

CITY OF BELLEVUE  
CITY COUNCIL

Summary Minutes of Study Session

February 21, 2012  
6:00 p.m.

Council Conference Room  
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 6:02 p.m., and declared recess to Executive Session for approximately 30 minutes to discuss two items of potential litigation and one item of pending litigation.

The meeting resumed at 6:47 p.m., with Mayor Lee presiding.

2. Study Session

(a) Capital Funding Strategy – NE 4<sup>th</sup> Street Project and the Role of LIDs

City Manager Steve Sarkozy introduced the first in a series of discussions about the Capital Funding Strategy, which will address overall capital needs presented by the Mobility and Infrastructure Initiative (M&I), East Link Memorandum of Understanding, Park system levy match, Downtown Transportation Plan, and a number of other emerging needs (e.g., Eastgate/I-90 corridor recommendations). He noted the significant challenge of declining tax revenues and reductions in federal and state funding support due to the prolonged economic downturn.

Mr. Sarkozy said that tonight's discussion would focus on policy issues related to the role of Local Improvement Districts (LIDs) in funding transportation projects.

Chris Salomone, Director of Planning and Community Development, recalled that the Mobility and Infrastructure Initiative in 2009 was the last major review of the City's capital funding strategy and philosophy. It identified high-priority transportation projects to improve mobility in the Downtown, Wilburton area, and Bel-Red corridor. It involved an aggressive finance plan incorporating a balanced set of funding sources, including the creation of Local Improvement

Districts (LIDs). Mr. Salomone explained that the objective of a Local Improvement District is to focus on projects with the most benefit and with the best opportunity for the successful formation of an LID.

Mr. Salomone recalled that the 2009 Mobility and Infrastructure Initiative Finance Plan was based on a long-range perspective that basic infrastructure, livability investments, and amenities will occur as redevelopment of the Bel-Red corridor takes place. The plan complements the City's long-term economic development goals, and indicates that the cost for public infrastructure should be shared based on the relative impacts and benefits of development.

Mr. Salomone explained that, under state law, LIDs are a mechanism to fund projects that provide a special benefit to properties within a defined boundary. Special benefit is defined as the difference in fair market value of the property with and without the improvement project. Bellevue City Code 15.04 allows LIDs to be formed by Council resolution or a petition of property owners.

The M&II finance plan contemplated the creation of an LID to help fund the NE 4<sup>th</sup> Street project. The City has received a federal grant to help offset some of the project costs, and modifications to the project design have lowered the cost estimate by approximately \$10 million. It is possible that the NE 4<sup>th</sup> Street project can be built without LID funding. However, staff is requesting Council direction on broader LID policy considerations.

Mr. Salomone asked the Council to consider whether the City should pursue a smaller LID than the one originally formed as part of the funding mix for the NE 4<sup>th</sup> Street project. He noted the need to discuss the appropriate use of LIDs for future M&II projects. Staff believes that LIDs remain an important component of the City's capital funding strategy, and asks the Council to consider the formation of a smaller LID to capture those properties that receive a significant share of special benefit from the NE 4<sup>th</sup> Street project.

Toni Rezab, Assistant Finance Director, referred the Council to pages SS 2-4 and SS 2-5 of the meeting packet, which describe four possible funding scenarios. Two of the scenarios involve LID funds, and two do not. If directed by the Council, Ms. Rezab said staff will return with additional details on a smaller NE 4<sup>th</sup> Street LID. Transportation staff will provide an update on the NE 4<sup>th</sup> Street alignment to the Council on March 5. Discussions of capital funding will continue with the Council Mini Retreat in March and Budget Workshop in April.

Dave Berg, Transportation Director, reviewed the major milestones involved in forming an LID. If the Council provides direction to proceed with the formation of an LID, Council action would be scheduled for March 5 to return the \$2.3 million federal grant received for the NE 4<sup>th</sup> Street project. The grant requires that funds be obligated by September, and the LID formation process requires one year or more. Next steps would be feasibility and LID formation analyses this spring, followed by the adoption of a Resolution of Intent to form a new LID and the formation hearing in the fall. Adoption of the LID Formation Ordinance would be targeted for January 2013, which would be followed by protest and appeal periods.

Councilmember Wallace referred to the Projects Overview Map provided on page SS 2-19 of the meeting packet, and asked which projects were intended to involve LID funding.

Mr. Berg said the projects targeted for LIDs are NE 4<sup>th</sup> Street, 120<sup>th</sup> Avenue NE (especially Stage 2), and the NE 15<sup>th</sup> Street project. Councilmember Wallace said he would like to have a better idea of how the LID amounts were calculated. Mr. Berg referred to Table 1 on page SS 2-4 of the packet, which represents the original adopted 2011-2017 Capital Investment Program (CIP) finance plan that includes LID funding. Table 4 on page SS 2-5 presents a funding scenario that involves the LID but eliminates the federal grant. In further response to Mr. Wallace, Mr. Berg said the Council could choose to reduce the amount of LID funding for any project.

Councilmember Wallace said he does not see how LID funding, or any of the revenue sources, can be considered in isolation. It is therefore difficult to comment on whether he supports LID funding, impact fees, or other sources. He noted that, when the Wilburton LID was previously considered, he did not feel comfortable that the special benefit to be assessed was calculated in a satisfactory way.

Mr. Berg said staff cannot define the boundary of the LID without first conducting the special benefit analysis. However, at this point staff is recommending a smaller boundary than the LID previously considered.

Councilmember Davidson said he approaches the funding issue from a philosophical standpoint. He believes that LIDs have a place if parties are shown to receive a special benefit. He questioned the extent to which citywide impact fees should subsidize projects in specific areas. He was disappointed that the Wilburton LID did not go forward, and would be willing to consider a smaller LID. He believes an LID should be pursued.

Responding to Councilmember Balducci, Mr. Salomone said staff is requesting direction about the Council's willingness to consider a smaller LID. Staff plans to come back to discuss impact fees as well, and to present scenarios with varying amounts of both LID assessments and impact fees.

Councilmember Balducci said she generally agrees with Councilmember Davidson's comments. She believes it is appropriate to receive contributions that match the special benefits for certain properties. She supports an LID for the NE 4<sup>th</sup> Street project and other projects involving new roadways. However, she is concerned about the tradeoff of foregoing a federal grant in order to form an LID.

Councilmember Chelminiak observed that the risk of losing the grant is not related strictly to forming an LID.

Mr. Berg acknowledged that other factors could result in the loss of the grant including the alignment engineering decision. Even without the LID, the City may not be able to meet the

September deadline for obligating the federal grant. However, it is possible that the City could achieve an extension, which may or may not be adequate to complete the work.

Councilmember Balducci said she supports the most feasible and expeditious route to moving the project forward.

Deputy Mayor Robertson questioned whether the LID timeline risks the loss of any other grants.

Eric Miller, Capital Programming Manager, said the other portion of the federal Surface Transportation Program (STP) grant (\$3.3 million) has an obligation deadline of June 2014, which could fit within the LID timeframe. The new State Transportation Improvement Board grant, which is for the right-of-way phase, has a deadline of December 2013.

Ms. Robertson said she shares Ms. Balducci's concern about losing the first portion of the STP grant. Responding to Ms. Robertson, Mr. Berg said staff has not calculated the cost of a delay in starting right-of-way acquisition and construction in terms of the impact of inflation.

Deputy Mayor Robertson noted that the Council's current financial policies, which are provided in the desk packet, allow a different approach to LID formation than the MI&I policy on LIDs. She questioned the tension between these sets of policies. If the Council were to direct staff to move forward with an LID for NE 4<sup>th</sup> Street, can it be justified under existing Council policies?

Mr. Salomone said his understanding is that, when the M&I was adopted, code changes were made to enable an LID to be carried out in the Bel-Red and Wilburton areas. His understanding is that this policy decision superseded the previous Council policies which are reflected in the desk packet materials.

Deputy Mayor Robertson said she does not object to considering a smaller LID, but she is concerned about the impact of losing federal grant dollars. While the grant would be at risk, she has not heard staff say that the grant is definitely gone with or without the LID. She would like to see the NE 4<sup>th</sup> Street project move forward as soon as possible.

Councilmember Davidson questioned whether it would be possible to obligate the funds, and to then have a latecomers' fee that would reimburse the funds at the time of development. Mr. Miller said staff would need to come back to the Council on that issue. Dr. Davidson said he does not like the idea of losing grant dollars, although he does believe it is appropriate to create an LID for those receiving a special benefit. He noted that latecomers' fees are used in other contexts, primarily with utilities.

Councilmember Chelminiak observed that the City is not losing the grant funds because of the LID. The City is losing the funds because this was a shovel-ready project, but unanticipated issues have been raised. The project was moved up on the funding scale because the City received a \$2.3 grant for a shovel-ready project. He is concerned that the City will be sued regardless of which of two NE 4<sup>th</sup> Street alignments are chosen, and the third alignment option adds to project costs due to the need to purchase a railroad right-of-way.

Mr. Chelminiak said the NE 4<sup>th</sup> Street project went down a path without a well-defined funding strategy to complete it within a shovel-ready timeframe. He does not want to leave anyone with the impression that the City is giving back \$2.3 million to pursue whatever the LID would generate. He believes the grant is already at risk because the City has already been granted a number of deadline extensions.

Mr. Chelminiak would like the NE 4<sup>th</sup> Street project to move forward because it is important within the broader context of completing the Downtown, Wilburton, and Bel-Red corridor transportation network. If projects in all areas are not to be completed, the NE 40<sup>th</sup> Street project goes back to where it was, which was not yet on the City's Transportation Facilities Plan (TFP).

He said that one of the basic principles in the M&I finance plan was that the cost of public infrastructure should be shared based on the relative impacts and benefits of the development. The NE 4<sup>th</sup> Street extension is required to unlock the development potential of the Wilburton area, which is consistent with the justification for some increased payment among property owners who benefit. Councilmember Chelminiak observed that the Council remains supportive of this principle. He agrees with Dr. Davidson that it would be nice to have LID support for the NE 4<sup>th</sup> Street project. However, it is getting to the point that it will likely not be much money.

Mr. Chelminiak suggested that staff open discussions with the property owners who would receive the most benefit to determine the feasibility of forming the LID and the anticipated revenue amount before moving forward with a year-long process. He concurs with Ms. Balducci that an LID is most appropriate when creating new roadways.

Councilmember Stokes observed that the Council is essentially in agreement regarding the use of an LID and completing the NE 4<sup>th</sup> Street project as soon as possible. He concurred with Councilmember Wallace's interest in reviewing the overall finance plan in order to make decisions about appropriate revenue sources.

Councilmember Wallace said he continues to support the 50 percent of special benefit assessment. However, he would like to achieve a policy that looks to the future and provides consistency in the treatment of other new roadway projects. He suggested eliminating policies from documents if they have been superseded by other policies.

Mayor Lee believes the Council should consider all elements of the Mobility and Infrastructure Initiative finance plan including LIDs. The NE 4<sup>th</sup> Street project will benefit the greater area around it; however, some properties will receive a higher special benefit. Mr. Lee said that transportation projects have a positive impact on mobility as well as on economic development and other objectives. He supports the suggestion to meet with property owners to discuss the anticipated special benefits and cost sharing.

Deputy Mayor Robertson observed that the Council supports further exploration of a smaller LID. She asked that staff conduct outreach to the directly abutting property owners on NE 4<sup>th</sup>

Street to determine their support of an LID. She recalled that one property owner did not oppose the previous LID. She requested a report back to the Council on these efforts.

Mayor Lee spoke to the need to develop a broad, community-wide vision of where the City is going and what benefits will be achieved, including those beyond improving mobility. He believes this will contribute to a more positive interaction with the community.

Councilmember Stokes agreed that it is important to have a positive outlook in working with the community, and he believes that everyone should share in the costs.

Councilmember Chelminiak said the NE 4<sup>th</sup> Street project is an important one, and the question is timing. He observed that an LID is most likely to succeed if there is at least one property owner to champion the initiative. He said it is apparent that the City will lose the near-term grant. He believes it was a mistake to move forward so rapidly with the project under the assumption that the City would receive that grant. He is not convinced that the project must move forward at this time. He would like to see it happen, but he is concerned that there is no solid finance plan to support it.

Councilmember Balducci suggested caution, and noted that the City and Council have taken the same approach to advancing the schedule on the 120<sup>th</sup> Avenue NE project due to the receipt of a grant. She observed that it might be difficult to convince individuals to contribute their fair share if they have the impression that the Council will ultimately use the property tax to fill remaining budget gaps. She believes it is important to communicate that a property tax might not be feasible. She questions whether a property tax to the general public would be fair. While there is a general benefit to improving the transportation network, there should be cost sharing to complete the projects.

Mr. Sarkozy said staff will bring this topic back for the March 5 meeting.

(b) Update on State Revenue Forecast & State Legislative Issues

Toni Rezab, Assistant Finance Director, provided a brief update on the State revenue forecast, which reduces the State's budget deficit to approximately \$1.5 billion. The major components of the reduction are a decrease in demand for certain services, a decrease in expenditures, and an increase of approximately \$100 million in the revenue forecast. The State economist reports that the forecast is similar to the one compiled last November. The long-term outlook is a continued slow recovery from the recession. Construction statewide continues to be weak. Bellevue's construction activity appears to have hit bottom by late 2010 and has been substantially flat since that time.

Joyce Nichols, Interim Director of Intergovernmental Relations, referred the Council to the memo in the desk packet regarding the State Revenue Forecast and the 2012 State Legislative Update. The House released its proposed budget earlier in the day, and the Senate was expected to release its budget by early the following week.

Ms. Nichols said the House budget would move the liquor excise tax monies that cities currently receive to be placed in an account for public health. The State formerly shared 35 percent of the revenues with cities and counties. The impact to Bellevue would be approximately \$655,000 annually. Another budget reduction would take away some of the revenue generated by the motor vehicle fuel tax for criminal justice programs, resulting in a loss of approximately \$120,000 for Bellevue.

Ms. Nichols said the State has indicated that it will provide revenue authority for cities and counties to potentially replace lost revenues. There is a proposal to allow counties the authority to impose a 1/10<sup>th</sup> of a cent increase in the sales tax by a King County councilmanic vote.

Ms. Nichols noted that the desk packet memo provides updates on bills of interest to Bellevue. The B&O Tax and Licensing Authority bill continues to be discussed and modified. The proposed legislation could result in the loss of \$6 million over several years for Bellevue. Approximately 82 percent of Bellevue businesses do not file or pay B&O taxes due to exemptions that the City Council has adopted.

Ms. Nichols described proposed legislation that would allow counties to have the authority to implement a countywide utility tax, which is not currently available even in unincorporated areas of the county. Bellevue has not supported similar initiatives in the past, and staff is working with the legislature to achieve an opt-out provision for cities. The current bill would allow a maximum six percent utility tax on electricity, natural gas and telephone utilities. Ms. Nichols noted that this is a statewide bill.

Ms. Nichols noted ESSB 6582, which contains three local options for transportation revenue.

One bill that is potentially problematic for the City includes a proposal to fund the LEOFF 2 pension plan at 80 percent of the LEOFF 2 Board's adopted contribution rate. This would save the State \$18 million in deferred costs, which would ultimately have to be paid at some future point. It could potentially defer costs for cities and counties by \$27 million, and provide \$45 million in reduced contributions from employees who are members of the plan. Other proposed legislation would merge the LEOFF 1 and LEOFF 2 retirement plans and suspend the State's contributions to the LEOFF 2 plan.

Ms. Nichols recalled that the courts determined that cellular phones were eligible for the same exemption from the sales tax that is provided for residential phone lines. The Thurston County Superior Court judge has vacated that ruling, which returns to the status quo that cellular phones are not exempt from the sales tax. This saves Bellevue from having to refund approximately \$5.6 million in sales tax and from losing future sales tax revenues from cell phones.

Ms. Nichols reported that the House transportation budget includes approximately \$3.5 million for pre-construction of the 124<sup>th</sup> Avenue and 148<sup>th</sup> Avenue interchange projects at SR 520. The Senate transportation budget provides slightly more money.

Responding to Councilmember Davidson, Mr. Nichols said the City continues to oppose the proposed B&O legislation, and this has consumed a great deal of time for Mike Doubleday, lobbyist, and Lucy Liu in the Finance Department.

Responding to Deputy Mayor Robertson, Ms. Nichols said the proposed county utility tax would allow a combined city-county maximum tax rate of six percent.

Responding to Councilmember Balducci, Ms. Nichols said staff has not found any mention of the State annexation sales tax credit in the proposed House budget, which is 240 pages long.

Mayor Lee thanked Ms. Nichols and other staff who worked on legislative issues over the weekend.

Ms. Nichols reminded the Council that phone calls from them could significantly benefit the City for the remainder of the legislative session.

Mayor Lee encouraged Councilmembers to contact state legislators.

At 7:59 p.m., Mayor Lee declared recess to the Regular Session.

Myrna L. Basich, MMC  
City Clerk

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