

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Extended Study Session

October 10, 2005
6:00 p.m.

Council Conference Room
Bellevue, Washington

PRESENT: Mayor Marshall, Deputy Mayor Noble, and Councilmembers Balducci, Chelminiak¹, Davidson, Degginger and Lee²

ABSENT: None.

1. Executive Session

At 6:01 p.m., Deputy Mayor Noble opened the meeting and declared recess to Executive Session for approximately one hour and 15 minutes to discuss two items of property acquisition, one item of labor negotiations, one item of pending litigation, and one item of potential litigation.

The Study Session resumed at 7:12 p.m. with Mayor Marshall presiding. Mrs. Marshall noted a change in the agenda to move Item 3(e), Critical Areas Update, to the end of the meeting.

2. Oral Communications

- (a) Cindy Levy, President of the Board of Trustees for the Jewish Day School, explained that the school is adjacent to Temple B'nai Torah, which has applied for a permit to host Tent City 4 beginning November 16. Jewish Day School supports the temporary encampments ordinance as written and urges the City to deny the hardship exceptions requested. Ms. Levy expressed concern that the encampment will attract curiosity seekers, the media, and advocates for and against Tent City. The school is concerned about the security of its 300 students (ages 3 to 14) and the potential for hate crimes. Ms. Levy asked that background checks be conducted on all Tent City 4 residents by the Bellevue Police Department.
- (b) Nancy Gilchrist said several speakers during last Thursday's public meeting at Temple B'nai Torah stated that Bellevue's new ordinance contains too many obstacles for temporary encampments. She expressed concern regarding Tent City security issues, adequate sanitation procedures, restroom and bathing facilities, and communicable

¹ Councilmember Chelminiak arrived at 6:15 p.m.

² Councilmember Lee arrived at 6:03 p.m.

diseases. Ms. Gilchrist said Temple B'nai Torah is requesting hardship exceptions that are in direct conflict with its insurance company's guidelines. She asked the City to hire public health personnel to screen and monitor health conditions of all encampment residents. She noted the area's zoning would not allow a 100-person apartment complex. She feels the encampment conflicts with current zoning laws and places an unnecessary burden on the neighborhood. Ms. Gilchrist asked the City to provide a police officer at the site 24 hours a day and to participate in background checks.

- (c) Karen Morris presented comments prepared by Julie Riley in support of the temporary encampments ordinance.
- (d) Walter Scott, Legacy Commercial, noted the company's ownership of commercial buildings in Bellevue and addressed Agenda Item 3(g) regarding proposed downtown bus layover facilities. He stated opposition to the evaluation of a proposed site on 111th. He asked the City to reconsider the County-owned site at 112th Avenue and NE 6th Street.
- (e) Leslie Lloyd, Bellevue Downtown Association, expressed support for efforts of the City and King County Metro to establish a bus layover facility that does not utilize city streets [Agenda Item 3(g)]. She questioned the estimated cost of \$2.6 million for a surface parking lot and encouraged Council to direct staff to reduce costs. She noted a line item for a \$100,000 bathroom and recovery station and suggested a lower cost solution. Ms. Lloyd encouraged the City to preserve the full use of 114th Avenue NE including two-way traffic.
- (f) Frank Klein, Somerset Community Association, explained that the Somerset area was originally developed as a view neighborhood with views of the mountains, skylines, water, sunrises and sunsets. He asked Council to honor the area's covenants regarding view preservation. Mr. Klein said the proposed Critical Areas ordinance does not meet the needs of all residents.
- (g) Susie Winkowski, Vasa Park Resort, presented materials regarding the noise issue at Vasa Park.

Responding to Mayor Marshall, City Manager Steve Sarkozy said a management brief on the Vasa Park issue will be presented to Council in mid-October.

- (h) Jim Haun, Kirkland, asked Council to postpone its decision regarding downtown transit layover facilities [Agenda Item 3(g)] until the Transportation Department can provide written information about the impacts of the proposed former Coco's location to the bicycle route on 114th Avenue SE. He noted 114th Avenue is part of the regional Lake Washington bicycle route.
- (i) Shannon Boldizar, Bellevue Chamber of Commerce, addressed State Ballot Initiative 912 [Agenda Item 3(d)] and the Critical Areas Update [Agenda Item 3(e)]. She offered the Chamber's member businesses as resources regarding cost impacts of the proposed Critical Areas ordinance. Ms. Boldizar said the Bellevue Chamber opposes Initiative

912. The Chamber worked with the City and other partners earlier this year to win approval of the transportation package in the state legislature and to lobby for specific Eastside projects. This funding will disappear if Initiative 912 is approved.

3. Study Session

(a) Council Business and New Initiatives

Deputy Mayor Noble requested Council consideration of Ordinance No. 5627: 1) imposing a moratorium on the acceptance of applications for the issuance of Land Use permits, licenses, or approvals for any change in use for Auto Row, as defined in the ordinance, 2) declaring a public emergency, and 3) establishing an immediate effective date. Auto row is described generally as the area along both sides of 116th Avenue between NE 8th Street and SE 3rd Street. The City is currently conducting a study of the Wilburton/NE 8th Street corridor to examine existing land uses and determine the future vision for the area. Overlake Hospital Medical Center is moving forward to redevelop its campus adjacent to the Wilburton study area.

If adopted, the moratorium will allow the City Council to fully understand the impacts of the Wilburton study as well as the area's land uses and transportation impacts. The ordinance will become effective immediately for sixty days if approved by five or more Councilmembers. A public hearing will be held within 60 days, at which time the Council could cancel, extend, or modify the moratorium.

➡ Deputy Mayor Noble moved to adopt Ordinance No. 5627, and Mayor Marshall seconded the motion.

Dr. Davidson said he generally does not like moratoriums because they restrict actions by property owners. However he will support the ordinance if a public hearing is to be scheduled as soon as possible.

Mr. Lee supports the ordinance based on the need to fully understand the impacts of the Wilburton study.

Mr. Chelminiak recalled that several years ago several businesses requested a review of General Commercial areas within the community. He will support the moratorium.

Ms. Balducci suggested the Wilburton study should determine the impacts of possible land use changes on other parts of the city.

➡ The motion to adopt Ordinance No. 5627 carried by a vote of 7-0.

➡ Councilmember Davidson moved to schedule the public hearing for Ordinance No. 5627 on November 7, and Mr. Degginger seconded the motion.

➡ The motion to set the public hearing for November 7 carried by a vote of 7-0.

Mayor Marshall invited the public to a class on emergency preparedness to be held Thursday, October 13, 7:00-8:30 p.m., in the Police Annex. Space is limited and participants must make a reservation by calling 425-452-7923.

Appointment of Bel-Red Corridor Study Steering Committee

Mayor Marshall noted packet materials beginning on page 3-1 regarding appointment of the Bel-Red Corridor Study Steering Committee. Members were selected with the objectives of balancing perspectives and ensuring overall geographic representation.

- ➡ Deputy Mayor Noble moved to approve the Bel-Red Corridor Study Steering Committee members and committee charge as proposed, and Mr. Lee seconded the motion.

Mr. Lee suggested deferring the appointments to a future date. He suggested more representation on the committee from South Bellevue and community leadership groups.

Mayor Marshall explained that she and Deputy Mayor Noble deliberately selected candidates from all areas of the community.

Dr. Davidson noted the Wilburton area is not represented and suggested delaying the decision.

Mr. Chelminiak expressed support for the list as presented but concurred with Dr. Davidson regarding the absence of a Wilburton representative. Responding to Mr. Chelminiak, Mrs. Marshall said the at-large members are considered representatives of the overall community regardless of their neighborhood or business affiliation.

Councilmembers Balducci and Degginger expressed support for adding a Wilburton representative.

Dr. Davidson suggested postponing Council action until next week.

Staff distributed maps showing the geographic dispersion of proposed committee members.

Mr. Lee questioned the purpose of the committee and the criteria used to select members. Mayor Marshall noted the committee's charge on page 3-4 of the Council packet and said prospective members were identified using input from Councilmembers. The goals were to select individuals with sound judgment, balance multiple perspectives, and ensure overall geographic representation.

Mayor Marshall suggested appointing Pat Sheffels (Planning Commission alternate) to a regular committee position and Doug Mathews, Planning Commissioner, to serve as alternate.

- ➡ Deputy Mayor Noble moved to amend the motion to add a representative from the Wilburton area to serve as a regular member of the Steering Committee and to adopt the Committee's charge as articulated in Attachment B [Page 3-4 of the packet]. Mayor Marshall seconded the amended motion.

- The motion to appoint the Bel-Red Corridor Study Steering Committee members as proposed, amended to add a representative from the Wilburton area and to adopt the Committee's charge as articulated in Attachment B [Page 3-4 of the packet], carried by a vote of 6-1, with Councilmember Lee dissenting.
- Councilmember Lee moved to add Kevin Turner (President of Somerset Community Association), Barbara Sauerbrey (Woodridge Community Association), and David Plummer to the Bel-Red Corridor Study Steering Committee. Dr. Davidson seconded the motion.

Dr. Davidson expressed concern that some of the at-large members represent specific interests or groups.

- The motion to add Kevin Turner (President of Somerset Community Association), Barbara Sauerbrey (Woodridge Community Association), and David Plummer to the Bel-Red Corridor Study Steering Committee failed by a vote of 1-6, with Councilmember Lee in favor.

(b) Design Contract for Proposed Relocation of Facilities to Bellevue Service Center

Frank Pinney, Facilities Planning and Development Manager, described a contract that will co-locate the Fleet and Electronic Communications Shops and relocate Parks Resource Management to the Bellevue Service Center (BSC). The Electronic Communications Shop (Radio Shop) is currently located at Fire Station 3 and the Parks Resource Management facility is near Crossroads on a site that contains a Utilities Department water tower. Mr. Pinney said the project is funded in the Capital Investment Program (CIP) Plan.

Mayor Marshall noted the design contract will be presented for Council action next week.

(c) Bellevue City Code Amendment Authorizing Finance Director to Serve as Council Auditor

Finance Director Jan Hawn referred to packet materials beginning on page 3-13. She explained that state law requires a City Council Auditor to audit claims against the City prior to payment but does not require that the audit be conducted by an independent contractor. Earlier this year, the City issued a request for proposals (RFP) for a Council Auditor. However, no proposals were received. The current auditor agreed to extend his contract through the end of the year but prefers not to serve in this capacity beyond 2005.

Staff recommends that Finance Department staff serve as Council Auditor because they have always conducted the same review of payment vouchers as that conducted by the independent contractor. In addition, the State Auditor audits claims annually.

Responding to Mr. Chelminiak, Ms. Hawn said the current auditor's choice to discontinue in this capacity is related to personal issues. Mr. Chelminiak expressed a preference for trying again to

solicit for an independent auditor. Ms. Hawn said staff advertised the RFP broadly and contacted firms directly but no one was interested in providing the services. Ms. Hawn noted the auditor has never found any irregularities with claims since audits began in 1961.

Dr. Davidson supports staff's recommendation. He feels the independent contractor is no longer needed with the state conducting audits annually.

Responding to Mr. Degginger, Ms. Hawn said Earle Stuard, Assistant Finance Director, will be assigned the responsibility of Council Auditor.

Responding to Ms. Balducci, Ms. Hawn said staff has been unable to identify any other local governments in Washington that hire an independent Council Auditor for the routine audit of claims.

Mayor Marshall noted Council consensus to direct staff to prepare an ordinance relating to the audit of claims, authorizing the Finance Director to serve as the auditing officer for the City, amending Bellevue City Code 4.40.040 through 4.40.045, and establishing an effective date.

(d) State Ballot Initiative 912

Diane Carlson, Director of Intergovernmental Relations, explained that Initiative 912 would repeal the 9.5-cent gas tax approved by the state legislature to provide funding for the 2005 transportation package. If approved, 265 transportation projects will be eliminated.

David Dye, WSDOT Urban Corridors Administrator, clarified that WSDOT and its employees do not take formal positions on ballot measures. However, he is here tonight to provide information regarding the gas tax.

Mr. Dye described how the state's gas tax of 31 cents per gallon is utilized for statewide transportation projects, local projects, bond debt, maintenance and operation of state highways, as well as highway preservation, safety improvement and congestion relief projects. He provided a comparison of funding contributions and distributions for Washington counties. Mr. Dye explained that WSDOT is audited regularly by four agencies to ensure it spends tax dollars wisely. Of the first 39 highway construction projects funded by the 2003 transportation package, 13 have been completed (8 on time, 4 early, and 1 late completion) and 26 are under construction and on schedule. In the 2003-2005 budget cycle, WSDOT completed 349 construction projects at a cost of \$109 million, approximately 10 percent below the budgeted amount of \$123 million.

Mr. Dye said WSDOT is working with transportation partners to complete projects throughout Puget Sound and the state. He briefly reviewed two slides showing 62 projects planned for King County at a cost of \$4 billion. In addition, 34 projects are planned for Snohomish County (\$472 million) and 24 projects are planned for Pierce County (\$767 million). Key King County projects include the SR 520 bridge replacement and HOV facilities, Alaskan Way viaduct and seawall replacement projects, SR 167 corridor improvements, and SR 509/I-5 freight and congestion relief.

Focusing on I-405 projects, Mr. Dye noted \$485 million to be provided by the nickel program (2003-2012) and the 2005 partnership account of \$972 million. Of this nearly \$1.5 billion, \$1 billion will be spent within the next five years. Near-term I-405 improvements are critical to ensuring mobility during future construction projects for SR 520 and the Alaskan Way viaduct.

Bellevue Transportation Director Goran Sparrman highlighted key Eastside nickel package projects on I-405 from Main Street to I-90, through Kirkland, and through Renton in the vicinity of SR 167. Key projects funded by the Transportation Partnership Act are the NE 10th Street extension overcrossing and improvements for traffic merging onto northbound I-405 from NE 8th Street. Mr. Sparrman acknowledged WSDOT's plans to rebuild the roundabout near West Lake Sammamish Parkway and I-90. He noted the lack of a plan for I-90 between I-405 and North Bend.

Responding to Deputy Mayor Noble, Mr. Dye said the state's gas tax had not been increased since 1990 prior to the 2003 increase.

Responding to Dr. Davidson, Mr. Dye said the Wilburton Tunnel nickel project will include noise mitigation to the extent that it is practical to mitigate. He said sound walls and other treatments are likely to be a part of the project.

Councilmember Degginger noted WSDOT recently delivered the Access Downtown project through Bellevue one year ahead of schedule and \$25 million under budget. He appreciates that WSDOT is planning to rebuild the West Lake Sammamish roundabout and asked the agency to address the regulation of traffic lights at that intersection as well. Mr. Sparrman said preliminary improvements will be completed within the next two weeks. If these do not solve the problem, staff will review additional alternatives.

Responding to Councilmember Lee, Mr. Dye said he will provide information regarding dollar amounts budgeted for noise mitigation and safety projects versus congestion relief projects.

Deputy Mayor Noble suggested the Council take a formal position on Initiative 912, which would eliminate significant transportation projects. The region will benefit from continued transportation funding in terms of safety, congestion relief, and economic viability.

Noting that transportation mobility is critical to economic development and viability, Mr. Chelminiak opposes the initiative. He feels the tax represents a great return on the investment.

Councilmember Balducci commented that transportation issues/projects are consistently identified as top priorities by citizens.

Responding to Mayor Marshall, City Clerk Myrna Basich explained that in order for the City Council to take an official position on an initiative, it must provide the opportunity for public comment. This can be provided during the regular Oral Communications agenda item or a public hearing. The earliest possible date for noticing and scheduling a public hearing is October 24.

Noting he opposes Initiative 912, Dr. Davidson said he is not sure of the need for Council to take an official position.

Mr. Lee expressed support for continued transportation funding.

Mr. Noble favors holding a public hearing and taking a formal position on the initiative. Initiative 912 will have a direct negative impact on the City and its funding. Mr. Degginger concurred.

Mayor Marshall noted Council consensus to add Initiative 912 as an item on next week's agenda to allow public comment to be taken.

At 9:32 p.m., Mayor Marshall declared a break. The meeting resumed at 9:42 p.m.

(f) Lake Hills Boulevard Project Update and NIS Prioritization

David Berg, Assistant Transportation Director, provided an update on the Lake Hills Boulevard (148th Avenue to 156th Avenue) project. The current project scope provides a landscaped buffer between the sidewalk and street, removal of existing Birch trees (which are diseased and/or dying), complete fence replacement, and landscaped medians.

On July 11, Council reallocated \$160,000 in Neighborhood Investment Strategy (NIS) funding from the Kelsey Creek Greenway project to the Lake Hills Boulevard project. Since that time, staff conducted a final engineering and design review and material quantities were increased, adding approximately \$45,000 to the project. Bids were opened on September 8 and are \$130,000 higher than the engineer's estimate. Mr. Berg noted that two contractors have informed the City that its class of piping, which is a petroleum-based product, will increase 30 percent by the end of the month. Staff recommends increasing construction contingency funds by \$26,000, bringing the total funding shortfall to \$201,000.

Mr. Berg said staff recommends an additional reallocation of NIS funds from the Kelsey Creek Greenway project to fully fund the Lake Hills Boulevard project. This is a high priority segment within the community and the project is compatible with Council's original vision for the NIS program. The Kelsey Creek Greenway project was originally intended to be completed in conjunction with the redevelopment of Kelsey Creek Center, which has not occurred since K-Mart, the anchor tenant, moved out in 2002.

Ms. Balducci reiterated the ongoing need for landscaping improvements on Lake Hills Boulevard between 143rd and 148th Avenues.

Mr. Chelminiak suggested reallocating all remaining funds previously designated for the Kelsey Creek Greenway project to other projects, in part to preclude the public expectation that the project will be initiated.

Mayor Marshall noted this item will return for Council action soon.

(g) Downtown Transit Layover Facility Alternatives

Mr. Sparrman recalled that City staff has been working with King County Metro and Sound Transit to identify a downtown location for a transit layover facility. Downtown Bellevue is the origin of many Eastside transit routes and it is important for layovers to be accommodated at or near route origins to optimize overall service. King County has estimated a need for 19 layover spaces to support the Bellevue Downtown Subarea Plan. Downtown Bellevue has larger blocks and therefore limited public right-of-way compared to other cities.

In June, staff discussed five potential sites with Council. Council recommended that Sites 1, 3, and 5 move forward for further analysis. Site 1 is the King County site on the southwest corner of 112th Avenue NE and NE 6th Street. Site 3 is on the west side of 111th Avenue NE between NE 2nd and NE 3rd. Site 5 is the former Coco's site.

Mr. Sparrman displayed and described drawings showing how transit operations would function at each of the sites. Each site has its own benefits and challenges. Site 1 was originally purchased by King County due to its proximity to the Bellevue Transit Center. Site 3 requires the identification of a joint development partner and presents challenges in terms of the compatibility of transit use and residential development. Site 5 is the southeast corner of NE 6th Street and 112th Avenue NE, also known as the Coco's/520 Building site.

Mr. Sparrman said Site 5, next to I-405, is most compatible with and has the least impact to adjacent land uses. Challenges include land acquisition, negotiations with adjacent property owners, and impacts to the 114th Avenue bike route. None of the three sites are fatally flawed. Site 5 is the preferred alternative. Mr. Sparrman requested Council concurrence to continue working with Metro and Sound Transit to study and develop this alternative.

- ➡ Deputy Mayor Noble moved to extend the meeting to 11:30 p.m., and Mayor Marshall seconded the motion.
- ➡ The motion to extend the meeting to 11:30 p.m. carried by a vote of 7-0.

Responding to Mr. Chelminiak, Mr. Sparrman said Site 5 would require acquisition of the parking lot east of the 520 Building. It is possible that additional development could be accommodated on top of the parking facility. Planning and Community Development Director Matt Terry said an advantage of this site is it allows for phased development.

Responding to Mr. Chelminiak, Mr. Sparrman said Site 5 would not eliminate the 114th Avenue bike route in the short term. However, future expansion of the I-405 right-of-way will encroach on 114th Avenue. In further response, Mr. Sparrman said a reevaluation of Site 5 resulted in decreased real estate transaction costs for this alternative. Kevin McDonald, Senior Planner, said staff was not able to conduct a travel time run from the Coco's site during the June analysis due to Access Downtown construction. However, a recent travel time analysis indicates decreased travel times using this location.

Responding to Mr. Lee, Mr. Terry said Legacy Commercial expressed concern regarding the visual impact of a bus layover facility and the effect on vehicular access to its building site.

Responding to Ms. Balducci, Mr. Sparrman acknowledged that the use of Site 5 will affect traffic operations at the NE 6th Street and 112th Avenue NE intersection. He noted the additional challenge of providing adequate space for buses to turn around to return to the transit center.

Dr. Davidson questioned the possibility of using bathroom facilities in the former Coco's building for Metro personnel.

- ➡ Deputy Mayor Noble moved to: 1) approve staff's recommendation for Site 5 as the preferred alternative for a downtown bus layover facility, 2) direct staff to communicate the City's decision to King County Metro, and 3) work actively with King County to move forward in implementing the project. Mr. Chelminiak seconded the motion.
- ➡ The motion to: 1) approve staff's recommendation for Site 5 as the preferred alternative for a downtown bus layover facility, 2) direct staff to communicate the City's decision to King County Metro, and 3) work actively with King County to move forward in implementing the project, carried by a vote of 7-0.

(e) Critical Areas Update

Mr. Terry recalled that a Critical Areas Update Citizens Advisory Committee was appointed approximately two and a half years ago. In November 2004, Council adopted amendments to the Environmental Element of the Comprehensive Plan based on the CAC's recommendations. From November 2004 to September 2005, the Planning Commission conducted a review of the proposed critical areas regulations.

Mr. Terry said staff supports the foundation recommended by the Planning Commission. He recalled that the City of Bellevue was a pioneer in adopting sensitive area regulations in 1987.

Marcelle Lynde, Planning Commissioner, served as Commission Chair during the majority of its review of critical areas regulations. She welcomed Vicki Orrico, also a Planning Commissioner, in the audience.

Ms. Lynde explained that the Commission felt the regulations should be appropriate for Bellevue's role as an urban center that will continue to grow and redevelop. Neighborhood character was also an important consideration. The Planning Commission heard a number of public comments in favor of preserving the green and open spaces throughout the community. The Commission's recommendations take into account the City's overall environmental stewardship and leadership. The Commission was focused on recommending a code that is predictable and flexible for property owners. The Commission held 14 study sessions and a public hearing regarding the critical areas update and carefully reviewed the CAC's recommendations. The Planning Commission solicited feedback from the Environmental Services Commission and the Parks and Community Services Board. Open houses were held in several locations prior to the public hearing.

In response to public comments, the Planning Commission amended draft regulations including excluding primary structures from critical areas buffers. Ms. Lynde said the Commission recommends allowing tree trimming in critical areas without a permit. This was the only recommendation that did not receive a unanimous vote by the Commission. The Commission recommends enhanced flexibility for the use of a critical areas report process.

Ms. Lynde noted Council's options for a regulatory approach versus a programmatic alternative for protecting critical areas. The Planning Commission overwhelmingly supported a regulatory approach in its recommendations. However, the Commission feels its recommendations reflect modest updates based on best available science and allow flexibility for property owners.

Ms. Lynde said the Planning Commission suggests implementation of a program that would allow property owners of marginal or isolated critical areas to pay a fee. Proceeds from the fee would be directed by the City toward the acquisition and restoration of significant critical areas, thereby eliminating the need to continue to regulate these marginal areas. Another suggestion is for the City to create a map as a reference tool for property owners to help determine whether or not they have critical areas on their properties. Citizens requested that the City develop planning and mitigations plans and templates for typical projects, allowing property owners to take full advantage of the flexibility of the code. They also would like the City to pursue activities through the Utilities Department and the stormwater code to improve existing facilities and to ensure new development utilizes current technologies for the maximum benefit.

Ms. Lynde commended staff for leading the Commission through this long review process.

Kate Berens, Legal Planner, provided the staff report. Bellevue was a leader in environmental protection in the 1970s and 1980s with its open stream policies and sensitive areas regulations. The state Growth Management Act later mandated that jurisdictions protect critical areas through policies and regulations. Bellevue's existing regulations at that time complied with the Act. Bellevue is now updating its regulations to be consistent with GMA's mandate to include best available science and to preserve or enhance anadromous fisheries in drafting local policies and development regulations.

Ms. Berens said best available science is defined as that which reflects a consensus of scientific opinions describing ecological functions and recommends measures to protect those functions. Including best available science allows for non-scientific information in decision-making, along with risk analysis and offsetting measures. Functions (e.g., wildlife habitat, water quality) and values (e.g., recreation, perceptions about open space) are the ecological benefits and activities that critical areas provide.

Ms. Berens explained that staff is seeking Council direction regarding the appropriate mix of regulations, incentives, and programs. Staff identified a regulatory alternative and a programmatic alternative for the Planning Commission's consideration. The Commission recommends the regulatory alternative with amendments based on best available science, increased flexibility for property owners, and the elimination of certain regulations. The programmatic alternative would adopt minor amendments to existing regulations while focusing on acquisition, restoration and rehabilitation, monitoring, and education.

Ms. Berens reviewed proposed amendments to critical areas regulations based on best available science. Years ago Bellevue implemented its own typing system for wetlands and streams before the state had adopted a typing system. Staff and the Planning Commission recommend that the City now adopt the state's typing systems, which Ms. Berens reviewed for Council.

The proposed amendments change the definition of landslide hazards, which are defined as areas of slopes of 15 percent or more with more than 10 feet of rise and certain characteristics including known historic failures, visible features such as vegetation and seeps, and areas of potential instability due to rapid stream incision or bank erosion. Steep slopes will continue to be regulated. Steep slopes are those with a slope of 40 percent or more, a rise of at least 10 feet, and 1,000 square feet in area.

Based on best available science, the Planning Commission recommends amendments regulating buffers. Shoreline buffers are increased from 25 feet to 50 feet. Stream buffers increase, depending on the type of stream under the state's typing system (if adopted by the City). Similarly, wetland buffers are defined in the state's typing system and buffer widths will increase if the system is adopted. Wetlands are classified as Category I, II, III, or IV, depending on their functions and values. Mercer Slough is the only Category I wetland, which significantly supports wildlife, in Bellevue. Buffers for geologic hazards add a toe of slope setback from steep slopes. The City has an existing toe of slope setback for landslide hazards.

Ms. Berens explained that the proposed amendments accommodate existing primary structures for both commercial and residential properties. A structure may be remodeled and rebuilt in the same footprint without triggering mitigation measures. For vacant property between two developed lots, a structure could be built that roughly lines up with the two adjacent properties.

Ms. Berens said the proposed amendments have the potential for allowing the expansion of single-family residential structures into or closer to critical areas depending on the existing development and layout of the site.

Ms. Berens explained that impervious surfaces are regulated by a number of jurisdictions as an acknowledgement that development outside of critical areas has a significant effect on critical areas' hydrology. Existing Environmental Policy EN-17 in the Comprehensive Plan limits the amount of impervious surface area in new development and redevelopment throughout the city.

Moving to wildlife functions, Ms. Berens said critical areas under the Growth Management Act include fish and wildlife habitat conservation areas. The Planning Commission recommends looking at existing critical areas within Bellevue and determining their wildlife functions. Protected species, mostly birds, are listed in the ordinance.

Ms. Berens said amendments for the protection of shoreline critical areas, which are required by state law, address buffer widths, dock standards, and bulkhead standards. The City will conduct a mandatory Shoreline Management Act update in 2009. The Planning Commission's recommendations regarding new docks adopt the standards applied by state and federal agencies through their regional general permit process. The amendments are designed to provide

flexibility for routine dock repairs. Proposed amendments relating to shoreline stabilization reflect a preference for not requiring the installation of concrete bulkheads. However, where there are structures or property close to the shoreline, there is guidance for adding sensitive stabilization measures using native plantings, large rocks, and woody debris to mitigate erosion.

Ms. Berens noted that a majority of the amended sections are the result of editing to restructure the code and make it easier to use and to enhance flexibility rather than adding new regulations. This increased flexibility is provided to offset some of the impacts of modifications to buffer requirements. One proposed change is the way the City calculates lot coverage, which is a measure used to control the size of a structure footprint on a site. Under the current code, the size of the critical area and its buffer must be subtracted before calculating lot coverage. The proposed code subtracts only the size of the critical area to determine allowed lot coverage.

Ms. Berens described an additional provision focused on flexibility called the conservation subdivision. This process encourages preserving critical areas in a tract within the subdivision rather than on individual properties. The amendments propose changes to the way that density is calculated on sites with critical areas to allow more development potential from the critical areas portion to be transferred to the non-sensitive areas of the site. Similarly, changes to PUD (planned unit development) provisions are focused on increasing the use of low-impact development techniques and enhancing critical areas/wildlife protection.

Ms. Berens said the code allows for the maintenance of existing landscaping, even if encroaching on critical areas. However, stewardship incentives provide flexibility relating to the modification or addition of landscape uses (including patios, play areas) in exchange for enhancing the function of the critical areas. The proposed amendments add allowances for soft surface trails accessing critical area buffers. This is not currently allowed under the code although such trails do exist.

Ms. Berens noted that the issue of view vs. tree preservation is a pressure point within current regulations. The existing code does not allow the clearing of vegetation on steep slopes, except when a hazard tree is involved. The Planning Commission recommends allowing residents to prune trees in critical areas, including steep slopes, without a City permit in accordance with pruning guidelines established by the Director of Planning and Community Development. A new concept introduced in the proposed regulations relates to the development of a vegetation management plan, either by an individual property owner or a neighborhood association. This would allow the City to consider pruning issues as well as the removal of some vegetation and its replacement by lower-growing, low maintenance native vegetation.

Ms. Berens described the flexibility provided by the proposed Critical Areas Report process. This is a mechanism to modify regulations for a specific site based on a development proposal by a qualified professional. This is likely to be applied to relatively degraded sites, such as a stream slope without significant vegetation. In these cases, buffer or other requirements might not make sense. Therefore, flexibility regarding setbacks could be offered in exchange for enhancing functions closer to the stream.

Ms. Berens reiterated that the approach just described as recommended by the Planning Commission represents the regulatory alternative. In contrast, the programmatic alternative focuses on acquisition, rehabilitation/restoration, education, and monitoring. Staff estimates a cost of \$35,000 to finalize the programmatic alternative which would involve establishing priorities for acquisition and restoration projects, expanding education efforts, and establishing a monitoring program. The estimated annual cost of the full programmatic alternative is \$2.5 to \$5 million.

Ms. Berens said the state Department of Ecology has not specified what a programmatic alternative would have to provide in order to satisfy the Growth Management Act. There would be the potential for elements of such an approach to be challenged before the Growth Management Hearings Board.

Ms. Berens noted the Growth Management Act deadline of December 1 for adopting amended regulations. If Council favors the regulatory alternative, Council action is needed by November 21.

Councilmember Degginger commended the Planning Commission for its work.

Mr. Lee thanked the Planning Commission for their review and recommendations. He questioned the benefits of the programmatic alternative.

Ms. Balducci expressed an interest in hearing more about what the Planning Commission concluded about the programmatic alternative. Mr. Noble concurred.

Ms. Lynde said the Commission was unclear and unsure about the ability to make the programmatic alternative work to meet the intent of the Growth Management Act. Ms. Berens commented that critical areas on private property likely need to continue to be regulated, even under a programmatic approach. The regulatory alternative represents a baseline package to ensure the proper functioning of the environment. Mr. Terry noted an underlying issue regarding responsibility for critical areas: Should private property owners or the City be responsible for preserving their function?

Mayor Marshall feels the regulatory alternative should be called the flexibility alternative. She is impressed with the flexibility provided in the amendments, as well as the City's longstanding tradition of protecting the environment. Mayor Marshall thanked the Planning Commission for its work.

At 11:27 p.m., Mayor Marshall declared the meeting adjourned.

Myrna L. Basich
City Clerk

kaw