

CITY OF BELLEVUE  
CITY COUNCIL

Summary Minutes of Study Session

December 11, 2006  
6:00 p.m.

Council Conference Room  
Bellevue, Washington

PRESENT: Mayor Degginger, Deputy Mayor Chelminiak, and Councilmembers Balducci, Davidson, Lee, Marshall, and Noble

ABSENT: None.

1. Executive Session

Councilmember Davidson called the meeting to order at 6:00 p.m. and announced recess to Executive Session for approximately one hour to discuss one item of potential litigation and two items of property acquisition.

The Study Session resumed at 7:22 p.m. with Mayor Degginger presiding.

2. Study Session

(a) Environmental Stewardship Initiative

Mayor Degginger noted City Manager Steve Sarkozy's request to address this item in the Regular Session.

(b) Proposed Amendments to Noise Code and Bellevue City Code Relating to Amplified Sound

Mr. Sarkozy recalled previous Council discussion regarding proposed amendments to the Noise Code and Bellevue City Code regarding amplified sound, particularly related to events at Vasa Park.

Land Use Director Carol Helland reviewed previous Council direction to work on creating a consolidated noise control ordinance clarifying the City's policy regarding sound amplification. Council's stated objectives are to establish weekly limits on the number of instances of sound

amplification, impose a decibel limitation, and improve enforcement with consideration of imposing escalating fines. Ms. Helland referred Council to packet materials beginning on page SS 2-133 and the draft ordinance beginning on page SS 2-137. The primary principles reflected in the ordinance are summarized on page SS 2-134.

Legal Planner Lesa Hutnak described the proposed approach to improve enforcement. Planning and Community Development, the Police Department, and the City Attorney's Office have been working to develop a mechanism for enforcement. When a complaint is received by the Police Department, they will check to see if a permit was issued for the event. If a permit was issued, PCD Code Compliance staff will be notified and they will enforce based on whether the decibel limitation imposed in the permit was exceeded. Code Compliance staff will therefore need to be available 8:00 a.m. to 5:00 p.m., Monday through Saturday, to respond to complaints. If decibel limits have been exceeded, staff will issue a civil violation.

If dispatch personnel determine that no permit was issued for the event, police officers will respond to determine whether a noise disturbance has occurred. A noise disturbance is defined as audible sound across the source's real property boundary or at least 75 feet from the source. The police can either issue a warning or a civil infraction if a noise disturbance has occurred. Either way, the Police Department will document the violation in the dispatch database so that Code Compliance will be able to use this information to address code compliance for a civil violation before the Hearing Examiner.

Ms. Hutnak reviewed the proposed escalating fine schedule:

- First violation - \$250
- First repeat violation - \$500
- Second repeat violation - \$1,000

A first repeat violation is defined as a violation within two years of the previous violation. Following a second repeat violation, PCD staff will no longer issue permits to that applicant for a period of two years from the previous permit. If violations continue beyond a second repeat violation, the police and prosecutor will pursue a misdemeanor criminal violation.

Ms. Hutnak described an amendment to clarify exemptions to the Noise Code. Permits issued pursuant to the Special Events Code (BCC 14.50) and the Parks Code (Section 3.43.260) are exempt from the limitations on noise production set forth in the Noise Control Code. Sound exemption permits may be issued under BCC 14.50 and BCC 3.43 only if the proposed sound amplification will:

- Not constitute a public nuisance,
- Not endanger the public health or safety,
- Not endanger public property, and
- Be used at an event which is open to the general public.

The City commissioned a noise study during August and September to investigate the impacts of amplified sound produced from Vasa Park. Based on the study, staff proposes that amplified sound produced on residential properties be limited to 65 (dBA) decibels, measured at any neighboring residential property boundary. This noise level is consistent with the maximum exterior noise level recommended by most government agencies and Bellevue's development regulations.

Michael Yantis, the consultant who conducted the noise study, described the results of decibel measurements taken from properties south of Vasa Park during events. The results were above the 55 dBA level allowed in the existing ordinance. The recommendation to raise the threshold to 65 dBA is consistent with limits specified in Bellevue's development code and used by other government agencies.

Mr. Yantis played a recording to demonstrate the noise level of an event in the park 100 feet away from the stage when the source is meeting the 65 dBA level at the property line. He then played a recording demonstrating a 60 dBA noise level.

Deputy Mayor Chelminiak questioned the noise level at residents' homes. Mr. Yantis said such a recording would be a misrepresentation because there is no context of being in the actual environment, with other noise (e.g., traffic, wind) present.

Dr. Davidson reminded the Council that 65 dBA is also the regulatory threshold for highway noise.

Responding to Mr. Chelminiak, Mr. Yantis said measurements were taken at two properties near Vasa Park. The residents indicated that the 65 dBA level was somewhat quieter than what can be heard and would be acceptable if sound remained at or below that level at all times.

Ms. Helland said staff plans to bring the issue back to Council in January. The Parks Department will then provide a proposal to consolidate Parks exemptions with the Noise Control Code. The objective is to adopt a new code to guide permit issuance for this summer, which must be accomplished by February in order for the state Department of Ecology review to occur.

Responding to Councilmember Balducci, Ms. Helland agreed with the concept of providing assistance for citizens to help determine what sound volume, on a stereo for instance, corresponds to 65 dBA. Ms. Helland said staff plans to also draft a code amendment to address long-term, permanent sound installations under the conditional use permit process. CUPs are currently used to permit sound systems at schools and other permanent facilities.

Responding to Ms. Balducci, Ms. Helland said the Police Department has agreed to issue warnings the first time they respond to a complaint, which stops the problem in the majority of cases.

Responding to Councilmember Noble regarding the definitions of terms in the ordinance, Ms. Helland said the person responsible for the violation can be the property owner and/or the

individual making the sound, which is consistent with the City's civil violation standard. Mr. Noble questioned situations in which Police are not allowed onto the property. Ms. Helland explained that Code Compliance staff will measure sound at the property boundary. As with any civil violation, the City would provide notice to the violator and the opportunity to comply, and then request their presence at a hearing if problems continue.

Councilmember Noble suggested revising the ordinance to make the definition of noise disturbance on page SS 2-139 [Page 3 of ordinance] more clearly consistent with the description of the term on page SS 2-143 [Page 7 of ordinance].

Councilmember Marshall is comfortable with the proposal from staff and the consultants. She noted that 65 dBA corresponds to the guidelines regulating residential construction noise, as well as transportation-related noise, and she supports maintaining consistency throughout the City Code. She supports the escalating fine schedule and the two-year restriction on repeat violators.

Responding to Mr. Chelminiak, Ms. Helland said residents should get a permit for any sound amplification. However, sound from a typical house party is likely to not be reported if neighbors are not disturbed. If a complaint is made, police will respond.

Referring to page SS 2-145 [Item 2, Page 9 of the ordinance], Mr. Chelminiak suggested that the measurement of sound related to roadways should be five feet above the road/sound source instead of five feet above grade, to address situations such as an elevated roadway.

Mayor Degginger expressed support for staff's proposed approach.

### 3. Council Business [Regular Session Agenda Item 6]

Dr. Davidson attended a MWPAAC (Metropolitan Wastewater Pollution Abatement Advisory Committee) meeting regarding negotiations between jurisdictions/agencies and King County about wastewater treatment.

Mr. Noble attended a meeting of the Eastside Transportation Partnership.

Ms. Balducci attended the ETP meeting and Bellevue Youth Theatre's production of *Babes in Toyland*.

Mr. Lee served as emcee at *Babes in Toyland*. He attended the National League of Cities conference and served on the Immigration Committee. Additionally, as a NLC Advisory Council member, Mr. Lee was involved in a discussion about the need to proactively address changing demographics.

Mrs. Marshall participated in the Christmas Ships visit at Newcastle Beach, sponsored by Key Bank and The Seattle Times. She thanked Parks employees and volunteers for their work at this event. Mrs. Marshall visited Garden d'Lights at the Bellevue Botanical Garden with her family. She thanked garden volunteers for their hard work throughout the year.

Mr. Chelminiak congratulated Bellevue High School on its championship victory.

Mayor Degginger recognized the accomplishments of Newport High School's Class 3A baseball championship and Bellevue High School's Class 3A football championship and girls Class 3A state swimming title.

At 8:00 p.m., Mayor Degginger declared recess to the Regular Session.

Myrna L. Basich  
City Clerk

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