

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Extended Study Session

April 23, 2012
6:00 p.m.

Council Conference Room 1E-113
Bellevue, Washington

PRESENT: Mayor Lee, Deputy Mayor Robertson, and Councilmembers Chelminiak, Davidson, Stokes, and Wallace

ABSENT: Councilmember Balducci

1. Executive Session

Deputy Mayor Robertson called the meeting to order at 6:01 p.m., and declared recess to Executive Session for approximately 10 minutes to discuss one item of potential litigation.

The meeting resumed at 6:14 p.m., with Mayor Lee presiding.

2. Oral Communications

- (a) Bill Hirt expressed concerns about Sound Transit studies indicating that light rail can be installed on the I-90 center bridge under the preferred R8A alternative because it will not be needed for highway purposes. He commented on the September 2004 Record of Decision for the I-90 Two-Way Transit and HOV Operations Project, published by the Federal Highway Administration, and provided copies of certain pages to the Council. Mr. Hirt believes that the R8A alternative, which includes light rail, will never provide the capacity that could be achieved using the center roadway for car traffic.
- (b) Sven Goldmanis, former Mercer Island City Councilmember, encouraged the involvement of the community in East Link light rail planning. He expressed concern that certain property owners cannot sell, lease, or refinance their property right now due to the uncertainty of the light rail alignment. He emphasized the importance of working with the community.
- (c) Pat Callahan, CEO of Urban Renaissance Group, spoke on behalf of Beacon Capital, which owns property along the I-90 corridor. He noted that the Eastgate/I-90 land use and

transportation report will be discussed later in the agenda. He expressed support for the transit-oriented development portion of the plan on the north side of I-90 next to Bellevue College. He believes this type of development would bring positive changes to the area.

- (d) Jack McCullough expressed support for the report and recommendations of the Eastgate/I-90 Citizen Advisory Committee's land use and transportation planning effort.
- (e) Scott Rodgers, President of the Carriage Place Condominiums Homeowners Association (112th Avenue SE), expressed concern that property owners cannot sell, refinance, or lease their condos while the details of the East Link light rail project are still under discussion. Mr. Rodgers said that residents are asking for some clarity and certainty about the timing of the project and the property takings. He said residents will attend the East Link open house on Thursday and hope to learn more from Sound Transit at that time.
- (f) Loyd Jacobs, a Woodridge resident, expressed concern about the noise impacts of the Sound Transit East Link light rail project. He asked the Council to consider hiring a consultant to review the existing study of noise impacts in the Environmental Impact Statement.

Deputy Mayor Robertson suggested that Mr. Jacobs contact staff for a copy of the noise study previously completed for the City.

- (g) Betsy Blackstock introduced Ron Bennett, the new president of the Surrey Downs Community Club. Noting the East Link open house scheduled for Thursday, Ms. Blackstock said that early and ongoing involvement with the community is critical in designing the light rail alignment and stations.

3. Study Session

- (a) Council Business and New Initiatives

Councilmember Stokes reported that he attended a meeting of the East Link collaborative design team, as well as a meeting of certain Redmond and Bellevue City Councilmembers.

Councilmember Chelminiak commented on a letter indicating that the Downtown Post Office will be relocated to the Bel-Red corridor at the former Pella location (near the Lowes store). He suggested that the City respond during the comment period that this is not an acceptable location.

City Manager Steve Sarkozy said the City became aware of the situation recently, and the U.S. Postal Service indicates that it does not have alternatives.

Mr. Chelminiak reiterated that the proposed location is unacceptable. He suggested that the U.S. Postal Service make another attempt to find alternate locations, and that the City assist in those efforts.

Councilmember Stokes spoke in favor of communicating the City's concerns to the U.S. Postal Service.

Councilmember Wallace said the USPS letter indicated that the agency would be looking to the City of Bellevue to help them if they could not find another alternative. While he is unsure about the agency's intent in that regard, Mr. Wallace believes it is appropriate to provide feedback on the proposed location. He observed that there are always alternatives.

Deputy Mayor Robertson suggested sending a letter signed by the Mayor expressing the Council's concerns.

Mayor Lee reported that he has received a number of emails from citizens who are concerned about the Bellevue School District's plan to eliminate the PRISM program. He asked Mr. Sarkozy to look into this issue.

Deputy Mayor Robertson suggested adding the topic to the agenda for the joint meeting with the Bellevue School District later this year.

(b) Update from BDA on Jazz Festival

Leslie Lloyd, Bellevue Downtown Association, reported on the Bellevue Jazz Festival scheduled for May 30 through June 3. She thanked the City for its ongoing funding and support. The festival's mission is to bring international musicians to Bellevue, highlight local and regional performers, and to provide educational and performing opportunities for young musicians. The festival features headliner shows at the Theatre at Meydenbauer Center and Bake's Place.

Ms. Lloyd noted that the festival's major sponsor significantly reduced its financial support four months in advance of this year's event. She highlighted some of the 45 shows planned in 12 Downtown venues for the 2012 Jazz Festival.

(c) Port of Seattle Century Agenda Presentation

City Manager Steve Sarkozy introduced Tom Albro, Port of Seattle Commissioner, to present the Port's Century Agenda.

Mr. Albro presented a video describing the Port of Seattle's strategic plan for stimulating economic development over the next 25 years. The plan adds 100,000 jobs through economic growth led by the Port for a total of 300,000 Port-related jobs, while reducing the environmental footprint. Mr. Albro noted the importance of the airport, cruise ships, and continued growth to support global markets. He distributed a pamphlet summarizing the Port's Century Agenda.

Mayor Lee thanked Mr. Albro for the presentation. Mayor Lee said it is good to see that the Port's vision is compatible with Bellevue's economic development goals. He looks forward to identifying opportunities to work together.

Mr. Albro confirmed that the Port is interested in working with cities and other entities. He noted that the new air service to Dubai is largely related to Microsoft business. However, it opens up opportunities for other business activity as well. Mr. Albro reiterated the Port's interest in working with local and regional partners.

Deputy Mayor Robertson thanked Mr. Albro for attending. She noted Bellevue's strong economic environment and the importance of having reliable and timely services at Seatac airport and the seaport. She questioned how the strategic plan addresses the anticipated increasing demand on these services.

Mr. Albro said the airport has sufficient capacity to handle approximately a doubling of current travel volumes. With regard to improved access to the airport, Ms. Albro said the Port supports light rail and other modes of travel that will improve reliability and convenience.

Ms. Robertson questioned how the Port's Century Agenda addresses economic development in Bellevue and on the Eastside. Mr. Albro noted that the Port's mission is to create an environment in which entrepreneurial drive can flourish. He observed that Bellevue has succeeded in this regard. The Port's role is improving awareness of how to get involved in international trade and improving access to the markets.

Mr. Albro said that, as a Port Commissioner, he is intrigued by how the region can improve its connections with economies like China that provide opportunities.

Deputy Mayor Robertson questioned whether Port staff would be receptive to working with Bellevue staff as the strategic plan is refined and finalized, in order to enhance the understanding of Bellevue's economic development priorities and goals.

Mr. Albro said the Port understands the importance of making this a regional planning effort and helping cities to be successful.

Ms. Robertson asked how the plan addresses mobility improvements. Mr. Albro acknowledged that mobility is a constant challenge due to tremendous demands on the system. The Port recognizes the importance of a system-wide perspective and that freight capacity always needs to be a consideration. The Port envisions the need to complete highway 509 and link it to I-5, which improves traffic flow at the airport, access to the cargo terminals, and travel between the cargo terminals and warehouses in the Kent Valley. Mr. Albro said the Port is looking for opportunities to site regional facilities and amenities that will benefit freight travel.

Councilmember Chelminiak said he appreciates that the cruise ship industry is bringing some hotel business to Bellevue. He noted that an additional benefit of direct air service to Dubai is that it is also the fastest way to get to India.

Mr. Chelminiak recalled discussions with the Port prior to September 11, 2001, about an airport parking and transfer facility in Bellevue. He suggested this could be an opportunity for direct

local investment by the Port. Mr. Chelminiak noted the importance of Port and transportation facilities in Seattle's SODO area to serve freight needs.

Mr. Albro said the Port sees itself as a regional partner and understands the need to continue to meet new demands as conditions, including travel demands, change.

Councilmember Wallace commended the Port Commission's work in recent years to improve audit and public disclosure processes. With regard to the mobility issue, Mr. Wallace said he understands the importance of extending Highway 509 near the airport. He said the full implementation of the I-405 Master Plan is important for the Port and the region as well. Mr. Wallace suggested that the Port, Bellevue, suburban cities, and others work together during the next legislative session to achieve the funding needed to complete these critical highway capacity projects.

Mr. Wallace commented on news articles indicating that a percentage of the Port of Seattle's ship and freight traffic goes to Tacoma due to concerns about mobility. He is interested in learning more about the Port of Seattle's plans to maintain freight mobility at its waterfront and airport.

Mr. Albro agreed that overlapping transportation systems need to all work together, and all of them have funding and/or logistic challenges. For example, a change in sales tax allocations has produced a situation in which cities with vibrant warehousing activity do not generate sufficient dollars to fund the transportation system serving those freight corridors.

Mr. Albro spoke to the need to compete with ports in British Columbia and California. One of this region's strengths is that it is both an import and export region. He said that 51 percent of the exports through the Port of Seattle are agriculture exports. Mr. Albro said that maintaining a working waterfront is extremely valuable in supporting and expanding the regional economy.

Councilmember Davidson observed that bus rapid transit might provide a better method of getting to the airport than light rail, and he suggested that the Port explore this option for I-405.

Councilmember Stokes opined that multiple travel modes need to be preserved, and he understands the importance of the emphasis on freight mobility. He noted the plan's reference to tourism and business gateways, which is consistent with the City's work and focus as well. He wants to continue to make Bellevue a destination.

Mr. Albro said he believes that the Commissioners would be eager to have a joint meeting with the City Council to collaborate and work together. He noted that the Port is one of the founding partners of the Washington Tourism Alliance, which recognizes the value of marketing and promoting destinations.

Mayor Lee thanked Mr. Albro and said he would like to meet with the Commission Chair to discuss setting up a joint meeting with the City Council.

(d) Status Report on East Link Project, Collaborative Design Process, and Possible Cost Savings Ideas

Mr. Sarkozy introduced staff's update on the East Link light rail project collaborative design process, which involves representatives from the City Council and the Sound Transit Board as well as staff from both agencies. He noted the open house scheduled for Thursday to present the ongoing design work and potential cost-saving alternatives.

Dave Berg, Transportation Director, highlighted that tonight's presentation would address the project status, schedule, and cost-saving concepts under consideration for the portion of the East Link light rail project through Bellevue. He stated that this effort would not sacrifice mitigation measures to achieve cost savings. However, some of the design concepts under consideration could have impacts that are different than the current configuration. Those design options will require the same analysis and identification of mitigation consistent with federal, state, and City regulations.

Mr. Berg introduced Ron Lewis, the new East Link Executive Project Director.

Mr. Lewis noted that he has worked for Sound Transit for approximately 10 years. He introduced Don Billen, East Link Deputy Project Director, who will continue to work on the project.

Mr. Lewis said that preliminary engineering work has been completed and the project is moving into final design. The project has received Federal Transit Administration (FTA) and Federal Highway Administration (FHWA) Records of Decision, and the I-90 expansion joint track bridge design is advancing.

Mr. Lewis stated that finances are significantly constrained. The Finance Plan assumes the project will be delivered for \$15 million less than the current estimate. The primary goal of the memorandum of understanding (MOU) between the City and Sound Transit is to eliminate the City's \$60 million contingent contribution.

Mr. Lewis reviewed the project schedule and ongoing public outreach activities. He noted that the cost-savings work and value engineering are typical for Sound Transit in planning any major capital projects, and the City's involvement provides an added incentive for everyone to identify cost savings. Mr. Lewis said the project is scheduled to reach 60-percent design in 2013, which is the point at which the design has sufficiently evolved to conduct a more detailed cost estimate and to identify with some certainty the right-of-way and property acquisition interests.

Mr. Lewis acknowledged that there is considerable interest in property acquisitions. The 60-percent design phase is typically the time in which right-of-way certification is completed. Each parcel of property that will be required for either construction or operation of the project is identified at that point. Construction is expected to begin in 2015. Mr. Lewis briefly described the property acquisition process, noting that more information would be available during the open house on April 26.

Mr. Berg noted the Council's interest in properties along 112th Avenue SE and asked staff to provide an update.

Bernard van de Kamp, Assistant Director of Transportation, said staff has been working to determine the best approach for addressing property acquisition issues raised in the MOU. Staff will present a formal work plan to Council within the next few weeks. Sound Transit is conducting an environmental review of some of the options along 112th Avenue SE (e.g., the flyover rail configuration). As the design and environmental work proceeds, staff will gain a better sense of what the City's public purpose might be for some of the remnant parcels.

Deputy Mayor Robertson said that the issue of property acquisitions is a source of anxiety and concern for current property owners. She said citizens have asked her whether Sound Transit ever acquires property and then leases it back until it is actually used for the agency's purpose.

Mr. Lewis said that has been done in past. He provided some examples, including one lease to enable a grocery store to continue to operate until construction begins for that portion of the project. Ms. Robertson encouraged Sound Transit to consider this option as it negotiates with individual property owners in Bellevue.

Mr. Lewis noted that Sound Transit's Director of Property Acquisitions and his assistant would be available at the April 26 open house. He explained that the law requires that Sound Transit follow uniform acquisition procedures, which provide a great deal of benefits for property owners. However, he acknowledged that some situations will need to be treated individually.

Councilmember Davidson questioned how property acquisitions were handled in Seattle. Mr. Lewis explained that the Environmental Impact Statement (EIS) identified properties impacted by all of the alignments. As the preferred alignment is selected and refined, the property owners affected by the specific alignment are notified.

Councilmember Wallace noted that the Sound Transit 2 ballot measure passed in 2008. The Draft Environmental Impact Statement was released shortly thereafter, which means that impacted properties were identified during that timeframe. He expressed concern that Bellevue property owners are slated to wait until 2014 at the earliest to resolve their property acquisitions.

Mr. Lewis confirmed that the 60-percent design milestone is typically where property acquisitions begin to occur.

Councilmember Wallace questioned whether it is reasonable to expect citizens to wait six years before knowing whether their property will be acquired. He observed that Bellevue's alignment through single-family neighborhoods is different from the alignment in Seattle which runs either underground or adjacent to commercial and multifamily development.

Mr. Wallace asked whether there is another single-family neighborhood within the light rail system with properties that are waiting to be condemned. He believes that Bellevue has a special

circumstance and that it would be appropriate for the Sound Transit Board to expedite property acquisitions.

Councilmember Stokes concurred with Councilmember Wallace's concerns and encouraged Sound Transit to initiate property acquisitions as soon as possible. Mr. Stokes said that property owners subject to takings are making a sacrifice for the common good and should be handled with due consideration.

Councilmember Chelminiak indicated his support for the Council's comments.

Mr. Berg described the collaborative design process organizational structure, which involves a Leadership Team (City Councilmembers, Sound Transit Board members, City Manager, Sound Transit CEO), Steering Committee (Department Directors), Collaboration Team (City Assistant Directors and Sound Transit Deputy Project Directors), and Technical Working Groups.

At 8:11 p.m., Mayor Lee declared a short recess.

The meeting reconvened at 8:21 p.m.

Mr. Berg described the MOU schedule through 2014. Environmental work regarding the alignment along 112th Avenue will continue through the end of 2012, and additional environmental review of cost-savings concepts could continue to mid-2013. Bellevue Code amendments will be addressed through the end of this year. The City and Sound Transit will work through 2013 to prepare a development agreement while the 60-percent design work is completed. Final design is scheduled to extend to 2016.

Mr. Berg reviewed the City's financial contributions identified in the MOU: 1) \$100,000 upfront contribution in the form of City-owned property, low/no cost contributions, real property and other contributions that serve multiple purposes, and 2) Contingent contribution of \$60,000, which is the focus of the current cost savings effort.

Responding to Councilmember Wallace, Mr. Berg said that prices for materials and labor have been favorable but could change at any time, depending on factors related to the economy that are beyond the City's or Sound Transit's control.

Mr. Lewis explained that, following completion of 60-percent design, any decrease in the estimated cost of the project within Bellevue will be used to reduce the City's contingent contribution. All contingent contribution costs will be applied to actual light rail tunnel construction costs, and the purpose of the collaborative design process is to eliminate the contingent contribution. Mr. Lewis said that cost savings is an ongoing objective through the duration of the project, and can also be achieved through efficiency in project delivery.

Mr. Lewis described the work to identify and analyze cost savings concepts related to light rail operations, station access/ridership, traffic, noise, visual impacts, and other environmental effects. Cost savings concepts developed by Sound Transit and Bellevue staff have been

categorized as follows: 1) Ideas advanced for further engineering review, 2) Ideas that may affect MOU project description, and 3) Ideas previously reviewed and not selected to move forward. These ideas have been submitted to the collaborative design process Leadership Team and will be presented to the Sound Transit Board on April 26.

Mr. Lewis presented the list of ideas advanced for further engineering review: 1) Tunnel design optimization, 2) Tunnel station design optimization, 3) Tunnel construction staging area, 4) Elevated guideway design, 5) Optimize 120th station design, 6) Reduce stormwater vaults through the use of low-impact development design, and 7) Expedite tunnel construction through additional road closures.

The second category of ideas is the primary focus of the public outreach process, as they might affect the MOU project description related to: 1) The Winters House, 2) 112th Avenue at SE 4th Street, 3) Downtown station design, 4) Downtown tunnel design, and 5) NE 16th Street cross-section.

Referring to the first category of cost-savings ideas, Councilmember Wallace asked staff to clarify at some point the savings to be achieved for the City, versus Wright Runstad, by optimizing the 120th station design.

Deputy Mayor Robertson clarified for the public that these cost-savings ideas have not been adopted and are still being studied and discussed. This analysis includes addressing noise, visual, and traffic impacts for properties along the alignment. Public outreach on the ideas will be conducted as well.

Mr. Lewis confirmed that the concepts are preliminary in nature. Staff will continue working to identify impacts and estimate cost savings for further discussion with the Council. Mr. Lewis said more advanced design work, including cost estimates and impacts, will be presented in May and June.

Mr. Lewis described two potential cost savings concepts related to the Winters House. One involves shifting Bellevue Way and light rail away from the house using an at-grade alignment instead of the currently planned retained cut.

Staff responded to questions of clarification.

Mr. Wallace recalled an earlier design concept that placed light rail along the west side of Bellevue Way, and suggested including it in Thursday's open house.

Mr. Lewis said staff is working on a number of additional visual simulations to be presented on Thursday and over the coming weeks.

Deputy Mayor Robertson said the Leadership Group has discussed its interest in animations, which she would like to see before a decision is made on the final alignment.

Mr. Lewis described a second concept for the Winters House, which involves moving it to another location to accommodate an at-grade light rail track along Bellevue Way adjacent to the existing roadway.

Councilmember Stokes noted that eliminating the retained cut along the Winters House represents the potential for substantial cost savings. The additional benefit is precluding potential damage to the Winters House and other complications that could arise with the construction of the retained cut. However, moving the Winters House involves additional costs that have not yet been quantified, and it removes the house from its historical context.

Responding to Councilmember Davidson, Mr. Lewis confirmed that Bellevue Way would shift slightly to the west in front of the Winters House under the first option. Mr. Lewis cautioned that the concept options are focused on this particular location, and more analysis is needed to see how any of them fit into the broader system.

Councilmember Stokes suggested that the workshop on Thursday clearly communicate to the public that the merits of each design concept will involve an analysis of how they affect the entire alignment.

Mr. Berg described a design option for the 112th Avenue alignment, which eliminates the connection at SE 4th Street and related bells and noise issues. It closes SE 4th Street and extends SE 8th Street into the Surrey Downs neighborhood. It provides a number of benefits but there are many considerations that need to be investigated further.

Deputy Mayor Robertson expressed concern regarding extending SE 8th Street into the neighborhood and the potential for cut-through traffic.

Councilmember Wallace recalled that the Council's resolution states that the City will look at the potential for public uses in the event, however unlikely, that Sound Transit ultimately continues to conclude that it is appropriate to take slivers of property and locate the train track close to homes. Mr. Berg confirmed this understanding.

Mr. Lewis described options for the Downtown Bellevue light rail station and existing Transit Center.

Responding to the Council, Mr. Lewis confirmed that light rail stations have elevators and, generally, escalators going up with stairs going down. All stations are ADA-compliant.

Councilmember Chelminiak suggested taking the 550 bus to Downtown Seattle and visiting the current transit tunnel stations to get an idea of what the light rail stations might look like.

Moving on, Mr. Lewis described a Downtown Bellevue stacked tunnel design option, which narrows the required right-of-way.

Responding to Councilmember Stokes, Mr. Lewis said 110th Avenue NE would have two or three lanes with this option.

Mr. Berg described an option to locate the light rail station on NE 6th Street at street level. This reduces the risks associated with an underground station, potentially expedites the completion of the Downtown Tunnel, and increases the visibility of the station. However, again, there are many considerations that need further study including the impact to City Hall, Meydenbauer Center, and 112th Avenue NE.

Responding to Councilmember Davidson, Mr. Berg acknowledged that the train cannot make a right-angle turn. Mr. van de Kamp said staff will provide more accurate drawings of the design concepts for the open house on Thursday.

Responding to Deputy Mayor Robertson, Mr. Berg said staff will provide more accurate information on cost estimates and impacts in May.

John Stokes said it would be helpful to have vertical visuals of the Downtown Station and Transit Center options and to identify the station entrances.

Mr. Lewis commented that the discussion illustrates how early the project team is in evaluating the new cost saving concepts. The team will continue to release more information through June as designs and cost estimates are refined.

Councilmember Wallace observed that the purpose of identifying options is to reduce project costs. He questioned whether it will be meaningful for the public to review the options without knowing the estimated cost savings.

Mr. Lewis said staff's work gives a rough idea of the order of magnitude of the cost differences to determine that there is sufficient potential for cost savings. The project team wants to get the ideas out to the public now in order to have a conversation, to the extent possible, about the options and the public's criteria for evaluating them. He acknowledged the challenge of presenting information to the public when there are many details yet to be studied and evaluated.

Mr. Wallace said that progress since the adoption of the MOU in December has been slow. He questioned whether it is realistic to expect that the preferred cost saving concepts can be selected by June. Mr. Lewis acknowledged that the schedule is a challenge. He confirmed that June is the timeframe for identifying concepts to be carried forward to value engineering while final design continues to move forward.

Councilmember Stokes said he understands concerns about the cost estimates. He suggested identifying the three Downtown Bellevue Station options based on relative low, medium, and high cost differences.

Councilmember Chelminiak concurred that the analysis will be more meaningful when cost estimates are available. He noted the importance of maintaining a focus on overall system

performance, and not focusing on cutting costs to the point that more money is spent in the future to modify the initial project.

Mr. Lewis reiterated that much more work is needed to refine the design concepts and cost estimates.

Ms. Robertson concurred with Mr. Stokes' suggestion to provide, in the absence of better cost estimates, relative orders of magnitude for comparing options. She said that lowering overall project costs will enable more money to be available for impact mitigation

Mayor Lee expressed support for providing the relative magnitude of costs for comparison purposes at the open house on Thursday. Mr. Lee stated that the mitigation of impacts is the highest priority for the project, and he does not want to lessen mitigation based on cost.

Mr. Lewis confirmed that the collaborative design process team is using the MOU as its guide and checking in with the City Council and Sound Transit Board along the way to ensure that the MOU is carried out as intended. He said that Sound Transit wants to move forward as quickly as possible to refine the project and provide some certainty to the public.

Councilmember Stokes commended staff on their work.

Mr. Berg described an option to place the Downtown Bellevue station at street level on the City Hall and adjacent Metro sites.

Mr. Lewis described a proposed cost saving concept that uses a retained cut from Main Street to NE 2nd Street instead of the 110th Avenue NE tunnel. He reviewed an alternative design for NE 16th Street as well.

Mr. Berg noted the following ideas previously reviewed and not selected for further analysis – proposed Bellevue Way HOV ramps to exit I-90, an at-grade center-running alignment on Bellevue Way and 112th Avenue, and an at-grade crossing at 112th Avenue and SE 6th Street.

Mr. Lewis reviewed the next steps. The open house at Bellevue City Hall is scheduled for April 26. Technical findings will be presented to the City Council and Sound Transit Board in late May, and another open house will be held in early June. The City Council and Sound Transit Board will work through June to identify the concepts for inclusion in value engineering and environmental review. Final decisions on cost savings concepts are not anticipated before 2013.

Councilmember Davidson questioned the potential for a deep bored tunnel in Bellevue, as has been used in parts of Seattle.

Mr. Berg said the current MOU process is focused on the preferred alignment and configuration selected by the Sound Transit Board.

Deputy Mayor Robertson and Councilmember Wallace asked staff to clarify for Sound Transit that transit-oriented development is not an option for the South Bellevue Station/Park and Ride or the Surrey Downs neighborhood. Mr. Lewis agreed to convey that message. However, he said that while Sound Transit is interested in TOD at a number of locations in Seattle, Bellevue controls its land use policies and will make its own decisions in that regard.

→ Deputy Mayor Robertson moved to extend the meeting to 10:30 p.m., and Councilmember Stokes seconded the motion.

→ The motion carried by a vote of 6-0.

(e) Eastgate/I-90 CAC Final Report and Recommendations

City Manager Sarkozy opened discussion regarding the Eastgate/I-90 Land Use and Transportation Project Citizen Advisory Committee (CAC) report.

Mike Bergstrom, Senior Land Use Planner, introduced Jay Hamlin, Co-Chair of the CAC and a Planning Commission Member. He noted that Francois Larrivee, Transportation Commission Member and CAC Co-Chair was not able to attend. Councilmember Stokes served as a CAC member, and Deputy Mayor Robertson participated as the Council's liaison to the CAC.

Mr. Hamlin recognized Mr. Bergstrom and Franz Loewenherz, Senior Transportation Planner, for their good work with the committee, and thanked all of the CAC members for their hard work and contributions.

Mr. Hamlin reviewed key characteristics of the Eastgate/I-90 corridor including strong employment center, market demand for additional office space, Bellevue College, industrial uses in the Richards Valley, Eastgate Plaza shopping center, and car dealerships that are performing well. However, the corridor has limited transportation connectivity.

Responding to Councilmember Davidson, Mr. Loewenherz said that specific plans regarding the mode of future high-capacity transit service to Issaquah are unknown.

Mr. Hamlin provided an overview of the preferred alternative for the Eastgate/I-90 area, noting that more details are provided in the final report. The alternative builds on the corridor's success as an employment and office center, establishes a mixed-use transit-oriented development center, increases the residential presence in proximity to transit, and promotes the enhancement of the visual presence of Bellevue College.

Mayor Lee questioned the plan's connectivity to the Factoria area.

Mr. Bergstrom said that Factoria is outside of the study area. However, it was acknowledged early on by the CAC that the Factoria area has a strong role in the entire I-90 corridor. Mr. Loewenherz noted that the transportation system connects the two areas.

Continuing with the presentation, Mr. Loewenherz reported that enhanced wayfinding signage has been added along I-90 as part of this project. Next steps underway are Lakemont interchange improvements, the Mountains to Sound Greenway Trail preliminary design, and Transportation Facilities Plan (TFP) amendments. Implementation of the land use plan will require a number of actions through 2012-2013 related to Comprehensive Plan Amendments, Land Use Code Amendments, urban design guidelines, and zoning map amendments.

Councilmember Davidson noted his ongoing concern about how Sound Transit plans to serve this corridor.

Mr. Loewenherz said that Sound Transit was involved in the project somewhat and is well aware of the City's work.

Councilmember Chelminiak stated that Sound Transit Phase 3 is not in the near future, and the first effort will be to extend light rail to Redmond.

Mr. Chelminiak said he was somewhat surprised to see how much traffic comes from the south end and then travels east on I-90. He observed that this travel pattern would be best served by bus rapid transit.

Responding to Councilmember Wallace, Mr. Bergstrom said the next step is to initiate the Comprehensive Plan Amendment (CPA) process in order to send the project to the Planning Commission for review and discussion.

Mr. Wallace expressed support for the project and its community involvement. However, he acknowledged that the question of moving forward will need to be discussed within the broader context of the budget.

Deputy Mayor Robertson commended the CAC for their hard work and positive interactions. She thanked Mr. Bergstrom and Mr. Loewenherz for their support of the committee. Ms. Robertson stated her understanding of the next step, which is that there would be a Comprehensive Plan Amendment at the Planning Commission, followed by zoning map and Land Use Code amendments. She voiced support for accepting the CAC's report, while also acknowledging that recommended activities will need to be budgeted.

Councilmember Stokes concurred with Ms. Robertson's comments, noting that it was a great experience to serve on the CAC. He said the CAC was a hard-working group that came up with a great planning product.

→ Councilmember Stokes moved to accept the Final Report of the Eastgate/I-90 Citizen Advisory Committee (CAC) for the Land Use and Transportation Project, to forward the report and recommendations to the Planning and Transportation Commissions, to thank and formally disband the CAC, and to initiate the Comprehensive Plan Amendment (CPA) process for implementation of the recommended plan. Deputy Mayor Robertson seconded the motion.

Councilmember Chelminiak expressed support for the plan. He questioned the anticipated timeline for implementation of the plan, especially as it relates to residential population growth. Mr. Chelminiak noted that the Bel-Red Plan achieves 2040 housing targets. He questioned whether housing targets for the Eastgate area should be targeted toward the 2050-2060 timeframe.

Mr. Bergstrom explained that there is only one vacant parcel of any significant size in the entire Eastgate/I-90 study area. He noted that the relative emphasis on residential or office development can be adjusted. However, that is also subject to market demand. Mr. Bergstrom said the CAC was looking at essentially a 20-year horizon, but there could be additional growth beyond that timeframe.

Mayor Lee thanked the CAC and City staff for their work.

Responding to Mr. Lee, Mr. Bergstrom observed that a down market is a good time to plan and to anticipate the development activity that will occur when market demand improves. Mr. Bergstrom said the plan acknowledges that there might be a need to consider phasing in the new zoning, however. In further response, Mr. Bergstrom said that, if the motion passes, the next step will be to work on the CPA, whether that happens in 2012 or 2013.

→ The motion carried by a vote of 6-0.

(f) Regional Issues

Joyce Nichols, Interim Director of Intergovernmental Relations, referred the Council to page 3-43 of the meeting packet, which asks the Council to authorize the City Manager to execute an Interlocal Agreement with the King County Flood Control District and King County that will transfer the assets of the former South West Lake Sammamish Flood Control Zone District to the City of Bellevue. She explained that staff would like to place this item on the Council's May 7 Consent Calendar for action.

Ms. Nichols said this is a housekeeping item to formally dissolve the former South West Lake Sammamish Flood Control Zone District. All of the independent flood control districts within King County were dissolved when the King County Council created the King County Flood Control Zone District in 2007. The Interlocal Agreement formally transfers facilities, which are maintained by Bellevue Utilities, and remaining financial assets in the amount of \$140,000, to the City of Bellevue.

Deputy Mayor Robertson expressed support for placing this item on the next Consent Calendar for Council action. She requested not allocating the \$140,000 to any particular project without first discussing potential stormwater control projects with the Council.

Ms. Nichols said that, under Council-adopted policy, one-time money such as this is deposited into replacement and repair reserves.

Mayor Lee noted a Council consensus to move forward as recommended by staff.

At 10:30 p.m., Mayor Lee declared the meeting adjourned.

Myrna L. Basich, MMC
City Clerk

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CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Study Session

May 7, 2012
6:00 p.m.

Council Conference Room
Bellevue, Washington

PRESENT: Mayor Lee, Deputy Mayor Robertson, and Councilmembers Balducci¹,
Chelminiak, Davidson, Stokes, and Wallace

ABSENT: None.

1. Executive Session

At 6:04 p.m., Deputy Mayor Robertson opened the meeting and declared recess to Executive Session for approximately 30 minutes to discuss one item of potential litigation.

The meeting resumed at 6:42 p.m., with Mayor Lee presiding.

Mayor Lee recognized King County Councilmember Jane Hague in the audience and invited her to comment on the pending annexations.

Councilmember Hague recalled the Council's previous discussions and the anticipated effective date of June 1 for the South Bellevue annexations. She said the Interlocal Agreement between the City and King County has been modeled after the agreement used with the City of Kirkland in its most recent annexations.

Councilmember Hague thanked Chris Salomone, Director of Planning and Community Development; Dan Stroh, Planning Director; and Nicholas Matz, Senior Planner for their work with the community and her staff.

Deputy Mayor Robertson thanked Councilmember Hague for her involvement in advocating for the annexations.

Mayor Lee thanked Ms. Hague for her role in bringing the community together and supporting the annexations.

¹ Councilmember Balducci arrived at 6:46 p.m.

2. Study Session

(a) South Bellevue Annexation Interlocal Agreement

Deputy City Manager Brad Miyake opened discussion regarding the South Bellevue Annexation Interlocal Agreement. He noted that formal Council action will be requested on May 21.

Planning Director Dan Stroh explained that the Interlocal Agreement will manage the orderly transition of governance between King County and Bellevue for the South Bellevue annexations of Eastgate, Tamara Hills, and Horizon View. The draft agreement is presented tonight for the City Council's review, and will be discussed by the King County Council on May 15. The intent is for both Councils to take final action by May 21.

Nicholas Matz, Senior Planner, said the Interlocal Agreement covers all of the South Bellevue annexation areas of Eastgate, Tamara Hills, and Horizon View (and ultimately Hilltop, if property owners there submit a direct petition to annex). The agreement supersedes the existing, separate Interlocal Agreement for annuity payments on the 150th Avenue SE road improvements project. The agreement clearly articulates the intent and process for transitioning development review and permitting authority.

Deputy Mayor Robertson stated her understanding that projects vested by King County will continue to be permitted under the County's code.

Mr. Matz confirmed that her understanding is correct. Permits issued by the County stay under County regulations. However, whether or not a hearing has been held will determine how the permit comes to the City. In instances that remain under County regulations, the City will enforce those regulations within the City's process.

Continuing, Mr. Matz said the Interlocal Agreement covers a five-year term, with an effective annexation date of June 1. It transfers real property and road-related property and includes general implementation provisions. The Development Services section addresses transfer, processing, vested rights status, permit expiration, monitoring, SEPA (State Environmental Policy Act) considerations, and code enforcement.

Councilmember Stokes referred to page SS 2-3 of the meeting packet and questioned Item 7(b) regarding vested land use applications.

Kate Berens, Deputy City Attorney, said that some of the vested permits could come to the City as quasi-judicial matters. Councilmembers will be informed about those as they arise.

Councilmember Chelminiak noted that he has been receiving emails about Cougar Mountain Montessori school.

Ms. Berens said the school's conditional use permit pending with King County will likely be transferred to the City to complete processing. She advised Councilmembers to not have any ex parte communications regarding this application.

Continuing, Mr. Matz said the Interlocal Agreement also contains a financial guarantees (bonds) provision and addresses fees and reimbursement for certain services by the City and County.

Mayor Lee questioned what is changing. Mr. Matz said the new agreement supersedes the 150th Avenue SE cost-sharing agreement with King County. Under the old agreement, the City would have had to make payments to King County beginning after annexation. That provision does not appear in the new Interlocal Agreement.

Mr. Stroh explained that the old agreement would essentially have discouraged annexation. However, King County's stand on its potential annexation areas have changed since that time to encourage annexation.

Responding to Councilmember Chelminiak about the reference to state law regarding the County Sheriff's Department, Ms. Berens said that section of the Interlocal Agreement is written essentially the same as state law. It describes an obligation, if there are Sheriff's Deputies who would be laid off as a result of the annexation, that the City provide notice to them if the City is hiring.

Councilmember Hague confirmed that the County is not planning any related layoffs.

Councilmember Wallace suggested striking the paragraph if it is already addressed in state law.

Ms. Berens said she made that request. The response was that the County is comfortable with the Interlocal Agreement template and would like to keep the language consistent with other agreements that have gone before the King County Council. Having the section in the agreement does not add any new obligation for the City, but states what the City is already obligated to do under state law.

Responding to Councilmember Balducci, Ms. Berens said that state law requires that the City notify Sheriff's Deputies of any job openings with the City, if they are laid off by the County due to annexation.

Councilmember Wallace questioned the indemnification provisions and the implications for liability.

Ms. Berens said there are three indemnification provisions in the Interlocal Agreement pertaining to: 1) Roads and drainage-related properties, 2) The agreement in general and how the parties operate under the agreement, and 3) The handing of permitting. In general, the approach for all of them is a negligent standard mutual indemnification that one would expect to see in many contracts, including many of the City's professional services agreements.

With respect to the roads and drainage-related facilities, Ms. Berens said the City is taking a limited number of properties. City staff is inspecting those properties and, upon annexation, will receive records that will give the City information about any conditions on those properties that are likely to give rise to any third party claim. If an incident occurs prior to annexation on these properties, claims will be handled by King County even if the claim is filed after annexation.

Councilmember Chelminiak referred back to the Sheriff's Department issue, noting that he assumes that state law requires the County to notify the City and to provide the names of individuals if they are laid off. He questioned whether the law also requires the County to affirmatively tell the City that no one was laid off.

Ms. Berens said she will check the RCW for the specific language.

Mr. Matz reiterated that Council action is scheduled for May 21. The proposed annexation effective date is June 1 for Eastgate, Tamara Hills, and Horizon View.

(b) Hilltop Annexation Agreement

Mr. Miyake recalled that, on April 16, the Council directed staff to continue to work with the Hilltop community on a solution to address the management of habitat outside of traditionally regulated critical areas.

Mr. Stroh said that Hilltop residents submitted a proposal for a site plan review process, which is provided in the meeting packet beginning on page SS 2-10. The process affects habitat only and not other critical areas. Mr. Stroh noted the presence of Hilltop residents in the audience, who were available to respond to questions if asked.

Mr. Matz explained that the City was looking for a proposal that would be able to meet relevant Comprehensive Plan policies about critical areas habitat and that would be consistent with the requirements of the City's Land Use Code.

Mr. Matz described the site plan review process, which applies to individual properties whose owners opt into the process and to Hilltop Community, Inc. (HCI)-owned properties. Site Plan Committee review is required for all removals or pruning of significant trees. The Site Plan Committee reviews and permits balanced vegetation management activities in areas of critical habitat. The Site Plan Committee consults and applies Best Management Practices of federal, state and county agencies, and the City's Critical Areas Ordinance habitat standards. The Site Plan Committee will track the performance of the site plan process as a means of reporting back to the City.

Responding to Councilmember Davidson, Mr. Matz said the City does not give up any of its authority under the agreement.

Ms. Berens said the final step and link to the City's process is that each site plan will be authorized as a programmatic clearing and grading permit. The programmatic clearing and

grading permit is a tool used by the City that recognizes the need to manage vegetation in a more holistic approach for certain situations. It has been used with other homeowners associations and with the City's Utilities Department to allow them to manage vegetation under a set of guidelines instead of issuing permits for each individual action. If an action (i.e., tree clearing or trimming) occurs that is not consistent with the clearing and grading permit, it is treated as any other Code violation and enforced through the City.

Responding to Councilmember Davidson, Ms. Berens said the regulations do apply to Hilltop's community-owned property. Citizens can choose to opt into the site plan review process as well. If they do not, they are subject to the City's standard permitting requirements.

In further response to Dr. Davidson, Ms. Berens said that vegetation management plans associated with programmatic clearing and grading permits are approved through the Development Services Department at the administrative level.

Responding to Mayor Lee, Ms. Berens said the Land Use Code sets the criteria and performance standards for vegetation management plans. They are typically consistent with the Washington State Department of Fish and Wildlife's best management practices for habitat management. Ms. Berens said there is a proactive annual recording requirement to monitor the program's effectiveness.

Deputy Mayor Robertson stated her understanding of the process. The applicant would be issued an umbrella permit, and all of the internal issues of how they administer it within the Hilltop community would be decided by the residents and not directly involve the City. Ms. Berens said that is correct. In further response, Ms. Berens confirmed that HCI and the residents who opt into the site plan review process will report annually, comply with the City Code, and be subject to City enforcement for non-compliance.

Ms. Robertson said she wants the community to be one Bellevue after annexation is complete, and she believes that this approach accomplishes that goal. She noted that another community association has a similar programmatic permit approach.

Responding to Dr. Davidson, Ms. Berens said that applicants will have to pay the permit fees for the programmatic permit.

Councilmember Stokes expressed support for moving forward with the Interlocal Agreement. He believes it serves everyone well. He thanked staff and residents for the work.

Councilmember Chelminiak thanked staff and the community for all of their work on this issue. He observed that, while he endorses the idea of one Bellevue, he believes it is important to recognize that neighborhoods vary and have different characteristics or elements that are important to them. Mr. Chelminiak believes that Hilltop residents will continue to manage their habitat well.

Councilmember Wallace observed that he supports the proposed agreement and site plan review process as summarized by Deputy Mayor Robertson. However, he does not see that clearly stated in the meeting packet materials. Mr. Wallace said he is eager to complete the annexation, but suggested that the City avoid creating special exceptions as much as possible. He is comfortable with the proposal, however, because it establishes a permit that enforces the City's standards.

Councilmember Balducci said she supports the agreement. She thanked staff and residents for their work, and suggested cancelling the public hearing tentatively set for May 21.

Ms. Berens confirmed that, if the Council is comfortable with what has been discussed, there is no need to hold a second public hearing. She did not see the need for a formal motion, but requested a general consensus of the Council.

Dr. Davidson expressed his support for the proposal.

Deputy Mayor Robertson agreed with cancelling the second public hearing. However, she wants the annexation agreement to clearly state that the site plan review approach is a master permit under the City's regulations. She wants it to be clear that the Hilltop association is not administering the City Code, and the City is not delegating its authority to a homeowners association.

Ms. Robertson said that this item is scheduled to come back to the Council on May 21, and water agreements are to be presented during the May 14 Extended Study Session. The Council will be asked to take action on the agreements on May 21 without having 60-percent petitions, which seems backwards to her. Ms. Robertson noted that she wanted to go on the record with that comment. She said it seems that the City should have the petitions before taking action on the contract for annexation.

Mr. Stroh said Council action is scheduled for May 21 because Hilltop has been asking for certainty that all of the negotiations that have led to these agreements will result in an understanding of the conditions under which the annexation would occur. He confirmed that annexation will not go into effect unless sufficient petitions are received. May 24 is the latest date to have the petitions in hand in order to meet the August 1 effective date for annexation.

Mr. Stroh said staff scheduled a discussion on the water district agreements for May 14 to enable the Council to be ready to take action on the overall annexation package on May 21.

Responding to Dr. Davidson, Mr. Stroh said the Hilltop area will not come into the City's sewer system. He noted that there are other areas within the city limits that are not on the City's sewer system.

Councilmember Stokes observed that code enforcement will be handled by the City. However, the process enables the community to continue to be stewards of their habitat. He suggested coming up with some language in the agreement to make that clear.

Mayor Lee commended staff and residents for sticking with the annexation effort and for working so hard to resolve the habitat regulation issue. He summarized that the City will enforce its regulations and does not lose any of its permitting and regulatory authority. For clarification purposes, he suggested that staff prepare a chart showing how specific provisions are enforced and monitored.

Mayor Lee noted a Council consensus to not hold a second public hearing.

3. Council Business [*From Regular Session Agenda, Item 6*]

Councilmember Chelminiak attended meetings of the Economic Development District Board, Mental Illness and Drug Dependency (MIDD) Oversight Committee, and the Committee to End Homelessness. He highlighted the ongoing need for emergency housing for the homeless in addition to more permanent or transitional housing.

Councilmember Wallace participated in interviewing candidates for the Human Services Commission.

→ Councilmember Wallace moved to appoint James McEachran to the Human Services Commission, and Councilmember Chelminiak seconded the motion.

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

Councilmember Wallace reported that he attended the Transportation Commission meeting. He met with King County staff and City Utilities Department staff regarding the wastewater capacity charge.

Mr. Wallace said he met with the Police Chief, Fire Department staff, and Parks Department staff to discuss their priorities. He noted past discussions about locating a Downtown Fire Station, and suggested that it could be co-located with a Police Station and Parks facility. He requested discussing this in a future Study Session.

Deputy City Manager Miyake said that item was discussed during the Mayor's Meeting. Staff will provide an update and work plan for moving forward on that topic.

Responding to Councilmember Chelminiak, Mr. Miyake confirmed that there is a CIP project for Downtown Fire Station planning. Mr. Chelminiak requested an update on that issue as well as on Ashworth Park and other potential locations. Mr. Miyake said staff will bring back that history.

Councilmember Balducci met with the Arts Commission's outgoing Chair, Bill Ptacek, and Mary Pat Byrne, the City's Arts Specialist. Interviews will be conducted the following week to fill three vacancies on the Arts Commission. Ms. Balducci attended the Kelsey Creek Farm sheep shearing event.

Councilmember Davidson attended the East Link open house at City Hall and meetings of the WRIA 8 Executive Board, Cascade Water Alliance Board, and Regional Water Quality Committee.

Councilmember Stokes attended an open house on capital projects hosted by the Environmental Services Commission and the East Link open house on cost-saving proposals for the light rail project.

Deputy Mayor Robertson reported that she and Councilmembers Stokes and Wallace attended East Link Leadership Team and Core Team meetings. Ms. Robertson attended a meeting of the Puget Sound Regional Council (PSRC) Transportation Policy Board's prioritization working group. She attended the East Link open house at City Hall, met with the Bridle Trails Community Club to discuss the electrical reliability study, and met with the Chair of the Bellevue Library Board.

Mayor Lee attended the Washington State Parks and Recreation breakfast, 10K run at Downtown Park, Kelsey Creek Farm sheep shearing event, Youth Link conference, and Bellevue College fundraising event.

At 8:09 p.m., Mayor Lee declared recess to the Regular Session.

Myrna L. Basich, MMC
City Clerk

kaw

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Regular Session

May 7, 2012
8:00 p.m.

Council Chamber
Bellevue, Washington

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

ABSENT: None.

1. Call to Order

The meeting was called to order at 8:14 p.m., with Mayor Lee presiding.

2. Roll Call, Flag Salute

Upon roll call, all Councilmembers were present. Councilmember Chelminiak led the flag salute.

(a) 2011 Bellevue Community Volunteer of the Year Award

Mayor Lee recalled that two Volunteer of the Year Awards were presented during a previous meeting, but one recipient was unable to attend at that time.

Shelly Shellabarger, Volunteer Coordinator, presented the Community Volunteer of the Year Award to Tracy Maury Meloy in recognition of her role as a founding Board Member for the Eastside Pathways program.

Councilmembers greeted and congratulated Ms. Meloy individually.

(b) Bellevue Public Gardens Day Proclamation

Mayor Lee read a proclamation declaring May 11 as Bellevue Public Gardens Day. He encouraged citizens to visit the Bellevue Botanical Garden.

Robin Root James, Co-President of the Bellevue Botanical Garden Society, thanked Council for the recognition of Public Gardens Day. She noted that the Bellevue Botanical Garden Society has partnered with the City for 20 years. She announced the opening of the Ravine Experience

bridge and trail on May 13. The project cost totaled approximately \$1 million, of which \$650,000 came from private donations to the Garden Society's *Growing a Living Legacy* capital campaign. Remaining funds came from the Parks levy, and assistance with native plant restoration was provided by the Washington Native Plant Society Stewards, East Lake District of Garden Clubs, and the Hardy Fern Foundation.

Ms. James said the Society is now focusing its attention on the fundraising effort for planning the new visitor center. The Society has raised more than \$2 million toward its \$5 million capital campaign goal.

Councilmember Davidson mentioned the Washington Native Plant Society's plant sale on Saturday, May 12, at the Bellevue Botanical Garden.

(c) National Older Americans Month Proclamation

Mayor Lee read a proclamation recognizing May as National Older Americans Month in Bellevue.

Eileen Rasnack, Chair of the Bellevue Network on Aging, said this year's theme is *Never Too Old to Play*. She described issues of interest to older adults, the Network's advocacy efforts, and upcoming activities.

Ms. Rasnack asked the Council to consider the needs of older adults in every decision it makes. She invited Councilmembers to the Network's monthly meetings, which are held at 8:30 a.m. on the first Thursday at Bellevue City Hall. She noted additional information available in the meeting packet, and asked all older adults in the audience to stand up and be recognized.

(d) Proclaiming May as Arts Education Month

Deputy Mayor Robertson read a proclamation recognizing May as Arts Education Month. She welcomed Paul Mills, Chairman of the Bellevue School District Board of Directors, and Bill Ptacek, Chair of the Bellevue Arts Commission, to receive the proclamation.

Mr. Mills spoke to the importance of arts education in every school.

Mr. Ptacek commented that a strong arts education program leads to a community that is strong in arts and culture. He said there were five additional Arts Commissioners in the audience.

(e) Proclaiming Asian-Pacific Americans Heritage Month

Deputy Mayor Robertson read a proclamation recognizing Asian-Pacific Americans Heritage month in Bellevue.

3. Communications: Written and Oral

- (a) Ezra Eickmeyer introduced himself as a lobbyist representing the medical cannabis community and a representative of the Law Offices of Kurt Boehl in Seattle. Mr. Eickmeyer said they would like to open communications with the City to discuss medical marijuana collective gardens. His clients are interested in determining whether the City would like to have regulations in place before collective gardens move into the community. Mr. Eickmeyer said that some cities have not proactively addressed the issue, which has caused problems at times related to collective gardens.

Mr. Eickmeyer requested a meeting with the City Manager and representatives of the City Council. He noted that they have worked with the cities of Issaquah, Tacoma, and Shoreline. Past experience has demonstrated that, under the confusing state laws, medical cannabis gardens are operating the smoothest and best for cities and medical cannabis patients when the cities have adopted a regulatory framework.

4. Reports of Community Council, Boards and Commissions: None.

5. Report of the City Manager

- (a) Management Brief on Work Plan to Evaluate Potential Public Uses along 112th Avenue NE

Deputy City Manager Brad Miyake opened discussion regarding the Memorandum of Understanding collaborative design process for the East Link light rail project. He referred to page 5-1 of the meeting packet for a management brief regarding the work plan to evaluate potential public uses along 112th Avenue NE.

Deputy Mayor Robertson acknowledged that residents are interested in knowing what will happen along 112th Avenue with regard to light rail. She noted that the timeline of the work plan is six to eight months, and she urged speeding up that process.

Councilmember Davidson observed that deep bore tunneling would avoid property takings. He believes this should be considered by Sound Transit, which provided tunnels in areas of Seattle.

Responding to Mayor Lee regarding the timeline, Bernard van de Kamp, Assistant Director of Transportation, said staff can take a look at trying to accelerate the timeframe for the study of properties along 112th Avenue SE. With regard to Dr. Davidson's question, Mr. van de Kamp said that tunneling is considerably more expensive than elevated or at-grade options. Staff has been focusing on ways to reduce costs consistent with the guidelines provided in the East Link MOU and the related City Council resolution.

Councilmember Balducci said that Sound Transit has indicated that the 2014 date is not absolute in terms of addressing property acquisitions, and that perhaps they can be expedited. She offered to assist in any way she can in working with Sound Transit on this. She observed that the City can likely move faster on property takings.

Following up on Mr. van de Kamp's comments, Ms. Balducci said that Sound Transit and the City previously looked at different configurations involving deep bored tunnels, and those alternatives were hundreds of millions of dollars more expensive. She observed that it is not a helpful exercise at this point to get people engaged in thinking that the project could provide a deep bored tunnel from I-90 to Downtown Bellevue, because it is completely unaffordable.

Ms. Balducci said the City should be working as hard as possible to achieve final design on the alignment. She discouraged major changes to the design and alignment previously agreed on for South Bellevue, and encouraged moving forward to finalize design and optimize mitigation.

Councilmember Wallace said it is unacceptable to expect residents to wait until 2014-2015 for decisions on property takings. He expressed support for Councilmember Balducci's suggestion to work with the Sound Transit Board to expedite the agency's process.

Mr. Wallace said that, while he is not a huge fan of the preferred alignment, he believes that the best the City can do now is to refine the design and focus on mitigation in order to make the project as good as possible. He believes there is no sense in talking about a deep bored tunnel at this point because it is not feasible.

Councilmember Chelminiak encouraged moving forward and expediting property acquisitions along 112th Avenue SE. He noted that any alignment, including the B7, involved property takings.

Councilmember Stokes said it is important to stay focused on the MOU collaborative design process and preferred alignment. He believes that the City and Sound Transit will be able to resolve all of the issues, but it will take some time.

Councilmember Davidson commented on the deep tunnels under Beacon Hill, Capitol Hill, and the University of Washington. He questioned why tunnels are cost-effective for Seattle but not Bellevue. He would like to have the facts clearly laid out.

Councilmember Stokes commented that the topography is different in Bellevue, which does not have the high hills present in Seattle. He spoke in favor of addressing the issues contained within the MOU and moving forward.

Mayor Lee said it is appropriate that the City is addressing what it agreed to in the MOU. It would not be constructive to go back to old issues and controversies. Mr. Lee said he believes in the need to do what is best for the public and community. He noted the importance of focusing on mitigation to make this the best possible project.

Mr. Lee acknowledged Dr. Davidson's interest in more information and discussion. Mr. Lee encouraged remaining open minded about opportunities, but not getting distracted and losing sight of the path ahead.

Councilmember Wallace expressed concern about losing the focus of the MOU collaborative design process and losing the ability to effectively negotiate with Sound Transit for appropriate mitigation and to reduce or eliminate the City's \$60 million contingent contribution.

Councilmember Wallace recalled that the cost of bringing light rail to the Eastside is funded by the East Subarea, whether or not Bellevue agrees with that practice. The federal government provided \$800 million to the Central Link project, and will provide additional funding for Seattle light rail projects in the future. Mr. Wallace said that Sound Transit is not applying for any substantial grant funding for the East Subarea, which also is not fair, but that is the situation.

Mr. Wallace explained that Sound Transit's cost estimating model ranks at-grade as the lowest cost, elevated as medium cost, and tunnels as the highest cost, regardless of whether someone could actually build a tunnel for lower than the cost estimating model. He noted that the Downtown Study employed an independent company to study tunnel costs, and that consultant concluded that Sound Transit's estimates are relatively accurate.

Mr. Wallace encouraged focusing on finding cost savings and providing appropriate mitigation for the current preferred alignment.

Deputy Mayor Robertson concurred that the City cannot go back and try to renegotiate another alignment. She recalled that the City Council endorsed the MOU by a vote of 7-0. She encouraged being more productive and maintaining the current course of action and negotiations. She would not support using staff time for any further study of a tunnel.

Mayor Lee asked staff, pursuant to Councilmember Davidson's concerns, whether better information and more realistic numbers could achieve a lower cost estimate. Mr. Lee observed that preliminary cost estimates tend to be high in order to be conservative.

Mr. van de Kamp confirmed Mr. Wallace's comments about Sound Transit's order of magnitude model in which tunnel costs are higher, noting that this is true in other parts of the country as well. Tunnel options involve a higher level of complexity and risk, as well as greater equipment needs and higher construction costs.

Mr. Lee questioned whether actual information from the Seattle light rail projects would help to refine the cost estimates. Mr. van de Kamp explained that the East Link estimates are based largely on the actual experience of building the light rail system in Seattle.

Councilmember Stokes said it is clearly more expensive to design and construct a tunnel. He suggested that perhaps some level of comparison between Seattle and Bellevue could help to settle this issue.

Councilmember Chelminiak spoke to the need to stay focused on the task. He said the City never asked for a full tunnel from I-90 to Downtown Bellevue back in 2006. He does not want to waste staff time on an alternative that is not realistic. Mr. Chelminiak said Seattle received tunnel funding because it qualified for federal grants. He said these questions have been discussed a

number of times in the past. Bellevue did not qualify for the same type of grant funding, and the federal government would not change the criteria to be favorable to Bellevue.

(b) Management Brief on Public Engagement in the Budget Process

Mr. Miyake referred the Council to page 5-5 of the meeting packet for information on the enhanced public engagement process for the 2013-2014 budget planning. He noted that this was requested by Councilmember Balducci during the April 2 budget workshop.

Finance Director Jan Hawn described the public engagement activities related to the budget process including surveys, meetings with local businesses and organizations, input from Boards and Commissions, and public hearings. Staff is proposing two community forums to be held by mid-June, in order to have input before the Results Teams complete their work. These two forums are in addition to the traditional public hearings. The first public hearing is scheduled for May 14.

Councilmember Chelminiak recalled that, in the past, department staff provided presentations early in the budget process to provide an overview of what the department is doing. He questioned whether that would occur.

Ms. Hawn said the Budget One process redirected the emphasis on departments to a focus on organizational outcomes, across department lines. However, she said there is no reason to not have some department presentations.

Mr. Chelminiak said it would be good to have those updates from departments. He believes the information would be helpful to the budget process.

Deputy Mayor Robertson said the Council is looking at scheduling another budget retreat, potentially in late June, and perhaps that would be a good time for department presentations.

Dr. Davidson said he is open to department presentations, but he acknowledged that the approach is counter to the Budget One process and its focus on outcomes instead of department budgets.

Councilmember Balducci would like public feedback on the broader policy issues and goals. She suggested incorporating public input into the identification of budget outcomes, factors, and sub-factors early in subsequent years' budget processes.

With regard to department presentations, Ms. Balducci said she understands the structure of the Budget One process, but she also does miss hearing from the Police and Fire Chiefs and department heads.

Councilmember Wallace observed that it would be helpful to have a preview, whether department or outcome based, on what is coming up in the budget process and what decisions will be needed.

Mr. Miyake said staff will work to see where that could fit into the Council's schedule.

6. Council Business and New Initiatives

[Council Business was reported during the earlier Study Session.]

7. Approval of the Agenda

Deputy Mayor Robertson said that an individual has approached the City inquiring about its official plans for the regulation of medical marijuana collective gardens. She noted that the most recent session of the state legislature ended without passage of a proposed amendment to the medical marijuana law that would have clarified local authority for the regulation of medical marijuana. Ms. Robertson believes it would be prudent to provide direction to staff on how best to proceed with adding this issue to the work plan.

- Deputy Mayor Robertson moved to add a discussion of interim zoning regulation for medical marijuana collective gardens to this evening's agenda as Item 11(a), with the potential for Council action tonight. Councilmember Chelminiak seconded the motion.
- The motion to add the agenda item carried by a vote of 6-1, with Councilmember Balducci dissenting.
- Deputy Mayor Robertson moved to approve the agenda, as amended, and Councilmember Chelminiak seconded the motion.
- The motion to approve the agenda, as amended, carried by a vote of 7-0.

8. Consent Calendar

- Deputy Mayor Robertson moved to approve the Consent Calendar, and Councilmember Chelminiak seconded the motion.
- The motion to approve the Consent Calendar carried by a vote of 7-0, and the following items were approved:
 - (a) Minutes of April 2, 2012 Extended Study Session
Minutes of April 9, 2012 Study Session
Minutes of April 9, 2012 Regular Session
Minutes of April 16, 2012 Study Session
Minutes of April 16, 2012 Regular Session
 - (b) Resolution No. 8390 setting June 4, 2012 as the date for a public hearing to consider the vacation of a portion of 95th Avenue NE between NE 1st Street and NE 5th Street.

- (c) Resolution No. 8391 authorizing execution of a Grievance Settlement with the Bellevue Police Management Association, to resolve a grievance concerning holiday hours as part of the overall agreement of the 2011-2013 labor agreement.
- (d) Resolution No. 8392 authorizing execution of a 2012-2013 successor labor agreement by and between the City and the International Association of Firefighters Union, Local 1604, representing Fire Battalion Chiefs.
- (e) Resolution No. 8393 authorizing execution of an Interlocal Agreement between the King County Flood Control District, King County, and the City to Transfer Assets and Responsibilities of the Former South West Lake Sammamish Flood Control Zone District.

9. Public Hearings: None.

10. Land Use

- (a) Continuation of Council's consideration of the Appeal of the Hearing Examiner's Decision on the application of David Shih (Kimberlee Park III) for a Planned Unit Development and Preliminary Conservation District

Ordinance No. 6057 granting the appeal of the denial of a Planned Unit Development and Preliminary Conservation Subdivision, with conditions, on the application of David Shih and the Shih Family Limited Partnership, Application No. 08-135645 and No. 11-1-3630 LO, overturning the Decision of the Hearing Examiner and granting the Planned Unit Development and Preliminary Conservation Subdivision, known as Kimberlee Park III, with additional conditions.

Mayor Lee introduced the Council's continued discussion and consideration of the appeal of the Hearing Examiner's Decision on the application of David Shih and the Shih Family Limited Partnership (Kimberlee Park III) for a Planned Unit Development and Preliminary Conservation District.

City Attorney Lori Riordan provided an overview of the rules governing quasi-judicial matters under state law. The opportunity for public testimony came before the Hearing Examiner during hearings held on June 16, 23, 29, and 30, 2011. A Limited Public Hearing to take arguments from the parties to the appeal was held and closed on March 19, 2012.

Ms. Riordan said quasi-judicial proceedings are matters pending before the City Council, which makes a decision regarding the rights of specific interested parties under the City's regulations. In those situations, the Council must act as judges and maintain fairness and impartiality. Under Council Rules, City Councilmembers are not able to discuss the pending application or appeals with anyone if members of the public contact them directly.

Responding to Mayor Lee, Councilmembers indicated that they did not have any ex parte communications to disclose.

Continuing, Ms. Riordan explained that this is a continuation of the Council's discussion on Hearing Examiner's File Nos. 08-135645 LK and 11-103630 LO, the appeals of David Shih and the Shih Family Limited Partnership on the decision of the Hearing Examiner to deny their application for a Planned Unit Development (PUD) and Preliminary Conservation Subdivision (PCD) known as Kimberlee Park III. The Hearing Examiner issued findings of fact, conclusions of law, and a decision on July 28, 2011, denying the PUD (Planned Unit Development) and preliminary conservation subdivision. A second order affirming the decision was issued on August 31, 2011.

Following the filing of the appeal, the Kimberlee Park Community Club and individuals Roger and Janelle Chiou, Scott and Rita Traverso, and Barry and Kimberly Wolborsky submitted a motion to intervene, which was granted by the Council on February 6, 2012.

The parties to this appeal are the appellants, David Shih and the Shih Family Limited Partnership, and the intervenors are the Kimberlee Park Community Club and individuals Roger and Janelle Chiou, Scott and Rita Traverso, and Barry and Kimberly Wolborsky.

Following the limited public hearing on this appeal on March 19, the Council held a brief discussion on the matter. Additional Council discussion was scheduled and held on April 9, at which time the Council voted to grant the appeal, overturn the decision of the Hearing Examiner, and to approve the PUD and PCD. Staff was asked to return with an ordinance for Council consideration to formalize the Council's decision on the appeal, pursuant to the standards set forth in the Land Use Code.

Ms. Riordan noted a revised version of the ordinance in the Council's desk packet. She highlighted the changes made to the ordinance since it was originally published in the Council meeting packet.

Ms. Riordan explained that she was approached by members of the Kimberlee Park Community Club this evening requesting two additional changes that are consistent with the Hearing Examiner record. The request is to remove two bulleted items on page 13 of the ordinance related to a private parking area and a hard surface trail with stairs connecting to the private parking area. Ms. Riordan said that staff has reviewed the Hearing Examiner's record and agrees that the requested revisions are consistent.

Responding to Dr. Davidson, Ms. Riordan said the items are conditions that were recommended in the original staff report. However, the Hearing Examiner ruled against the application and therefore did not impose the conditions. Now that the Council plans to grant the appeal, Kimberlee Park residents are asking that the conditions be deleted.

Responding to Mayor Lee, Ms. Riordan said that striking the two items is agreeable to all parties.

Responding to Councilmember Balducci, Ms. Riordan reiterated that the Hearing Examiner did not impose any conditions because he denied the application.

→ Deputy Mayor Robertson moved to adopt Ordinance No. 6057, as presented in the desk packet and amended to strike the following language from page 13 of the ordinance:

- A private parking area for five passenger cars to be located west of the intersection of SE 60th Lane to SE 60th Street. Each space will require a 9 foot width by a 16 foot length. The parking area will be signed as private. Each space will be delineated by appropriate pavement markings. The City will not enforce parking restrictions here. This parking area cannot be located on city right-of-way.
- Hard surface trail (with stairs) connecting the SE 60th Street private parking area to lots 1 through 5.

Councilmember Davidson seconded the motion.

Councilmember Balducci recalled that she did not support the previous motion on this matter, and she will not support this one. She noted that, since the Hearing Examiner rejected the proposal, he did not have the opportunity to offer conditions. Now that appeal is being granted, the Hearing Examiner does not have the option to suggest conditions.

Responding to Ms. Balducci, Ms. Riordan said the Council could have remanded the matter to the Hearing Examiner earlier in the process and asked for recommendations on conditions. However, it would be unusual at this point, given the posture of the case, to impose additional conditions by the Hearing Examiner. Ms. Riordan noted that, in general, the Hearing Examiner adopts the conditions proposed by staff, and in some cases imposes additional conditions.

Ms. Balducci said it is ironic that now that the appellants have prevailed, there will not be restrictions and/or conditions that might have been placed by the Hearing Examiner to protect the neighborhood.

Mr. Chelminiak concurred with Ms. Balducci's concern. He noted that Section 1 of the ordinance eliminates a series of the Hearing Examiner's findings of fact on the basis that they are not borne by the evidence that was before the Hearing Examiner. One is #29, which he opined is an accurate description of Kimberlee Park I and II. He believes this item is supported by virtually all of the evidence and should not have been thrown out. Other findings of fact that are rejected relate to the specific appearance of the PUD and landscaping.

Councilmember Chelminiak opined that the matter should be remanded to the Hearing Examiner.

→ The motion to adopt Ordinance No. 6057, as amended, carried by a vote of 5-2, with Councilmembers Balducci and Chelminiak opposed.

11. Other Ordinances, Resolutions and Motions

(a) Medical Marijuana Collective Gardens

Ordinance No. 6058 adopting interim official zoning controls regarding medical marijuana collective gardens for a period of six months, to be in effect while the City drafts, considers, holds hearings, and adopts permanent collective garden zoning regulations; and scheduling a hearing on the maintenance of the interim zoning ordinance.

Mr. Miyake opened discussion regarding the added agenda item.

Ms. Riordan referred the Council to the agenda memo regarding medical marijuana and collective gardens. She noted that the state legislature did not clarify state law before the 2012 legislative session closed. As a result, staff proposes adopting interim zoning controls for medical marijuana collective gardens for a period of six months, to be in effect while the City addresses permanent zoning regulations.

Ms. Riordan said that a public hearing is required within 60 days of adopting this ordinance. The proposed interim regulations adopt the state law provisions regarding who is eligible to have collective gardens and who is allowed to grow medical marijuana for their own use. It also adopts, for the interim period, the definitions provided in state law until the issue is addressed by a voter ballot measure this fall or during the next legislative session.

The proposed ordinance adopts an administrative conditional use permit status for collective gardens, which would be reviewed and approved by the Director of the Development Services Department. The ordinance identifies where collective gardens would be allowed, which is in the Light Industrial, General Commercial, Bel-Red General Commercial, and Medical Institution land use districts. Many of the provisions in this interim regulation were taken from the bill that was pending before the state legislature but not acted upon during the last session.

Ms. Riordan said that participants would be required to produce proof that they qualify as medical marijuana providers. If the ordinance is adopted tonight, a public hearing should be scheduled by July 2 at the latest.

→ Deputy Mayor Robertson moved to adopt Ordinance No. 6058, and Councilmember Chelminiak seconded the motion.

Councilmember Davidson spoke against the motion. He noted that, in his profession as a dentist who has been prescribing drugs for 48 years, he believes more experience is needed to prescribe medications. He observed that this is probably the poorest public policy he has encountered in his 25 years of public service. Dr. Davidson said this is not the way we should administer health care, and only people who are properly licensed should be writing prescriptions. He is opposed to medical marijuana collective gardens and dispensaries in Bellevue.

→ At 9:59 p.m., Deputy Mayor Robertson moved to extend the meeting to 10:10 p.m., and Councilmember Wallace seconded the motion.

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

Councilmember Balducci said she voted against adding this item to the agenda based primarily on procedural issues. She expressed concern about adding an issue to the agenda without advance notice or release to the community. She is not comfortable declaring an emergency on an issue that the City has been aware of for some time. She believes that this is not the proper way to conduct public policy decisions.

The second basis for her objection is the substance of the issue itself. She does not have adequate information to determine whether the proposed ordinance is the right one, and the Council has not been presented with options to consider. Ms. Balducci said the Association of Washington Cities has a model ordinance, and a number of jurisdictions have adopted their own ordinances.

Ms. Balducci said that, if state law requires allowing collective gardens, she wants to be sure that individuals who are legally allowed to use medical marijuana have appropriate access. She also wants to ensure public safety. She noted there have been some dangerous incidents involving medical marijuana dispensaries. Ms. Balducci said she is not making a judgment that this is the wrong ordinance, but she read it for the first time the previous night and has not had sufficient time to consider the implications.

Councilmember Wallace said that while he agrees with Dr. Davidson, he is hesitant to do nothing. He will support the motion in order to prevent potential unintended consequences of inaction. He concurs with the need for public input and further study before adopting long-term regulations.

Deputy Mayor Robertson noted that the ordinance addresses collective gardens and not dispensaries. Unfortunately, the state legislature did not clarify the law, and another proposal is expected to be presented later this year. However, Ms. Robertson wants to ensure that the City controls where collective gardens can be located. This ordinance prohibits collective gardens in residential zones. She believes it is important to adopt interim controls on an emergency basis to preclude the establishment of gardens with no regulations. She said the issue will be properly studied and presented for public involvement before the adoption of permanent regulations.

Councilmember Stokes concurred with Deputy Mayor Robertson. He believes the ordinance addresses the issue well by making it consistent with state law, and he does see a sense of urgency. He believes the Council should act now to protect the public. Mr. Stokes acknowledged that medical marijuana is an issue that is moving forward. He believes it is better to regulate it to the extent possible and to proactively address the issues.

→ Deputy Mayor Robertson moved to extend the meeting to 10:20 p.m., and Councilmember Wallace seconded the motion.

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

Mayor Lee believes this is an issue that needs to be addressed immediately. He appreciates Dr. Davidson's perspective on prescribing marijuana, but he wants the City to do what it can to protect the community.

Mr. Chelminiak noted his concern that collective gardens may begin moving into Bellevue without any regulations. He is also concerned about controlling where collective gardens are located. He does not want to prevent patients from being able to legally grow medical marijuana, however. He observed that the proposed ordinance is consistent with state law, and he believes it is better to set up regulations before operations are established in Bellevue.

→ The motion to adopt Ordinance No. 6058 carried by a vote of 5-2, with Councilmembers Balducci and Davidson opposed.

12. Unfinished Business: None.

13. Continued Oral Communications

(a) Steve Krause presented a letter and petition with 196 signatures opposing the Cougar Mountain Montessori School conditional use permit application. He said he understands that there are issues related to King County and that this is potentially a quasi-judicial matter that could come before the City Council. He questioned who the neighborhood organizers should communicate with to ensure that it is not overlooked.

The Deputy City Manager said he would speak with the gentleman.

(b) Karina Sogge, representing Cougar Mountain Montessori, said the school is in unincorporated King County. However, citizens must utilize Bellevue streets to access the school. The school is aware of the neighborhood's concerns and is willing to work with the community to ensure safety and to address any traffic impacts if needed.

(c) Amy Stromberg, parent of a student at Cougar Mountain Montessori, testified about the value of the school to the community.

(d) Pamela Scott said her son went to Cougar Mountain Montessori, and she is now an employee of school and a founding member of the nonprofit foundation connected to the school. The school has been in the neighborhood for 30 years and is an asset to community. Ms. Scott said the school wants to work with residents and to keep the streets safe.

14. New Business: None.

15. Executive Session: None.

16. Adjournment

At 10:19 p.m., Mayor Lee declared the meeting adjourned.

Myrna L. Basich, MMC
City Clerk

kaw