

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Study Session

February 7, 2011
6:00 p.m.

Council Conference Room
Bellevue, Washington

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

ABSENT: Mayor Davidson

1. Executive Session

Deputy Mayor Lee called the meeting to order at 6:04 p.m., noting that Mayor Davidson was absent because he was not feeling well. There was no Executive Session.

2. Study Session

- (a) Continued discussion of the Hearing Examiner's Findings, Conclusions and Recommendation regarding the proposed Wilburton Connections Local Improvement District (LID) for the purpose of constructing an extension to NE 4th Street between 116th and 120th Avenues NE and constructing improvements to 120th Avenue NE between the NE 4th Street extension and NE 8th Street.

[Previously discussed with Council on September 13 and 20, and December 6, 2010. Further discussion postponed to tonight's meeting. Staff seeks Council direction on whether to initiate formation of the proposed LID tonight or at a future Council meeting.]

Councilmember Degginger recused himself from consideration of this matter, noting that his law firm has been representing a party potentially involved in the proposed LID.

City Manager Steve Sarkozy noted that both agenda items relate to the Wilburton Connections NE 4th Street extension project. He recalled that on September 20, 2010, the Council approved Resolution No. 8141 declaring the intent to consider the formation of the Wilburton Connections LID (Local Improvement District). The public hearing was held in October, and the Hearing Examiner's report was submitted to the Council in December.

Staff will provide an update on the NE 4th Street extension project. Mr. Sarkozy recalled previous Council direction to staff to consider other design alternatives that might result in project cost savings.

Goran Sparrman, Transportation Director, briefly reviewed the LID formation process. If Council decides to proceed with forming the LID, the City will move into project construction. A new special benefit study and analysis will be conducted after the project is completed (2014) to ensure the accuracy of the analysis. In the October formation hearing, the Hearing Examiner addressed whether to form the LID and what properties to include in the LID boundary. The level of individual assessments was not an appropriate subject of that hearing. Mr. Sparrman described the proposed LID, which incorporates 83 parcels. Hearing participants included 13 of the 49 affected property owners and six of nearly 400 tenants.

Nancy LaCombe, Project Manager, reported that general public comments fell into three areas: 1) Projects provides a general versus special benefit, 2) Questions about degree of special benefit, and 3) Questions and objections regarding the City's traffic analysis, environmental review, and adopted financial policies. The Hearing Examiner's conclusions noted considerable disagreement among property and business owners about the proposed LID boundary. The Examiner concluded that the assessment methodology is appropriate, and that the LID should be formed if boundary, special benefit, and ingress/egress issues are resolved. Most of the hearing participants opposed the LID formation. The Hearing Examiner recommended that more work is needed to address issues raised by business and property owners before forming the LID as currently proposed.

Ms. LaCombe commented on the distinction between general benefit and special benefit. She noted that the City's consultant determined that each parcel in the proposed boundary was provided a special benefit, and there was no expert testimony to the contrary. Ms. LaCombe reminded the Council of the Mobility and Infrastructure Initiative Finance Plan, which includes an LID revenue component. She reviewed overall funding for the NE 4th Street and 120th Avenue NE project. Ms. LaCombe said that objections to the level of special benefit are addressed at the Final Assessment Roll Hearing following the completion of the construction of the project. All special benefit valuations will be recalculated upon completion of the project as well.

Ms. LaCombe recalled a previous question from the Council about existing CCRs (Covenants, Conditions and Restrictions). She explained that existing CCRs do not affect whether a property is included within the LID boundary. Any alignment for the NE 4th Street extension project will require some type of modification or compensation related to the CCRs. She noted that the CCRs have a provision for amendment through the mutual agreement of parties.

Responding to Councilmember Wallace, Ms. LaCombe said if the CCR agreement is modified, the City might still have to compensate Home Depot and/or Best Buy for some items, such as the loss of reciprocal parking.

Continuing, Ms. LaCombe explained that the potential rezone of the Wilburton Subarea is tied to fully funding NE 4th Street. A rezone is a quasi-judicial matter before the Council, and this

process takes approximately 9 months with an estimated cost of \$1,000 to \$3,000. The rezone could be initiated by staff or a property owner.

Ms. LaCombe reviewed existing financial policies and laws consistent with forming an LID. She reviewed additional issues related to environmental review and the traffic analysis. Traffic volumes will increase on 120th Avenue, which will increase congestion at NE 8th Street.

Councilmember Robertson stated her understanding that the LID originally involved 120th Avenue between NE 4th and 8th Streets, and it was not until December that the Council decided to add the northern segment of 120th Avenue. She opined that the Hearing Examiner's analysis is not based on the straightening of the intersection at 120th Avenue and NE 8th Street.

Ms. LaCombe confirmed that understanding. However, the extension of NE 4th Street does enhance circulation to businesses within that area by providing new direct access to the freeway and signalized entries at several parcels. She said there was conflicting testimony about whether congestion was a benefit or not. Some properties on NE 8th Street did not see it as a benefit if congestion was improved on NE 8th because there would be fewer cars driving by to see their businesses. Without the projects, there is considerable congestion on existing key corridors, and NE 8th Street from 116th Avenue to 120th Avenue experiences longer travel times.

Responding to Councilmember Robertson, Ms. LaCombe clarified that traffic congestion in the overall area would be reduced. However, traffic would increase on 120th Avenue, which raises some issues of ingress/egress. The City is working with affected property owners to address the ingress/egress configurations. Additional traffic signals will enhance access to several of the parcels. In further response to Ms. Robertson, Ms. LaCombe said the special benefit analysis did take into account the impact of changes to ingress/egress and to parking.

Ms. Robertson observed that an LID adds to the cost of redevelopment, and she questioned whether negative impacts to commercial properties have been considered.

Mr. Sparrman said the special benefit analysis balances factors that detract from a property value with those that increase value. While the Bartell store will lose the ability for cars to turn left from the property, the increased traffic via NE 4th Street adds to the value of the property.

Ms. Robertson questioned whether the analysis looks at the property as it is zoned or at the actual value of the business as it is used. Monica Buck, Assistant City Attorney, said the appraiser looks at the fee simple interest on the properties, but not at the tenant or lessee.

In response to Councilmember Robertson, Mr. Sparrman confirmed that 13 of 49 property owners commented to the City, and all were opposed to the LID. Of the 400 tenants, six participated and spoke against the proposal as well. Mr. Sparrman reiterated that another special benefit analysis will be conducted upon completion of project construction. Councilmember Robertson cited financial policy TR-109 indicating that LIDs can be formed if requested by property owners who are interested in infrastructure improvements.

Councilmember Robertson said a number of individuals with varying types of expertise in commercial real estate, property management, and traffic engineering testified at the public hearing. Representatives for specific business commented during the hearing. One of Bellevue's Transportation Commissioners testified that the level of service is either static or decreases drastically at several intersections with the road projects, leading to the conclusion of no special benefit. Ms. Robertson referenced Finding 11 on this point. She observed that the LID could be challenged if it is passed. She questioned whether the City has conducted a cost-benefit analysis of what the City can expect to spend on legal fees and expert witness fees defending the LID.

Ms. Buck said she does not believe that has been analyzed at this point, but the City has defended LIDs in the past.

Responding to Councilmember Chelminiak, Ms. LaCombe said that the special benefit analysis following the construction of a project looks at that specific snapshot of time. The positive and negative impacts for any specific parcel could therefore change from the current analysis.

Councilmember Wallace questioned the rationale for assigning high special benefits to Best Buy, Home Depot, and Whole Foods, noting that their businesses will not change substantially. Ms. LaCombe said that Home Depot and Best Buy will have increased access to the freeway as well as decreased travel times from the downtown. An LID assessment at the 100-percent level would be approximately \$7 per foot for the Home Depot and Best Buy properties. Mr. Sparrman clarified that the special benefit analysis identifies the value, but Council has the choice about the appropriate assessment level ranging from 0 to 100 percent.

Responding to Councilmember Wallace, Ms. LaCombe described generally how the LID boundary was determined. Mr. Wallace questioned why properties on the west side of I-405 are not identified for special benefit. Mr. Sparrman said that some areas outside of the proposed boundary had special benefits of 25 cents or less per foot, and these were considered not worth pursuing. He said that 75-79 percent of the general assessment is considered general or regional in nature. The LID focuses on the last 20-25 percent of value.

Councilmember Balducci wants to make sure that the impacts of the project are taken into account when considering the benefits. Ms. LaCombe said some impacts are taken into account through the right-of-way acquisition process (e.g., frontage or parking impacts), and the property owner receives compensation.

Ms. Balducci asked how the properties north of NE 8th Street are considered to benefit from the extension of NE 4th Street. Mr. Sparrman explained that accessing properties north of NE 8th Street when traveling from the west currently involves a U-turn. With the extension of NE 4th Street, drivers can use NE 4th Street and 120th Avenue NE to loop around and access them from the east. Ms. Balducci said she is not convinced of that benefit. Mr. Sparrman said staff will provide the quantitative analysis of that situation.

Councilmember Balducci noted the Hearing Examiner's recommendation for more work on the LID proposal. Mr. Sparrman said staff is aware of ingress/egress issues and continues to work with property owners to address them.

Responding to Ms. Balducci, Ms. Buck said staff did not request a clarification of the Hearing Examiner's decision. Ms. Buck explained that most of the issues raised by the property owners and tenants, and reflected in the Hearing Examiner's report, deal with the ultimate special benefit assessment, which will be dealt with at the Final Assessment Roll hearing.

Councilmember Balducci said she would like the opportunity to go back and reread the Hearing Examiner's report before taking a final vote on the formation of the LID.

Deputy Mayor Lee spoke to concerns about whether an LID is the appropriate mechanism to fund infrastructure, and questioned how it compares to impact fees. He questioned whether special benefits are the same as specific benefits. Mr. Sparrman confirmed that special benefit refers to a specific benefit for each property. The consultant who conducted the analysis initially looked at properties over a larger area. He assessed the value of each property without the project, and compared that to the value with the transportation project. The difference in the two numbers is the special benefit.

Mr. Sparrman explained that LID assessments and impact fees are quite different. The LID raises money for infrastructure projects based on the resulting enhanced values for property owners. Impact fees are an attempt to mitigate impacts (e.g., increased traffic) that result from proposed development projects.

Deputy Mayor Lee said there are statements in the documents that certain improvements are needed to address unprecedented growth in Downtown Bellevue and to support planned growth in the Bel-Red Corridor. He feels that it is the responsibility of the City to meet the needs and mitigate the impacts.

Mr. Sparrman said it is accurate to say that the projects have benefits beyond the LID boundary. He reiterated that approximately 79 percent of the benefit of the NE 4th Street and 120th Avenue NE projects accrues to the public at large, even to areas beyond Bellevue. The special benefit analysis determined that it is appropriate to adopt LID assessments for specific properties based on their enhanced values.

Councilmember Chelminiak observed that the two primary benefits for properties relate to increased traffic circulation and enabling the Wilburton Subarea Plan, which includes potential rezones. Mr. Sparrman concurred. Responding to Mr. Chelminiak, Mr. Sparrman said the project design would not change if the project was financed from general City resources. In further response, Mr. Sparrman said that if a rezone of the area does not occur to positively affect property values, the special benefit for properties will be adjusted accordingly upon the completion of the road project.

Councilmember Robertson feels it is speculative to base an LID on a potential rezone. She suggested it would be wise to consider all potential LIDs in the broader Wilburton and Bel-Red area at one time. Mr. Sparrman said that would be a policy choice. Staff is looking at it mathematically and trying to isolate certain variables and to determine the impact of these variables on a specific set of properties. If additional transportation projects are considered and the LID boundary is expanded, that would change both the benefit calculations and costs.

Mr. Sparrman said it is important to be consistent with the variables within a proposed LID boundary. Expanding to a larger area by adding transportation projects could add to the special benefit assessment based on even more enhanced transportation capacity and access to properties. Mr. Sparrman said that staff's plan is to do a separate analysis for future projects, such as the 120th Avenue NE Segments 2 and 3. Responding to Ms. Robertson, Mr. Sparrman said there is the potential for overlapping LID boundaries.

Deputy Mayor Lee noted that the Council is not expected to make a decision tonight. He would like to give Mayor Davidson the opportunity to weigh in, and he noted Councilmember Balducci's request for more time to review the Hearing Examiner's report.

Responding to Mr. Lee, Mr. Sparrman said the Council could decide in 2014 to not create the special assessment roll, and the LID would go away. However, at that point the project would have been built using interim financing, and a new revenue source would need to be put in place to cover the debt.

Deputy Mayor Lee suggested directing staff to proceed with drafting an Ordinance for Council consideration and further discussion.

Councilmember Robertson noted that the redesign of the projects reflects a savings of \$10 million, and therefore they are fully funded without the LID. She recommended against directing staff to proceed with the LID.

Councilmember Chelminiak said he would like to hear the rest of the presentation, which provides an update on the NE 4th Street project, before he comments about how to proceed with the LID.

(b) NE 4th Street Design and Alignment Alternatives

Mr. Sparrman recalled the alternatives analysis for the NE 4th Street Extension project between October 2009 and April 2010. Four of seven alternatives were explored in some detail, and a preferred alternative was identified in April. That design is now at approximately 60 percent.

Ms. LaCombe reported that staff has been working with affected stakeholders since April 2010 to design refinements that will mitigate some of the project impacts. As a result, two new options have been identified. Ms. LaCombe reviewed the current preferred alternative and the two new options. Option 1 removes the south end of the Best Buy store but replaces the square footage on the north end of the store. It maintains parking ratios for Best Buy and Home Depot, and requires

the purchase of Mutual Materials as well as a portion of the Bellevue School District site. Option 2 maintains the Best Buy structure but moves the loading dock to the north end of the building. It requires a garage structure for Home Depot, the purchase of Mutual Materials, and a portion of the BSD property. Ms. LaCombe noted that the future extension of NE 6th Street would have greater impacts for the Mutual Materials and BSD sites.

The estimated cost of the current NE 4th Street preferred alternative is \$31.3 million. Option 1 is estimated at \$27.9 million, and Option 2 is estimated at \$29.1 million. Ms. LaCombe said the alignments need to be identified by mid-March because the environmental approvals hinge upon the alternatives for both NE 4th Street and 120th Avenue NE being in relatively final condition. Environmental approval must be obtained by August in order to secure the grant funds for the 120th Avenue project.

Ms. LaCombe reviewed the LID project schedule. She described the splitting of NE 4th Street into two construction stages. Phase 1, 116th Avenue to the Burlington Northern right-of-way, could begin as early as February 2012. Project completion is scheduled for 2013, but the LID special benefit analysis and assessments would not begin until 2014/2015. Staff continues to work closely with affected stakeholders to refine the options. Next steps are to engage in relocation assistance to address property impacts and mitigation, complete the environmental process, and to provide Council updates on the project status.

Ms. Buck said staff is seeking Council direction about whether to bring back an LID Formation Ordinance for the February 22 Council meeting. There is a 30-day protest period following adoption of the Formation Ordinance, which would end on March 24. There is then an additional legal challenge period of 30 days, which would end on April 23. The City cannot apply for bonds until the challenge period expires.

Ms. Buck summarized that LID formation preserves the City's authority to utilize LID funding for the NE 4th Street and 120th Avenue NE Stage 1 projects, positions the City for bond issuance, and supports the Mobility and Infrastructure Initiative Finance Plan. The LID is included in the 2011-2017 Capital Investment Program (CIP) Plan, and the Council will need to consider property owner impacts and benefits.

Councilmember Chelminiak said that February 22 is too soon for making the decision. He would like to proceed with more staff work related to the formation of the LID. He noted that staff is developing options to reduce project and right-of-way costs. However, he suggested that some modifications under consideration could add costs.

Mr. Chelminiak would like staff to look at parcels 104 and 105 (North side of NE 8th Street), which are affected by the new intersection going through them. He wondered whether it makes sense to include them in the LID. He would like language in the ordinance indicating that the maximum amount to be funded by future LID assessments is 20 percent of overall project costs. However, he acknowledged that a future City Council will make the final decision.

Mr. Chelminiak said that one of the tenets of the Mobility and Infrastructure Initiative was to not take funding away from other CIP projects to fund MII projects. However, he noted a budget gap of approximately \$16 million in the new CIP Plan. He recalled that this area was specifically discussed in the past as an LID candidate.

Mr. Chelminiak suggested sending a notice to property owners and those who participated in the hearing regarding the documents to be presented for upcoming Council action. He noted that the Hearing Examiner recommended continued outreach to individual properties. Councilmember Chelminiak suggested scheduling Council action on an LID Formation Ordinance for March 7.

Mr. Sparrman said that a two-week delay to March 7 would not be fatal. Mr. Chelminiak suggested that additional analysis will help the Council determine the appropriate percentage of special benefit assessment. Ms. LaCombe said the alignment decision is due by March 15.

Responding to Councilmember Wallace, Ms. LaCombe said the cost for NE 4th Street and the first phase of 120th Avenue NE decreases from \$45.4 million for the preferred alternative to approximately \$38.7 million with the new options.

Councilmember Wallace acknowledged his past votes against the LID, and clarified that he is not philosophically opposed to all LIDs. However, he struggles with the underlying logic of the current proposal. If it were up to him, he would take a look at as many of the anticipated LID projects as possible including NE 4th Street, 120th Avenue NE, NE 15/16th Corridor, and 124th Avenue NE. He is concerned about impacting property owners near NE 8th Street multiple times with overlapping LIDs, and he believes it would make more sense to address the broader area at the same time.

Mr. Wallace said he still does not see the logic of the special benefit valuations. He questioned the fairness of the significant valuations placed on Home Depot and Best Buy, compared to a much lower valuation for the KG property on the other side of the rail corridor. He noted that the valuations become even more problematic as you get farther away from the actual road projects. Similarly, Mr. Wallace questions the logic of the proposed LID boundary. He is concerned about the 75 percent LID assessment level that was most recently discussed. He feels that 50 percent would be more reasonable.

Councilmember Balducci concurred with waiting on Council action. She believes it is important to review what the Hearing Examiner recommended. As a way of providing some predictability for property owners, she suggested preparing a preliminary draft as soon as possible for additional consideration and discussion.

Councilmember Chelminiak reiterated the need to determine an appropriate assessment level based on providing approximately 20 percent of the project funding. He encouraged increased public outreach, and concurred with March 7 as the deadline for Council action.

Councilmember Robertson asked that the draft ordinance come back for Council discussion on February 28. At that time, she would like to know whether an LID has ever been done in

Bellevue when no one was actively supporting it. She would like a cost estimate for potential litigation should there be a legal challenge, as well as more information on the Hearing Examiner's recommendation to conduct more work.

Deputy Mayor Lee stated that the Council will have a brief discussion of this item on February 28, before taking action on March 7.

3. Council Business [Regular Session Agenda Item 6]

Councilmember Chelminiak attended meetings of the Firemen's Pension Board, LEOFF 1 Disability Board, and Human Services Commission. He attended the Bellevue Downtown Association's annual dinner. He met with Bob Drexler at Bayshore East, which is where Meydenbauer Creek empties into Meydenbauer Bay. This area experienced a hydraulic fluid spill during the past year, and Mr. Drexler was concerned about the response. He was told by the Fire Department and the 911 dispatch center that the Department of Ecology was aware of the spill, but he was not referred to a City staff person. Mr. Chelminiak said staff is putting procedures into place to enhance communications between agencies and citizens in the future.

Councilmember Degginger returned to the table at 7:48 p.m. He noted the Council's retreat over the weekend. He reported that he represented the City at a hearing on the I-405 corridor before the state House Transportation Committee.

Councilmember Robertson attended the BDA dinner and the Somerset Community Association annual meeting. She attended the open house at City Hall on the East Link B7-Revised alignment alternative. She attended meetings of the Transportation Policy Board's prioritization committee. She met with Port Commissioner John Creighton to talk about the Burlington Northern right-of-way, and was interviewed about local government by a MBA candidate. She said the Council got a lot of work done at its retreat over the weekend.

Councilmember Wallace said he and Deputy Mayor Lee had lunch with Trade Development Alliance representatives. Mr. Wallace attended a hotel convention in San Diego, where a national analyst spoke about the ten hottest future hotel markets. The speaker was extremely positive about Bellevue and its future employment growth.

Councilmember Balducci reported that, in addition to events already mentioned by other Councilmembers, she was invited to speak to the Bellevue Network on Aging. She noted their interest in using light rail to access the hospital/medical district, as well as their interest in a circulator system.

Deputy Mayor Lee said the Council held a productive retreat. He attended meetings with the Trade Development Alliance and APEC (Asian Pacific Economic Conference). Mr. Lee said he was invited to attend the Board meeting of the Washington State China Relations Council. He attended a Chinese New Year event. Mr. Lee and other Councilmembers attended the Bellevue Youth Theatre Foundation dinner, and he supported the formation of an endowment for the theatre. Mr. Lee attended the East Link B7-Revised open house.

At 7:58 p.m., Deputy Mayor Lee declared recess to the Regular Session.

Myrna L. Basich, MMC
City Clerk

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