CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Extended Study Session

February 11, 2013 Council Chambers
6:00 p.m. 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 6:04 p.m., and declared recess to Executive Session for approximately one hour to discuss one item of pending litigation and one item of property acquisition.

The meeting resumed at 6:57 p.m., with Mayor Lee presiding.

2. Oral Communications

(a) Joshua Schaer said he is a member of the Issaquah City Council but speaking on behalf of the Bellevue College Foundation Board. He invited Councilmembers to the Foundation's annual luncheon on May 1 at Meydenbauer Center. He announced that David Rule recently joined Bellevue College as its new president. Bellevue College has 1,500 employees, 87 student clubs, and 70 student programs; and more than 38,000 students attend Bellevue College on an annual basis.

Mayor Lee noted that a public hearing was scheduled as a later agenda item to take comments on the proposed ordinance creating a Light Rail Overlay to govern permitting for the East Link light rail project. Responding to Councilmember Davidson, Mayor Lee said it would be okay for citizens to comment on the light rail alignment or route during oral communications.

Councilmember Wallace clarified that the Land Use Code amendment (Light Rail Overlay) is being addressed now, and discussions on the alignment will continue in the near future.

Councilmember Chelminiak recalled his request the previous week to propose a motion regarding the Bellevue Way SE HOV lane project in the Transportation Facilities Plan (TFP). He suggested addressing that topic following the public hearing.

Mayor Lee invited speakers wishing to comment on topics other than the Light Rail Overlay.

(b) Dan Poulton, Mercer Island, encouraged the Council to not support tolling on I-90. He said the Tacoma Narrows Bridge and the SR 520 bridge are not collecting the estimated revenues. Tolling I-90 would be first time in the nation that a federal interstate already paid for would be tolled to pay for projects on other roadways. He is concerned about future tolls on other highways and roads. He said this is one of the most aggressive taxes to impose, and it is imposed on everyone regardless of his or her income. Mr. Poulton asked the Council to oppose this regressive tax and expressed concern about isolating certain communities.

(c) Renay Bennett said that Sound Transit's light rail ridership is half of what was projected, many are riding light rail without paying, and impacts to businesses and residences in Seattle have not been mitigated. She said Sound Transit has lied to the public for years about how much the light rail system will cost. The agency receives funding from local, state and federal sources. Ms. Bennett said that former Mayor Grant Degginger's law firm continues to represent Sound Transit. She alleged that Councilmember Balducci received a significant promotion and raise from her employer, King County, in order to secure votes on the Sound Transit Board. Ms. Bennett expressed concern about efforts to establish transit-oriented development with low-income housing along the light rail line. She alleged government corruption related to the light rail project.

Councilmember Balducci said she has worked for the King County jail system since 1999. She worked her way up from the position of a labor negotiator to director of the jail system. She suggested that, if anyone thinks a job as the jail director is easy or a reward for votes, she welcomes them to visit her in her workplace to gain a better understanding of the job and the agency. Ms. Balducci said it is out of line and unfair for an individual to essentially slander Councilmembers in this manner.

(d) Howard Katz, representing the Senior Advisory Board, invited the Council to Wednesday's Senior Volunteer Recognition Lunch, which is sponsored by the Fire Department. Mr. Katz thanked Mayor Lee and Councilmember Wallace for attending last year's event.

(e) Janet Nelson questioned why plans for a light rail tunnel in Bellevue are going forward when a train car has never gone across a floating bridge.

(f) Susan Ilvanakis said she lives near the light rail alignment along 112th Avenue SE. She recalled that the Council passed a motion in October 2011 to declare eminent domain over the single-family homes that border 112th Avenue SE. This motion specified full property acquisitions and no partial takes. Ms. Ilvanakis said she and a neighbor continued to follow up with the City through May 2012 and were told that a plan would be forthcoming in six to eight months. She said that any changes to the Land Use Code should be considered within the broader context of all of the light rail issues.

Mayor Lee acknowledged that the Council has been discussing the East Link light rail project for a few years at this point. He invited citizens to continue to follow the process as issues are discussed and resolved.

3. Study Session

(a) Council Business and New Initiatives

Mayor Lee suggested foregoing Council Business due to the public hearing.

Responding to Councilmember Chelminiak, Mayor Lee confirmed that Mr. Chelminiak would have the opportunity at the end of the meeting to make his motion regarding the Bellevue Way SE HOV project.

(b) Public Hearing on Proposed Ordinance to Amend the Land Use Code to Establish a Consolidated Land Use Permitting Process for Regional Light Rail Transit

(1) Staff Report

Mayor Lee introduced the public hearing. He explained that the light rail Land Use Code Amendment (LUCA) is designed to provide predictability in the permitting process for the East Link light rail project. The purpose of the public hearing is to hear public comment on the proposed Light Rail Overlay.

Mayor Lee thanked everyone for attending and indicated that the Council may or may not discuss the issue and provide direction to staff that evening. Council action on the Light Rail Overlay LUCA is anticipated on February 19 or February 25.

City Manager Steve Sarkozy said the Council has had a number of discussions on the proposed Land Use Code, which is available on the City's web site. Any changes by the Council will be posted until the LUCA is finalized.

Mike Brennan, Director of the Development Services Department, described the overall process. Policy development occurred during 2007 and 2008 through the work of the Light Rail Best Practices Committee and Comprehensive Plan updates. The current Land Use Code development phase anticipates Sound Transit's approval of the alignment in 2013-2014 and subsequent design and mitigation approval through the land use permitting process. Technical code permitting (Building, Fire, Utility, and Transportation) will begin in 2014.

Mr. Brennan reviewed the Council's discussions to date. The first draft Overlay was released on October 4, 2012, and the first public hearing on the Overlay was held on October 22. Council discussions were held on November 13, December 3, and December 10, 2012; and on January 7, 22, and 28, and February 4, 2013.

Mr. Brennan explained that the City entered into a memorandum of understanding (MOU) with Sound Transit to collaborate on East Link light rail permitting and design issues. The City cannot prohibit an essential public facility. The purpose of the Land Use Code amendment is to create design standards and guidelines specific to light rail and to clearly identify development standards consistent with the Land Use Code and Light Rail Best Practices Report.

Kate Berens, Deputy City Attorney, said the East Link system passes through more than 20 land use districts with different levels of permit review and applicability of standards. Nearly half of the East Link project is in the right-of-way (ROW), where land use provisions typically do not apply. The purpose of the Light Rail Overlay LUCA is to address these gaps.

Ms. Berens clarified that the Light Rail Overlay provides an organizational framework and tailors essential public facility (EPF) regulations to the specifics of a light rail use. The Light Rail Overlay LUCA consolidates regulations to provide context-sensitive facility design, process consistency across the alignment, code certainty and predictability, and straightforward administration and enforcement.

Ms. Berens clarified that the Overlay does not change any of the City's existing codes (i.e., noise, stormwater, construction standards) and does not represent approval of the alignment, the cost savings alternatives, the design, or required mitigation. Those issues will be addressed later. The Overlay is not a change to Comprehensive Plan policy and does not change any land uses adjacent to the alignment.

Ms. Berens said LUC Sections 20.25M.010 and .020 identify the applicability of the Overlay, articulate the purpose (i.e., compliance with MOU commitments, Comprehensive Plan and Light Rail Best Practices), describe when a transit authority may apply for permits, incorporate applicable LUC sections by reference, and exclude the operation and maintenance satellite facility. The maintenance facility will be treated as an essential public facility through the conditional use permit process.

Ms. Berens described the two possible paths for light rail use approval: 1) Development Agreement, Ordinance or Resolution, if agreement between the City and Sound Transit on the alignment (LUC 20.25M.030.B.1), or, 2) Conditional Use Permit (CUP) process if the agencies do not agree on the alignment (LUC 20.25M.030.B.2).

Ms. Berens provided additional details on the two permit paths. Both paths progress through design and mitigation permits and the shoreline substantial development permit process. She briefly reviewed the public involvement process, noting that a pre-decision public hearing will occur through either path.

Carol Helland, Land Use Director, described the design and mitigation review process (LUC 20.25M.030.C), which is required following approval of the light rail use. The review requires a finding of consistency with Comprehensive Plan polices, Light Rail Best Practices, applicable requirements of the City Code, the approved Development Agreement or Conditional Use Permit, and the Citizen Advisory Committee review requirements. This process consolidates

Process II permits where allowed including design review, Critical Areas permit and separate Shoreline Substantial Development permit. Ms. Helland described a map depicting the four points at which the alignment touches or falls within the shoreline jurisdiction.

Councilmember Davidson questioned whether the shoreline jurisdiction boundary has been agreed to by all parties. His understanding is that there might not be agreement. Ms. Helland said the edge of the wetland will be verified before project implementation. Shoreline jurisdiction is very limited, and the alignment primarily touches wetland. The State will be asked to verify the jurisdiction as part of the permitting process.

Ms. Helland said the Council established a Citizen Advisory Committee (CAC) to review the project and to ensure that best practices and context-sensitive regulations are incorporated into the design and mitigation review (LUC 20.25M.035). This section of the Overlay defines the makeup of the committee and the CAC's scope of work and expected work product. It requires consolidation of the CAC involvement process with permit review and provides policy guidance for CAC review.

Ms. Helland said that LUC 20.25M.040 provides the development standards that must be met in the absence of a modification approval (e.g., dimensional, landscape development, and impact requirements including fencing, light/glare, parking, traffic circulation, waste collection, and critical areas). Design guidelines (LUC 20.25M.050) are more flexible and could generate a number of design solutions. The draft amendment includes a statement of design intent, contextual and design considerations to guide the CAC review, and general guidelines applicable to all light rail project components (i.e., stations, traction power substations, ventilation structures, signs, retaining walls and acoustical barriers, and signal bungalows).

Ms. Helland described residential development screening standards that have been developed by staff and the Council (LUC 20.25M.040.C.3.a.iii). These address landscape development and the CAC will review the code to ensure context sensitivity.

Ms. Helland described drawings providing examples of how the landscape screening will be incorporated. A 30-foot buffer is required unless there is mutual agreement to reduce screening to a minimum of 15 feet in certain situations.

Ms. Helland said that LUC 20.25M.040.I addresses Critical Areas Treatment, which is determined based on the land use approval process. If a Development Agreement, Ordinance or Resolution is adopted, a regional transit authority will not be required to demonstrate that no technically feasible alternative with less impacts exists. Under the CUP process, a regional transit authority would be required to demonstrate that no technically feasible alternative exists. This is consistent with the approach included in the Shoreline Master Program update proposed by the Planning Commission for City road and utility projects.

The last section of the Light Rail Overlay applies to the Administrative Modification Process (LUC 20.25M.060), which was identified in the MOU for inclusion in the amendment. This

section outlines the requirements for approval of a modification as well as the limitations of any modification.

Ms. Helland referred the Council to Attachment B in the meeting packet, which describes Conformance Amendments provided to ensure consistency between the Overlay and the overall Land Use Code.

Mr. Brennan requested Council direction on the proposed Light Rail Overlay in anticipation of adoption of the LUCA on February 19 or 25.

(2) Motion to open Public Hearing

→ Deputy Mayor Robertson moved to open the Public Hearing, and Councilmember Chelminiak seconded the motion.

→ The motion carried by a vote of 7-0.

(3) Receive Public Testimony

The following citizens came forward to comment:

1. Bill Hirt expressed concerns regarding environmental and neighborhood impacts related to the East Link light rail alignment. He believes that the only way for light rail to meet these requirements is through a tunnel. He noted that the lawsuit filed by Building a Better Bellevue was based on Sound Transit's refusal to consider a tunnel that would have minimized environmental and neighborhood impacts.

2. Renay Bennett, a Bellecrest resident, said a 30-foot setback along the light rail alignment is not sufficient. She noted significant impacts to homes in the Rainier Valley that are two blocks (100 feet) from light rail. She said Sound Transit knows that the system will not be able to comply with noise codes. She questioned why Bellevue is not getting the tunnel that Seattle received. Ms. Bennett said the Council needs to ensure that the Land Use Code and Comprehensive Plan protect every area of the community. She recalled past Council decisions to not widen Bellevue Way SE or 112th Avenue SE. She noted a past quote by former Mayor Connie Marshall acknowledging that residents need a clear idea about the future of their neighborhoods.

3. Brooks Beaupain, speaking on behalf of the Enatai Neighborhood Association, read from a prepared statement. He observed that the current draft Light Rail Overlay LUCA is not very different from the draft first presented in October. He said that Sound Transit has not been given the same authority in Seattle that it is seeking here in Bellevue. He expressed concern that the Overlay does not provide any protection against 24-hour construction noise, and there is no mention of standards regarding mitigation or the replacement of the hundreds of trees that will be removed. Mr. Beaupain encouraged an open Hearing Examiner process. He is concerned that the City is trying to give Sound Transit the right

to use individuals' properties. He said the 30-foot distance referenced in the Overlay is not a setback but a landscape buffer on private properties. Mr. Beaupain said he works in real estate. He observed that once Sound Transit starts working on properties, the property values will go down and Sound Transit will then be able to acquire them at lower costs. He expressed concern that the community will not see the final Overlay before it is adopted.

4. Joe Rosmann, representing Building a Better Bellevue, said the organization has assembled a number of experts to inform residents' review of the Light Rail Overlay. Residents plan to present more detailed comments in writing within the next few days. However, he provided a summary letter describing Building a Better Bellevue's five areas of concern. BBB encourages the Council to compare the recommended approach to the practices of the City of Seattle. They are concerned that fundamental elements of the light rail project violate the state constitution. Mr. Rosmann said the Light Rail Overlay is a complex document. He thanked the Council for the opportunity to work with Council and staff to represent all interests within the community. He urged the City to grant permits to Sound Transit only after they have acquired specific properties. [Mr. Rosmann submitted his comments in writing.]

5. Scott Lampe, Chair of the Surrey Downs East Link Committee, asked the Council to consider only regulations that protect the livability and vitality of the community and of the Surrey Downs neighborhood. He expressed concerns including noise and visual blight. He said a transit agency should not receive any permits before acquiring properties, and there should be no partial takings. Mr. Lampe said the community is counting on the Council to protect their interests. He quoted Councilmember Chelminiak from the previous week, who stated that the City Council is the most responsible for this process. He thanked the Council for the opportunity to speak. [Mr. Lampe submitted his comments in writing.]

6. Sue Baugh, President of Move Bellevue Forward, said the organization believes that the Light Rail Overlay LUCA advances Bellevue's interests. It ensures that the Council makes all decisions, whether through the Development Agreement or CUP process. Ms. Baugh said that Move Bellevue Forward encourages the City to use the Development Agreement process for approval of the light rail alignment. It is a legislative process which allows the Council to negotiate with Sound Transit and to consult with Bellevue residents without the constraints imposed by a quasi-judicial process (i.e., CUP process). Ms. Baugh said the Development Agreement approach saves time and money over the CUP process. [Ms. Baugh provided her comments in writing.]

7. Howard Katz concurred with Renay Bennett about the tunnel. He recalled that New York City, in the midst of the Great Depression, decided there should be no more above-ground trains despite the budget constraints. He said that Sound Transit has been good about coming to the Lake Bellevue Village community. However, he expressed concern that immediately after he formally testified before the Sound Transit Board about the Hospital District Station, the Board read a prepared statement confirming that it had

already made a decision. Mr. Katz said that Lake Bellevue residences and businesses are the closest to the light rail alignment in the community. He expressed concern that light rail noise levels will be carried across Lake Bellevue. He said Sound Transit has not considered this impact.

8. Susan Ilvanakis said she would be interested in further information on Ms. Berens' comment that the Light Rail Overlay does not change land uses adjacent to the light rail line. She said Sound Transit should not be issued permits until the light rail project's property needs are accomplished with no partial takings. She said the project must follow the City's existing Noise Code, regardless of federal standards, and setbacks from homes must be a minimum of 50 feet, not the 15 feet to 30 feet that have been discussed. She insisted that all noise, pollution, traffic, construction, and light rail operation impacts must be mitigated.

9. Lincoln Vander Veen, Bellevue Chamber of Commerce, thanked the Council and staff for their work. He encouraged the appropriate mitigation of impacts, especially noise, and adding roadway capacity on Bellevue Way SE. The Chamber supports the involvement of a Citizen Advisory Committee involvement. He agreed with previous comments by Councilmember Chelminiak that this should include both grassroots and grasstops involvement. He expressed support for Councilmember Wallace's suggestion to utilize a design review board that includes technical experts in the appropriate fields.

10. Patrick Bannon, Bellevue Downtown Association (BDA), thanked Council and staff for their work to meet the obligations of the East Link MOU. He appreciates the emphasis on both the functional and placemaking aspects of the light rail system and the Downtown station. He said the BDA understands that the Light Rail Overlay LUCA is a necessary step before moving forward to address more specific design and mitigation issues. The Chamber looks forward to the next steps.

11. Russ Clark said he owns property across from Whole Foods that will potentially be acquired by Sound Transit. He said he was speaking on behalf of himself and other businesses based on casual conversations about the project. He has met with several Councilmembers and with representatives of Sound Transit. However, he has never met with Sound Transit without taking an attorney with him. He believes that Sound Transit has not shared truthfully or fully their intent in the past. He noted that the City Council is residents' last line of defense against some of the agency's practices. Mr. Clark expressed concern about construction impacts over 10 years. He is unclear as to whether he could or should move his business to avoid the adverse impacts of light rail construction.

12. Geoff Bidwell distributed copies of written comments to the Council. His major issue with the B2M alignment is the damage to wetlands and the Mercer Slough Park, as well as the removal of trees. Mr. Bidwell said the Shorelines Management Act of 1971, RCW 90.58.320, limits building height to 35 feet. RCW 90.58.030 defines shorelines and wetlands as lands extending 200 feet horizontally from the high water mark, and these are subject to the provisions of Chapter 90.58, which includes the B2M alignment. Mr.

Bidwell said it is clear from the lack of information in Section 4.9 (Water Resources) of the FEIS that citizens should have the opportunity to appeal all shoreline decisions to the Shorelines Hearing Board. The Board has expert knowledge on issues related to shorelines and wetlands. Mr. Bidwell said the Overlay should clearly define that shorelines appeals will be subject to the provisions of state law, RCW 90.58.180. This is important because the water table and Mercer Slough wetlands will be significantly impacted, and that is not being addressed. Mr. Bidwell said that noise levels related to light rail in Tukwila have not been brought into compliance with federal standards.

13. Martin Paquette, an Enatai resident, encouraged moving forward with the Light Rail Overlay as a step toward addressing other details. The Overlay LUCA provides a way to implement light rail and to move forward. He observed that certain citizens say they support light rail yet they appear to be wanting to put obstacles in the way.

14. Chris Jordan, Enatai, thanked staff for the presentation. He said he concurs with most of Mr. Beaupain's earlier comments. He is concerned about the modifications or variances that will be requested by Sound Transit. He wants to ensure the project's compliance with the City's Noise Code and other regulations.

15. Tracy Skinner said some verbal tricks have been thrown at the Council tonight. He questioned the value of the concept of best practices, which he observed are invoked as a way to get through an argument based on what other entities have done, whether or not they are actual best practices. While the current Land Use Code does not specifically address light rail, he said it does address construction, dust, noise, hours of work, paving, water runoff, and mitigation. He believes these should all be applied to light rail, as well, without the opportunity for waiver or modification. Mr. Skinner said Bellevue must decide and protect its quality of life and not allow it to be altered by Sound Transit.

16. Ron Lewis, Sound Transit, said the Sound Transit 2 package (including East Link light rail) was approved by voters in 2008 and is now in the final design phase. He spoke to the ongoing work and collaboration with the City. Sound Transit views the Light Rail Overlay as a critical and necessary step to provide certainty for the design process, the City, and the public. The Overlay incorporates a number of innovative ideas and does not relax the City's ability to impose mitigation on the light rail project. Mr. Lewis said the Overlay, as proposed, creates a fair and balanced approach for land use permit decisions. Council's adoption of the Overlay will keep the process moving forward and will enable the City to review and issue necessary approvals in the future. He thanked City staff for their excellent work. He thanked the Council for its consideration and urged timely approval of the Overlay.

17. Brian Derdowski, speaking on behalf of Public Interest Associates and certain Bellevue residents, observed that the Light Rail Overlay is a rezone and should be considered in the same way as other Comprehensive Plan rezones. He believes the Development Agreement approach is unfair and undemocratic. If utilized, it must preserve the Council's discretionary authority to deal with changed circumstances and to protect the

environment and residents. He suggested negotiating certain items, for example, that Sound Transit locate its maintenance facility elsewhere in exchange for conditions included in the Light Rail Overlay. He thanked the City for its agreement with the Lake Bellevue community regarding the 120th Avenue NE project. He suggested looking at the Overlay within the context of the federal requirements for eminent domain standards. He believes it does not comply. Mr. Derdowski asked the Council to keep the Public Hearing open for continued written testimony. He asked the City to publish Council's amendments online as soon as possible for public review.

18. Susan Huenefeld observed that one of the slides in the presentation affects her residence on 111th Place SE by showing a line through her kitchen, living and dining rooms. She said Sound Transit plans on removing all vegetation, including large trees, from residents' backyards to build light rail with the expectation that residents will continue to live in their homes. She said it is critical to prohibit partial property takings. People choose to live in Bellevue for a certain quality of life and it is not acceptable to remove mature vegetation to replace it with light rail in close proximity to homes. Ms. Huenefeld said residents are in limbo and living with stress and uncertainty. She said Sound Transit has been calling her to do testing in her backyard. She urged the Council to protect the community.

19. Lorraine Sang said she bought her house in Bellevue one and a half years ago because she loves the community and its green environment. She was told that the trees behind her backyard were a protected habitat. Now Sound Transit plans to remove those trees. Ms. Sang said she immigrated from Hong Kong and she appreciates the importance of public transit. However, the population density is completely different in Bellevue. She believes the bus system can effectively serve Bellevue. She expressed concern about environmental and property value impacts, and suggested that tunneling would mitigate those impacts.

20. Betsy Blackstock said that an earlier speaker reminded her about the former Sound Transit Board member who said, "Betsy, we do listen to you. We just don't do what you want." She said she begs the Council to not allow the community to be able to say that about Councilmembers. She believes that all Councilmembers care about the community and bring value to it.

21. Anita Skoog-Neil expressed concern that an unaccountable politically driven organization (i.e., Sound Transit) is imposing unwanted changes. She asked the Council to please listen to the people.

(4) Motion to close Public Hearing

Councilmembers discussed formally keeping the record open for written comments. They agreed it would be helpful for staff to compile comments on Thursday to provide them in the agenda packet for the next week's meeting.

→ Deputy Mayor Robertson moved to close the evening's Public Hearing but to leave the record open to receive additional written comment through 10:00 a.m. on Thursday, February 14. Councilmember Wallace seconded the motion.

Ms. Robertson noted that the Council will continue to take comment until, and after, a decision is reached as well.

→ The motion carried by a vote of 7-0.

Mayor Lee suggested deferring agenda item 3(c), given the lateness of the hour.

(5) Council Discussion on Light Rail Overlay

Deputy Mayor Robertson proposed the following questions and suggestions:

- She would like the Overlay to specifically include a citation regarding the Noise Code. She said it is unclear whether Sound Transit accepts that the City's Noise Code will apply, even if different from federal standards. Ms. Robertson wants the Noise Code to be applied to both construction and train operations.
- She questioned whether conforming amendments to the Noise Code and other codes are needed. Ms. Helland replied that Land Use Code-related conformance amendments are in the meeting packet, and other technical code amendments will be processed after approval of the LUCA.
- Noting the issue of who can apply for permits, Ms. Robertson said she would like to prevent the transit authority from applying for permits until it obtains possession and use of a given property.
- She prefers the Hearing Examiner process whether there is a Development Agreement or not. She is in favor of the CAC for public involvement but believes it is more transparent to have the Hearing Examiner make decisions under the Conditional Use Permit (CUP) process.
- Ms. Robertson said it is important that the scope of work for the CAC include landscaping and vegetation. She feels that the role of the CAC should be stronger than what is implied in the draft Overlay. If there is a strong finding by the CAC, she believes the Director should give deference to the CAC or provide specific reasons for not including the CAC's recommendation in his or her decision.
- With regard to the light rail alignment near residential property, Ms. Robertson said the Council has talked about a 30-foot setback from residential property. The Overlay refers to a 30-foot buffer than can be reduced to 15 feet. Noting references to both buffer and setback, Ms. Robertson said she would like to require a setback from property lines, with vegetation. She would be curious to see what a 50-foot setback would yield next to a residential property. She said it was compelling to see the 30 feet of crepe paper held up during oral communications.
- She noted that section 040.C states that there could be paths, structures or sidewalks within the setback, as well as noise walls and landscaping. Ms. Robertson believes there should not be any of these within the setback except for noise walls and landscaping only.

- She agrees with members of the public who suggested that Sound Transit should maintain the landscaping. She believes it would be appropriate to require that a certain percentage of the landscaping installed by Sound Transit survive for a certain number of years. She said this is consistent with the standards for small Neighborhood Enhancement Program (NEP) projects.
- Deputy Mayor Robertson observed that the loss of trees will be shocking to everyone in the community, and she would like to minimize the loss to the extent possible.

Responding to Mayor Lee, Deputy Mayor Robertson noted a mistake in the presentation slide describing the two permitting paths. It indicates a Director Decision under the CUP process, but the decision is actually by the Hearing Examiner. Ms. Robertson reiterated her support for the Hearing Examiner process.

Councilmember Chelminiak recalled that he provided staff with some thoughts last week and issues were discussed at the Council Retreat. While it does not sound right or feel right, the City does apply for permits even when there is not yet a final use agreement on a property. He understands residents' concerns but believes the permit process will need to move forward. He acknowledged that uncertainty is stressful for residents and said it is time to start putting some certainty to property acquisitions in order to have exact drawings and representations of how this will affect private property.

He reiterated his perspective that the CAC should include both grassroots and grasstops representation. However, the Council cannot design this project from the dais, and it is important for citizens to understand that.

Mr. Chelminiak favors the Development Agreement path through the City Council. He is concerned about getting into the Hearing Examiner process where everything is on the record and people are arguing about the record. And, as Mr. Katz said, people come late to the process and the Council is sitting as a quasi-judicial body, and citizens are told they cannot discuss certain topics because they are not in the established record. Mr. Chelminiak believes that raises the potential for further alienating the public. He believes that a Development Agreement provides a good opportunity for public input.

Councilmember Davidson stated his understanding that state law dictates that land use permits should be issued to the property owners. He requested a clarification of this issue from state law. As a separate issue, he said he is somewhat surprised that the City has not verified the light rail alignment's shoreline jurisdiction with State agencies.

Dr. Davidson said he is obtaining more information every day indicating that information was withheld during a good bit of the discussions on wetlands, at least prior to Sound Transit's preparation of the environmental impact statement (EIS). After the EIS was written, he recalled that it did not seem accurate. He would like to see the rationale for the tremendous difference of opinion between what Sound Transit wrote in the EIS with regard to wetlands and what he believes would be the outcome of putting a trench along the wetlands.

Councilmember Stokes concurred with the Deputy Mayor's request for additional information on certain topics. He agrees with Councilmember Chelminiak's preference for the Development Agreement process, which Mr. Stokes believes provides a more open process and a better opportunity for discussion and public input. He observed that shifting the matter to the legalistic environment of the Hearing Examiner process is not necessarily appropriate and introduces another layer of delay, further increasing anxiety and stress for homeowners.

Mr. Stokes said his understanding about the distance between light rail and private homes was a 30-foot setback between the private property line and the light rail structure. A house would then be farther than 30 feet from the light rail line. He noted the need to clarify the regulation and whether it refers to a setback or a buffer on private property. He suggested reviewing road projects with similar impacts. When Richards Road and 148th Avenue were widened, there were noise and visual impacts to houses. He noted the need for a better way to address the noise issues.

Mr. Stokes said the issue of trees is important but trees do change and grow. The City needs to be sure that all trees are not cut down and nothing comes back. His understanding is that there are existing codes regarding the removal of trees. He suggested that the CAC address this topic.

Mr. Stokes said he was struck by some of the comments and questions raised, which have been addressed and/or answered throughout the process. He said that light rail is coming down Bellevue Way and 112th Avenue SE, and the question is how to handle the project in the best way for the whole community and to protect neighborhoods.

Mr. Stokes said staff has done a great job and the Council has worked hard. He believes the Overlay and the Development Agreement process will ensure that all pieces of the alignment are covered with the appropriate codes. He believes that the questions raised can be answered for those who truly want a good light rail system for Bellevue. For those who do not want light rail, there probably are no answers.

Councilmember Stokes encouraged everyone to talk about items in a rational manner and to try to match questions with answers. He said the City continues to get questions that have been answered numerous times. He believes that residents will eventually see that light rail is not as horrible as they anticipate because the Council and staff will do their best to ensure a quality product.

Mr. Stokes said it is important to achieve certainty for homeowners along the alignment as quickly as possible. He also wants to build a first-class light rail system.

Councilmember Wallace said the public hearing was excellent and there were good, thought-provoking comments on a variety of issues. He agrees with Mr. Stokes, in part, that some of the concerns raised can be answered immediately. One example is the construction noise timeline. It is not addressed in Land Use Code Amendment but is addressed in another existing code not currently under discussion.

Mr. Wallace said it has been difficult for him to understand the boundaries of the discussion and the extent to which other areas of the Land Use Code will apply to the light rail alignment. He wants to be sure than all codes are applied.

Mr. Wallace noted that good questions were raised by the Enatai Neighborhood Association, and he would like to see list of those questions and staff's best effort to answer all of the questions. Issues raised by Mr. Beaupain during oral communications included the level of authority given to Sound Transit light rail in Seattle; traffic, noise, environmental and property impacts; construction noise standards; traffic standards related to school children and pedestrians in general; concern that the permit process will occur behind closed doors; CAC membership; Sound Transit's right to access private properties; Sound Transit's plans for vegetation on private properties; property value impacts; and the consideration given to public input.

Councilmember Wallace noted that new concepts were raised during the public hearing, including by Mr. Bidwell about the right of citizens to appeal shoreline decisions to the Shorelines Hearings Board. Mr. Wallace believes these issues should be considered and analyzed.

Mr. Wallace said he plans to submit his comments on the Light Rail Overlay Land Use Code Amendment (LUCA). He observed that things are moving in a better direction than they were in October. However, the Overlay is still not to the point in which he feels comfortable that there are adequate protections for the community. Additional elements and details are needed. He believes the Citizen Advisory Committee should have same level of judgment as Seattle's design review board in making recommendations to the Director.

Mr. Wallace said there needs to be a more realistic conversation about the schedule because it is going to take some time to process all of the information and input. He observed that accurate visual renderings would resolve many of the concerns about the ability to mitigate impacts. He reiterated that he will be submitting written comments which he will make available for public review.

Councilmember Balducci said she has heard many familiar issues and concerns as well as new comments and perspectives. She said it is valuable to hear people underscore the things that are important to them about the quality of life in areas through which the train will pass.

Two over-arching comments made a particularly strong impression on her tonight. One is the quote by former Mayor Connie Marshall that residents need a clear idea about the future of their neighborhoods. Ms. Balducci concurred that it is important for people to know what is coming. Continued uncertainty and delay makes everything seem worse than the likely reality of light rail.

Ms. Balducci said it is important to consider all of the issues raised:

- How far will this be from my house?
- How many trees will be cut down?

- Have you given any thought to pedestrian safety near the schools, and if not, when is that going to happen? What is that going to look like?
- How are my interests going to be represented in the process of this community that we are going to create?
- Who is going to maintain vegetation?

Councilmember Balducci said another issue that stood out tonight was the concern expressed by Mr. Beaupain on behalf of the Enatai Neighborhood Association about whether certain standards will be waived for the light rail project by the Director. She said there need to be criteria around how and when standards can be waived. She questioned the options for the community if they do not like the waiver and whether they can appeal the decision.

She noted concerns about how a property owner can be assured that his or her property rights will be respected when Sound Transit wants to conduct drillings or other testing on private property. She acknowledged that this is necessary in order for the line to be built. However, the City should be thoughtful and clear with property owners that they still maintain control of their properties.

Ms. Balducci requested clarification of the setback versus buffer issue. Will the light rail line be 30 feet from a home or 30 feet from the property line?

She suggested focusing on the things the City can do to implement the project and make it work for the community while also protecting the community, and to not focus on the things that are really just objections, in disguise, to the project. The train is coming and it is the City's job to ensure that it fits and works within the community.

Ms. Balducci looks forward to reviewing additional public comment as well as the next draft Overlay based on input by the Deputy Mayor and others. She thanked staff for their hard work and long hours to produce good, thoughtful work.

Mayor Lee thanked staff for working on these challenging issues. He said there is still a need for accurate graphics or a realistic simulation of the project and its impacts. He believes that would make the overall discussion more productive and meaningful.

He thanked the public for coming to testify, and the Council and Leadership Group for their work and analysis. He said he was impressed by comments that we need to maintain Bellevue's high quality of life and that people come here for the unique aspects of the community.

Mayor Lee said that many unknowns remain at this point. He noted the need to walk the fine line to ensure that we move forward with the things that we know and the things for which we can provide certainty.

Mr. Lee said he has heard from the public that there are concerns and perhaps specific things the City can do. One example is Mr. Wallace's reference to Mr. Bidwell's testimony about shorelines.

Mayor Lee suggests adding specific details on issues and items where possible in the Overlay. He observed that there is a need to work on the overall structure and substance. As specific questions are answered, the Council needs to apply that information to the framework provided by the Overlay. The structure needs to provide assurance to citizens that the City has the mechanism to advocate for the community. He said the City can have the framework to assure the public that the Council can make the right choices for the community.

Mayor Lee said he appreciated Ron Lewis's testimony on behalf of Sound Transit and Mr. Lewis's acknowledgement that the project is not intended to relax the City's standards. Mr. Lee said the Council is interested in exceptional mitigation, which he believes can be provided in the Light Rail Overlay LUCA.

Mayor Lee said the Council wants to continue to hear from the public. He said it is unacceptable for residents to have anxiety about their quality of life.

Councilmember Chelminiak reiterated his request to make a motion, which is to remove the Bellevue Way SE HOV project from the City's Transportation Facilities Plan (TFP). That would put light rail along Bellevue Way SE back into the trench on the east side of the road.

Mr. Chelminiak said he would be willing to make a motion the following week during Council Business. He wants to preserve his right as a Councilmember to introduce a question to the Council.

Deputy Mayor Robertson said an alternative approach would be to make a motion now to add the topic to a future agenda. She said this would be required if the agenda item is to require staff time.

Responding to Mayor Lee, Mr. Chelminiak said he will raise the issue during Council Business as he proposed.

(c) Environmental Stewardship Initiative Update

[Item deferred.]

At 9:57 p.m., Mayor Lee declared the meeting adjourned.

Myrna L. Basich, MMC
City Clerk

/kaw