

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Extended Study Session

May 27, 2008
6:00 p.m.

Council Conference Room
Bellevue, Washington

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

ABSENT: None.

1. Executive Session

Mayor Degginger called the meeting to order at 6:02 p.m. There was no Executive Session.

2. Oral Communications: None.

3. Study Session

(a) Council Business and New Initiatives

Councilmember Lee commented on the earthquake in China and suggested the Council send a letter of condolence to the governor of the province that is suffering the greatest impacts. Councilmembers concurred.

Councilmember Noble reminded Councilmembers about the Human Services roundtable discussion on June 12 at the University of Washington-Bothell, as well as the 6th Annual Bridle Trails Park Foundation's Party in a Park and fun run on June 28.

(b) City Manager's Report

City Manager Steve Sarkozy recalled discussion with the Council on May 19 regarding forthcoming Comprehensive Plan Amendments (CPAs) related to the Light Rail Best Practices project. The Planning Commission is required to hold a public hearing and prepare a recommendation for the Council.

Planning Director Dan Stroh said staff is requesting Council direction on whether to have the Planning Commission proceed with the public hearing, or whether the Commission and Council should hold a joint public hearing.

Deputy Mayor Balducci feels it is appropriate for the Planning Commission to hold its own hearing. When the final report is presented to the Council, she recommends conducting an extended public comment period.

Councilmember Chelminiak concurred and suggested the Council could suspend the usual rules of allowing only three persons to speak on one side of a topic, in order to accommodate receiving more comments.

Councilmember Lee concurred with the approach outlined above. Councilmember Bonincontri agreed as well.

(c) Regional Issues

Rick Logwood, Project Manager, introduced Washington State Department of Transportation (WSDOT) staff to provide a presentation on I-405 corridor projects - Kim Henry, Project Director, and Denise Cieri and Stacy Trussler, Deputy Project Directors for the north and south portions of the project, respectively. He introduced Al Gonzales from Atkinson Construction, who was previously involved with the Access Downtown project on I-405 through Bellevue.

Mr. Henry reviewed the I-405 corridor program, noting that projects remain ahead of schedule and on budget. However, construction costs continue to escalate and are likely to have an impact on future projects. Mr. Henry provided an overview of the I-405 master plan, which achieved regional consensus with the Environmental Impact Statement (EIS) Record of Decision in 2002. The program involves 10 specific projects providing two new lanes on I-405 in each direction, local arterial improvements, expanded transit service, the addition of Park and Ride spaces and vanpools, and environmental enhancements. The state legislature allocated program funding in both 2003 and 2005.

Ms. Trussler explained that the South Bellevue I-405 widening project is a \$124 million design-build contract. She recalled previous discussions with the City Council during the past few years, one of which focused on Bellevue's interest in noise mitigation for neighborhoods. Final design decisions for the project were made in 2006, and the contract was executed in the spring of 2007. Tonight's focus is on construction, which also includes a related partnership project with the City of Bellevue to mitigate the impacts on the Kelsey Creek wetlands. Ms. Trussler noted that Atkinson Construction was recently recognized with an environmental award for its work on the Cedar River railroad crossing. I-405 corridor projects include widening I-405, rebuilding the interchange at I-90, removing the Wilburton Tunnel, noise walls and quieter pavement, NE 10th Street bridge, and Bellevue braided ramps at NE 8th Street and SR 520.

Ms. Cieri described the NE 10th Street freeway crossing project. Stage 1 construction has been completed, and the remainder of the bridge will be completed in 2009. She described the braided

ramps project at NE 8th Street to improve access to SR 520. The environmental assessment hearing is scheduled for May 22, 2008, and construction begins in 2009. It is scheduled to open to traffic in 2011. WSDOT will continue to work with the Bellevue City Council and staff to complete the downtown Bellevue agreements regarding utility relocations, program delivery, right-of-way turnback (NE 10th Street/112th Avenue NE northbound braid), maintenance and operations (NE 10th Street) and supplemental engineering design (NE 10th Street).

Mr. Henry explained that a future unfunded project is expanding I-405 from I-90 to SR 169. It reconstructs eight interchanges, provides HOV direct access at N 8th Street in Renton, and provides a transit flyer stop at 112th Avenue SE in Bellevue.

Staff responded to questions of clarification.

Responding to Councilmember Davidson, Mr. Henry said the nickel transportation funding package was approved by the state legislature in 2003, and the dime package was approved in 2005.

Responding to Councilmember Lee, Mr. Henry described WSDOT's work with Bellevue residents to listen to concerns regarding mitigating noise impacts.

Deputy Mayor Balducci thanked WSDOT staff for building a model of the braided ramp project. She expressed an interest in information from WSDOT regarding the agency's involvement with transit plans for I-405.

Mr. Henry said WSDOT is incorporating much of the infrastructure to support the future development of bus rapid transit (BRT) into I-405 projects. However, Metro and Sound Transit do not currently have plans to implement BRT.

Responding to Councilmember Noble, Mr. Henry said the I-405 Master Plan is online.

Not directly related to the I-405 project, Mr. Chelminiak suggested adding language to the Council's transportation interest statement identifying the corridor between Redmond, Overlake, Downtown Bellevue, Mercer Island and Seattle, and stating the Council's interests throughout this corridor.

Responding to Mr. Noble, Mr. Henry explained that some elements of the Master Plan are not funded.

Moving on, Diane Carlson, Director of Intergovernmental Relations, opened discussion regarding the work of the King County Mental Illness and Drug Dependency (MIDD) Action Plan. Staff is requesting Council feedback on the draft interest statement.

Emily Leslie reported that the MIDD Oversight Committee has been appointed and confirmed. The Committee will be making recommendations on the 2008 Implementation Plan in June. Councilmember Noble serves on the Oversight Committee. The draft implementation plan

includes the 2008 spending plan. Ms. Leslie noted that several new action strategies have been added to the spending plan since it was reviewed in April. 2008 budget amounts have been adjusted to reflect the ability to expend the funds in 2008. An updated list of strategies and the estimated 2008 budget for each is attached to the plan. King County is seeking public comment on the plan through June 3.

Ms. Leslie noted that a draft MIDD interest statement has been developed in response to Council's previous request. It is included in the meeting packet for Council's review and discussion. The statement focuses on crisis diversion centers, improvements to community based care including enhanced access, and prevention/intervention programs for youth and their families.

Ms. Carlson referred the Council to the draft interest statement beginning on page 3-19 of the meeting packet and briefly reviewed the key points. One is that the funds designated toward the MIDD action plan should be used for new programs, and not to replace funding currently in King County's human services budget.

Councilmember Lee expressed general support for the interest statement. He would like to see more information on the specific needs of particular populations.

Councilmember Chelminiak expressed an interest in learning how the County addresses cultural differences in terms of designing and providing mental health services. He would like to see a stronger emphasis on housing as it relates to mental health needs. Ms. Carlson noted that funding for new housing units and rental subsidies was added to the May 8 update of the spending plan [Page 3-22 of meeting packet]. Mr. Chelminiak supports this proposal.

Councilmember Bonincontri suggested language in the interest statement encouraging a public education component within the MIDD action plan.

Deputy Mayor Balducci feels there is a strong connection between the availability of adequate housing and the impacts of mental illness within the criminal justice system. She agrees with Ms. Bonincontri about the importance of early intervention.

Mayor Degginger expressed concern that the Action Plan and Spending Plan recommendations are spreading funds into too many areas. He suggested it might be most beneficial to narrow the scope of services in order to target areas in which the funding would be the most effective.

Councilmember Noble concurred with the concern about spreading the funding too thin.

Dr. Davidson requested information on the revenue stabilization fund, which staff will provide.

Mr. Lee feels that housing, intervention, and community education are all important priorities for MIDD funding.

Mayor Degginger noted general Council consensus in support of the draft interest statement, modified as discussed in this conversation.

Ms. Balducci reminded staff of the Council's interest in reviewing and updating the City's cultural diversity plan.

(d) Council Discussion and Direction to Staff on Enclave at Fox Glen

Ordinance No. 5817 approving the application of the Fremantle Development Group (Dennis Johnson) to rezone property located at 1025 and 1041 156th Avenue NE, commonly known as the Enclave at Fox Glen rezone, to remove an affordable housing condition imposed with a previous rezone.

Deputy City Attorney Kate Berens recalled the Limited Public Appeal Hearing on April 28 regarding the Enclave at Fox Glen rezone application. A settlement has been reached between the applicant and the City's Department of Planning and Community Development, the latter of which had appealed the Hearing Examiner's decision on the matter. The parties have agreed to a stipulation regarding a previous affordable housing condition. Ordinance No. 5817 approves the rezone application of the Fremantle Development Group (Dennis Johnson) and includes the conditions imposed by the Hearing Examiner.

→ Deputy Mayor Balducci moved to adopt Ordinance No. 5817, and Mr. Noble seconded the motion.

→ The motion to adopt Ordinance No. 5817 carried by a vote of 7-0.

Mr. Sarkozy opened discussion regarding policy considerations for rezone requests and how to handle affordable housing provisions.

Land Use Director Carol Helland explained that the Fox Glen rezone application raised the issue of whether policy direction provided by the Council in 1996 on affordable housing was adequate. The Hearing Examiner's recommendation reflects an interpretation that the 1996 policy directive was insufficient evidence of City policy regarding affordable housing.

The 1996 directive stated a requirement to provide affordable housing in cases of multi-unit developments, or to make a payment in lieu fee equal to 50 percent of the difference between the market price and the price of an affordable unit. Staff recommends that the City continue to apply this directive. Should Council concur, staff will prepare an approach for future Council action that responds to the regulatory authority issue raised by the Hearing Examiner in the Fox Glen rezone.

Staff responded to questions of clarification.

Ms. Balducci summarized her understanding of the issue. She suggested formalizing the 1996 directive into explicit policy, and moving forward to apply it consistently for all properties. Mr. Noble concurred.

Mayor Degginger noted Council consensus to direct staff to formalize the 1996 Council direction on affordable housing requirements into formal policy.

Mayor Degginger declared a five-minute break. The meeting resumed at 7:50 p.m.

(e) Council Discussion and Direction to Staff on Torello PUD

Mr. Sarkozy noted that a Limited Public Appeal Hearing regarding the Torello PUD application by D.R. Horton was held on May 5 before the Council. Council continued the matter to tonight's date for deliberation and a decision.

Ms. Berens reviewed the rules regarding ex parte contacts with the Council for this quasi-judicial land use matter. She recalled that several emails were sent to City Councilmembers before the May 5 hearing. The appearance of fairness doctrine requires that no member of a decision-making body may have ex parte contact with opponents or proponents regarding a proposal unless the Councilmember: 1) Places on the record the substance of the communication, and 2) Provides that a public announcement of the content of the communication, and the parties' rights to rebut the substance of the communication, shall be made at each hearing in which action is considered or taken on the subject.

Councilmember Noble recalled his previous disclosure that he opened one of the emails but did not read it when he recognized the subject.

Councilmember Davidson said he opened at least one of the emails, but closed it when he realized the subject matter.

Deputy Mayor Balducci opened one email, but closed it when she recognized the topic.

Mayor Degginger did not open or read any of the emails.

Councilmember Bonincontri said her email messages appear in a preview pane, so she might have read a line or two of an email before deleting them.

Councilmember Lee did not read any of the emails.

Councilmember Chelminiak opened but did not read the emails.

Ms. Berens explained that the City Clerk has made copies of the emails and placed them in the record on this matter. Emails were received from Margot Navarre, Stacie LeBlanc Anderson, Hilary Salkind, Renay Bennett, Geoffrey Bidwell, Alan W. Smith, and Barbara Hilliker.

In general, the emails: 1) Refer to Comprehensive Plan Policy S-SW-9, which is at issue in the appeal, 2) Advocate for the retention of trees at the Torello site, and 3) Request that the Council find that the PUD application, as approved by the Hearing Examiner, violates Policy S-SW-9.

Mayor Degginger asked whether any parties to the appeal wish to rebut the substance of the communications from any of these citizens who are not parties to the appeal.

Duana Koloušková, attorney for the applicant/respondent D.R. Horton, recalled her previous comments during the May 5 hearing stating her objection to the attempt of citizens to submit additional public comment after the record was closed by the Hearing Examiner in this matter.

Ms. Berens noted that one of the parties addressed the subject matter of the appeal with Deputy Mayor Balducci on two occasions, which was disclosed during the May 5 hearing before the Council.

Ms. Balducci again described two conversations with Erin Powell-Dilloo, who works with Ms. Balducci's husband at REI. Sometime during the summer of 2007, Ms. Balducci met Ms. Powell-Dilloo, who brought up the matter by stating her interest in retaining trees. Ms. Balducci informed Ms. Powell-Dilloo that the matter was quasi-judicial and therefore they could not discuss it. The second conversation was on Saturday, February 2, 2008 at the REI store party. Ms. Powell-Dilloo mentioned the appeal and noted her opposition to the proposed tree removal. Nothing more was said on the matter.

No one came forward to rebut the substance of the communication.

Mayor Degginger asked the Council to disclose whether any additional ex parte communications have occurred since the May 5 hearings. No communications were reported.

Ms. Berens explained that the purpose of tonight's discussion is to deliberate on the appeal of the Hearing Examiner's decision on D.R. Horton's application for a Planned Unit Development (PUD). The Hearing Examiner recommended approval of the application for a planned unit development with 10 units on a 1.007-acre site, zoned R-10 (10 units per acre) and within a transition area design district. The site is addressed as 1004 Bellevue Way SE and 1012 Bellevue Way SE.

The Limited Public Appeal Hearing was concluded on May 5, 2008, at a regular meeting of the City Council. At that time, deliberation and discussion were deferred to a later date. The appeal is confined to the issues decided by the Hearing Examiner after taking testimony at hearings held on November 15 and December 6, 11, 12, and 19 in 2007.

As stated on the record during the May 5, 2008, City Council meeting, it is important to note that one issue raised by the appellants was not decided by the Hearing Examiner and is therefore not appropriate in the Council's consideration of the appeal. That issue is the claim that the City is barred by the doctrine of estoppel reliance, or a special relationship with appellants Powell-

Dilloo and Dilloo, from granting the PUD without requiring the retention of all significant trees on the east side of the Torello property.

The parties to the appeal are appellants Michael and Colleen Broaddus, Erin Powell-Dilloo, and George Dilloo, and respondents D.R. Horton (Applicant) and the Director of Planning and Community Development.

Ms. Berens said that the Council now has the opportunity to deliberate and render a decision, either tonight or at a subsequent hearing. The appellant bears the burden of proof in this appeal. The Council may grant the appeal or grant the appeal with modifications if the appellant has carried the burden of proof and the City Council finds that the decision of the Hearing Examiner is not supported by material and substantial evidence. In all other cases, the appeal shall be denied. The City Council shall accord substantial weight to the decision of the Hearing Examiner.

In this context, evidence is material if there is a reasonable probability that the presence or absence of the evidence would alter the decision by the fact finder. Evidence is substantial when there is a sufficient quantity of evidence to persuade a fair-minded person of the truth or correctness of the decision.

Ms. Berens reminded the Council of the two issues on the appeal: 1) Whether the Hearing Examiner wrongfully concluded that the PUD is consistent with Southwest Bellevue Comprehensive Plan Subarea Policy S-SW-9 and Land Use Code Section 20.30.150.A, which require that PUDs be consistent with the City's Comprehensive Plan and, 2) Whether the City's conditions regarding protection of significant trees on the site should be modified and strengthened. Policy S-SW-9 provides: Retain significant trees adjacent to the single-family area east of future multifamily development along the east side of Bellevue Way, between SE 10th and 11th Streets.

Responding to Councilmember Chelminiak, Ms. Berens said it is possible for the Council to remand specific issues or questions to the Hearing Examiner.

Responding to Deputy Mayor Balducci, Ms. Berens said the Council may modify a condition regarding the protection of significant trees on the site if the Council believes that the burden of proof about the tree protection currently required as a condition of approval has been met.

Councilmember Noble said he is prepared to make a decision tonight. He noted that the appeal is not a referendum on whether trees are good or bad, and it is not a means by which a neighborhood can direct what a property owner should or should not do. It is also not a matter in which the Council reconsiders all of the evidence and comes to its own conclusions regarding the facts.

The Council's role is to determine whether the Hearing Examiner's conclusions of fact are supported by substantial evidence. However, Mr. Noble stated that the Council is free to

interpret the meaning and effect of Comprehensive Plan policies, the Land Use Code, City Ordinances, and whether these were properly considered and applied by the Hearing Examiner.

Mr. Noble agrees with the Hearing Examiner's interpretation and application of Policy S-SW-9. When it refers to retaining trees, it does not require the retention of all trees. Moreover, the Comprehensive Plan is, by law, a general guide and not a development regulation to be applied to specific properties.

There was no argument in the record that the Torello PUD is inconsistent with the Land Use Code. Citizens cannot use the appeal process to challenge the validity of a Comprehensive Plan, or its consistency with the Land Use Code. Noting that Policy S-SW-9 does not require the retention of all trees, Mr. Noble feels it is not contrary to the tree retention regulations of Land Use Code 20.20.900.

Regarding the issue of whether the conditions imposed by the Hearing Examiner relating to retaining tree protection are supported by the record, Mr. Noble said he believes the question was whether there should be more protection regarding tree drip lines. The appellant argued that the applicant misled the Hearing Examiner by saying there were not policies or procedures in the City Code dealing with drip lines. However, the appellants' own expert in testifying before the Hearing Examiner said he could not find anything specific on the subject either.

During the course of the briefing, the appellants came forward with policy EC-21 from clearing and grading regulations, and argued that the PUD is inconsistent with these requirements. Mr. Noble referred to page 14 of the appellants' brief and read: "Compliance with the applicable tree protection standard, EC-21, would protect drip lines and eliminate the safety hazard that the D.R. Horton plan proposes to create." The Hearing Examiner's report [Page 19] states that the applicants "shall comply with the following Bellevue City Codes, including clearing and grading code, BCC 23.76, from which EC-21 comes." On page 22, the Hearing Examiner states that construction fencing at clearing limits prior to any site work shall be installed at the clearing limits transition area buffer, and at the drip lines of retained trees that are located outside of the clearing limits.

Mr. Noble's reading of this section of the report indicates to him that the Hearing Examiner is applying clearing and grading regulations to the application. However, the applicant's attorney said the issue is not appropriate at this time because D.R. Horton has not submitted a clearing and grading permit application. The attorney indicated that the applicant will comply with any clearing and grading requirements at the appropriate time. Mr. Noble interprets this as a concession that the applicant intends to comply with the fence line and drip line requirements and limitations as called for by the protection standard EC-21.

Councilmember Noble concluded that the Hearing Examiner's conditions, including compliance with clearing and grading code requirements and with those protecting trees, are supported by substantial evidence in the record. He does not see a sufficient basis to modify the Hearing Examiner's conclusions, and is in favor of denying the appeal.

→ Councilmember Noble moved to deny the appeal concerning the application of D.R. Horton (Torello PUD), and to adopt the Hearing Examiner's recommendations and conclusions. Councilmember Bonincontri seconded the motion.

Councilmember Davidson spoke in support of the motion.

Councilmember Chelminiak noted that the PUD retains more trees than might be required under different development scenarios, including the development of a single-family home. He would have liked to see more specific recommendations regarding whether tree removal will cause a safety hazard.

Councilmember Lee said he is satisfied that the City's tree requirements and Hearing Examiner's conditions will be enforced by City staff. He agrees that the intent of Policy S-SW-9 is to retain significant trees, but not necessarily all significant trees.

Mayor Degginger expressed support for the Hearing Examiner's recommendation. He noted that if the property was developed as a single-family site, there would be no requirement for tree retention. He feels significant trees are being retained, consistent with Policy S-SW-9. The appellants have not met the burden of proof to reject the Hearing Examiner's decision. Mr. Degginger feels that the mitigation measures outlined by the Hearing Examiner are appropriate to protect the trees that are to be retained.

Councilmember Bonincontri supports the Hearing Examiner's decision and his application of Policy S-SW-9 in this matter. She feels the Hearing Examiner's condition regarding an arborist's oversight of the trees goes beyond the City's requirements and will be sufficient to protect the trees.

Deputy Mayor Balducci noted the appellants must prove that the Hearing Examiner's decision is not supported by material and substantial evidence. She feels there is no evidence to support the assertion that Policy S-SW-9 is intended to protect all trees, or that the Hearing Examiner was incorrect in his interpretation of this policy. While both arborists note that removing some trees will change the conditions for the remaining trees, there is no statement that tree removal will cause a safety hazard. Ms. Balducci feels the Hearing Examiner's decision is supported by the evidence in the record, and that the appeal should be denied.

Mr. Chelminiak noted his support for the motion as well, acknowledging that his concerns will be addressed when the applicant applies for a clearing and grading permit.

→ The motion to deny the appeal concerning the application of D.R. Horton (Torello PUD), and to adopt the Hearing Examiner's recommendations and conclusions, carried by a vote of 7-0.

Ms. Berens said staff will prepare an Ordinance reflecting the Council's direction. She confirmed that the matter remains quasi-judicial until the Ordinance is adopted, and

Councilmembers will again be asked to disclose ex parte communications at the time the Ordinance is presented for action.

(f) Public Hearing on Sale of Intellectual Property to eCityGov Alliance

City Manager Steve Sarkozy opened discussion of the proposed sale of intellectual property by the City of Bellevue to the eCityGov Alliance, of which the City of Bellevue is a principal member.

Toni Cramer, Chief Information Officer, explained that Ordinance No. 5626 requires that the City hold a public hearing when disposing of property valued at more than \$50,000. The City Attorney's Office has determined that intellectual property, in this case programming code that builds an application, is real property and therefore subject to this Ordinance.

On November 19, 2007, the Council approved Resolution No. 7641, which amended the Interlocal Agreement with the eCityGov Alliance. The Resolution clarified that when Bellevue sells intellectual property, or when the Alliance purchases intellectual property, all of the partners have the ability to continue the use of the programming code for their own purposes. Bellevue is the only city in the Alliance with web developers, so is likely the only city that will benefit from this clause in the Interlocal Agreement.

Ms. Cramer said staff initially planned to hold this public hearing in January. However in December, the Alliance's Executive Board directed John Backman, Executive Director, to obtain independent legal counsel review of the transaction on behalf of the Alliance. Bellevue's City Attorney's Office had structured the transaction and intellectual sale agreement. Mr. Backman made minor, non-substantive changes to the sale agreement following this legal review.

Ms. Cramer reviewed the terms of the sale, which involves two applications: 1) Human Resources online job application software and, 2) Vendor Roster/Shared Purchasing Portal application software. Both were developed by Bellevue approximately five years ago at a relatively nominal cost. The proposed sale is for \$145,000 for both applications, with payments over a five-year period at 4 percent interest, and a 10 percent annual royalty to the City of Bellevue.

With this transaction, the City recovers all of its costs, including maintenance and operations costs, for the entire duration of its use of the applications. Bellevue reduces its ongoing maintenance costs by 60 percent. The annual maintenance cost for the two applications is now roughly \$80,000. Sharing the software with the Alliance will lower Bellevue's cost to approximately \$30,000. The sale of the applications shifts the liability from the City to the Alliance, which has independent insurance. The two areas of liability at risk with web-developed applications relate to potential future claims regarding a breach of copyright or breach of patent as well as potential breaches of security. Moving the applications to a regional setting will provide an enhanced level of customer service for users.

Responding to Councilmember Lee, Ms. Cramer confirmed that Bellevue, as a member of the Alliance, will pay a portion of the purchase costs.

Councilmember Davidson stated that as Chairman of the Municipal Research and Services Center (MRSC) Board, he will step down from this discussion. MRSC has a competitive product developed by the City of Lynnwood.

Responding to Councilmember Noble, Ms. Cramer explained that Bellevue pays the Alliance an annual partnership fee, which covers access and use of all applications as well as maintenance and operating expenses for the services provided by the Alliance. As an Alliance partner, Bellevue will participate in the purchase of the two applications and their ongoing maintenance. As the Alliance leases the use of the applications to cities that are not partners, the Alliance will generate subscriber revenue. That revenue goes back to partner cities for redistribution or to reinvest in new applications.

Responding to Mayor Degginger, Ms. Cramer said the royalty payments to Bellevue begin in 2013.

Mr. Backman explained that the City of Bellevue is the fiscal and information technology agent for the Alliance. Payments made between the City and the Alliance are accounted for through the Information Technology Department's budget.

Responding to Ms. Balducci, Ms. Cramer said the online job application software has been enhanced during the past year as a result of the Alliance's investment. Most of the applications in use by the Alliance were developed and paid for using Alliance funds. The Alliance contracts with the City's developers or with those in the private sector.

Responding to Mayor Degginger, Ms. Cramer said the Alliance contracts with the City of Bellevue for most of its information technology work. When the Alliance contracts for the development of an application, the Alliance owns the intellectual property produced.

Mr. Degginger raised the larger issue of the creation and use of intellectual property within the City's organization, and whether there are policies governing the development of intellectual property.

Mr. Sarkozy suggested proceeding with the scheduled Public Hearing tonight, and then allowing staff to return with additional information.

Councilmember Lee expressed concern about the City selling its intellectual property.

Mayor Degginger expressed concern that the agreement does not adequately protect the City's liability risk.

→ Deputy Mayor Balducci moved to open the Public Hearing, and Mr. Lee seconded the motion.

→ The motion to open the Public Hearing carried by a vote of 7-0.

No one came forward to comment.

→ Ms. Balducci moved to close the Public Hearing, and Mr. Lee seconded the motion.

→ The motion to close the Public Hearing carried by a vote of 7-0.

Mayor Degginger is not comfortable with the issue and feels more time is needed for discussion. He is concerned with the lack of a policy framework to guide the consideration of the sale of intellectual property.

Ms. Balducci raised the question of whether the City should be in the business of selling its intellectual property.

Mr. Sarkozy said the Alliance Board has discussed the issue of whether partner cities should only develop software for use by its members, or whether products should be developed to be marketed outside of this region as well.

Staff will return to the Council with additional information at a future meeting.

(g) Bel-Red NE 15th/16th Multimodal Corridor

Planning and Community Development Director Matt Terry opened staff's presentation regarding the NE 15th/16th Street corridor through the Bel-Red area. The corridor is the proposed alignment for future light rail, and provides needed arterial street capacity carrying as many as 20,000-30,000 cars per day by 2030. The corridor is designed as a green street with a strong urban design character, park and open space nodes, and a pedestrian/bicycle connection between East Bellevue and the downtown.

The plan has been discussed by the Parks and Community Services Board, Transportation Commission, and Planning Commission. Engineering design has been completed at approximately five percent, in order to protect the right-of-way and develop the financing plan. Mr. Terry said staff is seeking Council direction on whether the design parameters proposed for NE 15th/16th should be used to further refine the design and right-of-way requirements for the corridor, and as input into the financing plan to fund Bel-Red capital investments.

Emil King, Strategic Planning Manager, described the current land uses along the corridor. He reviewed key principles guiding the design of this multimodal corridor, noting that right-of-way costs will be a key consideration. Major components of the plan are four lanes of vehicle movement, light rail transit, parks and green elements, an off-street pedestrian and bike path, and ground floor commercial uses in station areas.

Mr. King described an analysis of light rail alignment alternatives completed by the consultant working with the Light Rail Best Practices Committee. He reviewed the pros and cons of elevated, at-grade, and tunnel configurations. He described plans for parks and open space connections, as well as potential land uses and zoning to integrate all of the elements.

Councilmember Bonincontri noted the design to provide transit, pedestrian and bicycle transportation, and questioned whether parking should be included if alternative modes of travel are to be encouraged. She is not in favor of purchasing right-of-way to provide on-street parking. She expressed support for the green corridor concept.

Dr. Davidson suggested that bus rapid transit could preclude the need for all of the elevation changes. He questioned whether bus rapid transit has been studied for the corridor, and whether it would be feasible to convert in the future to light rail.

Transportation Director Goran Sparrman acknowledged that it will be a number of years before light rail is implemented in the corridor, and utilizing bus rapid transit on an interim basis makes good sense. There is a high level of design compatibility between the two systems.

Staff responded to additional questions of clarification.

Councilmember Chelminiak indicated that some members of the Parks Board are concerned that the park blocks concept has been eliminated.

Ms. Balducci feels the corridor is too wide, noting that it is more than twice the width of the crossing of NE 8th Street at Bellevue Way.

Dr. Davidson questioned whether pedestrian bridges have been considered, given the wide right-of-way. Mr. Sparrman said they have not. He explained that the corridor will include elements for pedestrian refuge, and the lights will have shorter cyclings for more frequent crossing opportunities.

Mr. Degginger and Mr. Lee shared these concerns regarding pedestrian crossings.

At 10:00 p.m., Mayor Degginger declared the meeting adjourned.

Myrna L. Basich
City Clerk

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