property taxes have not been increased.

→ The motion carried by a vote of 5-0.

(3) 2013-2014 Mid-Biennium Budget Ordinances

Ordinance No. 6142 authorizing the transfer of funds from the Local Improvement District (LID) Guaranty Fund to the General Fund and establishing

an effective date; and

Ordinance No. 6143 adopting the modification of the 2013-2014 Mid-Biennium Budget and 2013-2019 Capital Investment Program Plan; setting forth the estimated revenues and appropriations; establishing job classifications and pay ranges; and establishing an effective date.

→ Deputy Mayor Robertson moved to adopt Ordinance No. 6142 and Ordinance No. 6143. Councilmember Stokes seconded the motion.

Responding to the Mayor, Finance Director Jan Hawn said the two ordinances reflect the culmination of Council deliberations on the Mid-Biennium Budget Update since August. Amendments to the Budget follow previous Council direction, including approval of the request for \$51,000 by Visit Bellevue Washington.

Councilmember Chelminiak recalled previous Council discussion about looking at the long-term operational and capital needs of the City during the next Biennium Budget. Capital needs include projects that could or must be completed in conjunction with the Sound Transit East Link light rail project. Mr. Chelminiak would like to review the long-term mobility and infrastructure plan as part of that process.

→ The motion to adopt Ordinance Nos. 6142 and 6143 carried by a vote of 5-0.

→ Councilmember Balducci moved to extend the meeting until 10:15 p.m., and Councilmember Stokes seconded the motion.

→ The motion carried by a vote of 5-0.

(b) Third Quarter Transportation CIP Update and Contract Amendment with Active Construction for West Lake Sammamish Parkway Project

Ordinance No. 6137 authorizing: 1) An increase to the construction contract with Active Construction, Inc. (Bid No. 12221) by \$1,750,053 for a total contract amount of \$6,577,615 for West Lake Sammamish Parkway Phase 1 Improvements project (CIP Plan No. PW-R-141) and Small Diameter Water Main Replacement program (CIP Plan No. W-16); 2) Amendment of the 2013-2014 General Capital Investment Program (CIP) Fund to increase the appropriation by \$578,256; and 3) Amendment of the 2013-2019 CIP Plan to increase the project budget for the West Lake Sammamish Parkway Phase 1 Improvements project (CIP Plan No. PW-R-141) by \$578,256 for a total amended project budget of \$9,789,256.

Mr. Miyake referred the Council to information on Ordinance No. 6137 provided in the desk packet.

Transportation Director Dave Berg provided the Third Quarter 2013 Transportation Capital Investment Program (CIP) update. Five major projects were completed during the third quarter including West Lake Sammamish Parkway Phase 1 and the 150th Avenue SE/SE Newport Way intersection improvements.

Mr. Berg highlighted projects currently under construction including the 120th Avenue NE Stage 1 project (NE 4th Street to NE 8th Street). For this project, unlocated underground franchise utilities were found, resulting in a projected cost increase. The City is pursuing a financial contribution by the franchise utility to address this issue.

Mr. Berg briefly highlighted projects in design including NE 4th Street Stage 2, continued work on 120th Avenue NE and 124th Avenue NE, development of NE 15th/16th Street, and the 2014 Overlay Program. He noted that the City received a \$450,000 grant toward the Factoria Boulevard overlay project. Additional projects in design include trails and sidewalks.

Mr. Berg noted planning studies and public involvement efforts underway. Major regional projects are the SR 520 regional transit/HOV project, I-405 Bellevue to Lynnwood express toll lanes, and East Link light rail.

Ron Kessack, Assistant Director of Transportation, described the increase to the West Lake Sammamish Parkway project contract with Active Construction. He provided a history of the roadway and the existing AC water main. The construction contract was awarded to Active Construction in November 2012 for a cost of \$4,827,562, which was below the engineer's estimate of \$4,998,843. Construction began in January, and the roadway was closed in the southbound direction from March to October.

Mr. Kessack described unanticipated issues encountered during construction that have resulted in a cost increase of \$1,750,053, for a revised total Active Construction contract amount of \$6,577,615. He described the proposed strategy for reallocating funds from other projects to cover the cost overrun.

→ Councilmember Balducci moved to adopt Ordinance No. 6137, and Councilmember Stokes seconded the motion.

Councilmember Balducci said that no one likes to see this level of cost overrun. However, West Lake Sammamish Parkway was a large project and a number of things happened that were beyond control. She said this is an old roadway with a number of unknown utilities from decades ago. There is no evidence that the contractors did anything less than what they should have done before starting this project.

Ms. Balducci said the choice at this point is to pay the increased cost or engage in litigation. She believes it would be more costly to litigate the matter. She said the City caused some of the cost

increase. She observed that the project would not have been halted had the increased costs been discussed earlier.

Ms. Balducci believes the result is a fantastic project, and she favors paying the cost overrun. She said the Transportation Department routinely does an excellent job of completing projects within or below budget, but occasionally there is going to be an outlier project.

→ Councilmember Balducci moved to extend the meeting for 15 more minutes, and Councilmember Chelminiak seconded the motion.

→ The motion to extend the meeting carried by a vote of 5-0.

Councilmember Stokes concurred with Councilmember Balducci and agreed that the project resulted in an excellent parkway. It is unfortunate to have the cost overruns. However, he said residents are happy with the project and he believes staff did a good job.

Deputy Mayor Robertson said she is pleased that the project is completed and the public is happy with it. However, she noted the financial policy that all contracts above \$50,000 must go to the Council for approval. Staff is allowed to authorize changes to construction contracts up to the 10-percent overrun level. Ms. Robertson said this case represents a 37-percent overrun. She agreed with Councilmember Balducci that the Council would, most likely, have approved the overrun. However, the matter was not taken to the Council despite financial policies.

Deputy Mayor Robertson said she will not support the motion. She has not received sufficient due diligence from legal staff or technical staff to make her comfortable with approving the excess contract cost.

Councilmember Chelminiak said he is troubled that the cost overrun was not brought to the Council earlier or made public before today. He said the Council was informed before the August recess that project costs were approaching the 10-percent overrun level. Staff made a decision to move forward throughout the Council recess and did not want to delay the project.

Mr. Chelminiak believes that the issue this raises relates to internal reporting procedures and not to external issues with the contractor. He reiterated that there is no evidence that the contractor did anything that it was not instructed to do. However, staff should have brought the matter to the Council in September. He believes the City should pay the bill because the contractor did complete the work and it is the fiscally responsible thing to do.

Councilmember Stokes said he shares the Council's concerns about the magnitude of this cost overrun. However, he will support the motion.

Mayor Lee said this was well-described by Councilmember Chelminiak as a problematic issue. The entire Council has supported this project for many years. It was a complex and challenging

project, and the City and contractor could not have anticipated all of the problems that arose.

Mayor Lee said there is no evidence that there was any negligence by the contractor. He called for better transparency and agreed with Councilmember Chelminiak that this raises an issue regarding internal procedures. Mayor Lee said this is a good project and he will support the motion. He believes that paying the cost overrun is the responsible thing to do.

→ The motion carried by a vote of 4-1, with Deputy Mayor Robertson dissenting.

12. Unfinished Business: None.

13. Continued Oral Communications: None.

14. New Business: None.

15. Executive Session: None.

16. Adjournment

At 10:30 p.m., Mayor Lee declared the meeting adjourned.

Myrna L. Basich, MMC
City Clerk

/kaw