

CITY OF BELLEVUE  
CITY COUNCIL

Summary Minutes of Regular Session

October 7, 2002  
8:00 p.m.

Council Chambers  
Bellevue, Washington

PRESENT: Mayor Marshall, Deputy Mayor Degginger, and Councilmembers Creighton, Davidson, Lee, Mosher, and Noble

ABSENT: None.

1. Call to Order

The meeting was called to order at 8:00 p.m. by Mayor Marshall, who presided.

2. Roll Call, Flag Salute

Upon roll call by the City Clerk, all Councilmembers were present. Deputy Mayor Degginger led the flag salute.

(a) Proclamation of National Disability Awareness Month

Parks and Community Services Director Patrick Foran commented on the City's long-standing commitment to diversity in its hiring practices, accessibility standards, and delivery of community programs. Susan Gallegos, Director of Highland Community Center, thanked Council for supporting the center's nationally recognized programs. David Walker, a frequent participant at the center, thanked Council for these programs that have made his life better. Jan Williams, the operator of a Residents East group home, described the establishment of Bellevue's first group home in 1977. All of the home's residents are employed, but they still find time to enjoy the programs at Highland Community Center.

Mayor Marshall read a proclamation declaring October as Disability Awareness Month in Bellevue and urging all citizens to actively support disabled citizens' full participation in the community. Ms. Gallegos received the proclamation.

3. Communications: Written and Oral

- (a) Mike Piper requested an open public review of the process that led to the transfer of James McClain from the Ivanhoe Theatre program.
- (b) Richard Askew, the parent of a Crossroads/Ivanhoe theatre participant, said he is pleased with the return of Mr. McClain as director. However, he would like more information about the process that led to his temporary reassignment from the program.
- (c) Randall Apted expressed support for Crossroads Youth Theatre program and Mr. McClain, but requested a change in the overall management of the program.

Deputy Mayor Degginger asked the City Manager to provide an update. City Manager Steve Sarkozy explained that this situation developed as the result of a claim against a City employee that, according to established policies and procedures, called for an immediate investigation and the separation of that employee from the work group. The objective of the City and the Parks Department is to ensure issues are resolved expeditiously and professionally, while protecting the employee and program participants. The investigation found no substance to the accusation and the employee has been returned to his original employment position.

Mr. Sarkozy said the integrity of the community theatre program has been maintained despite the disruption of the investigative process. The City's policies and procedures will be reviewed to identify opportunities for improvement. Mr. Sarkozy assured the public that the City's support for the Crossroads/Ivanhoe Theatre program is unwavering.

Responding to Mayor Marshall, Mr. Sarkozy said the letter promised to one of the parents is forthcoming and Council will receive copies as well. Mr. Lee expressed support for Mr. McClain and theatre participants and supporters. Mayor Marshall expressed Council's support for the program and Mr. McClain.

- (d) Nicholas Larabie and Justin Myers described their participation in programs at Kelsey Creek Farm. Nicholas, a 7<sup>th</sup> –grader at Chinook Middle School, plans to be a veterinarian and enjoys working with and learning about the animals. Justin, a sophomore at Interlake High School, volunteers for special events. He invited everyone to the Kelsey Creek Farm Fair on October 12 and 13, 11:00 a.m. to 3:00 p.m.
- (e) Keith Jackson expressed support for the parks and open space bond measure to appear on the November ballot and encouraged everyone to vote.
- (f) John Albertson alleged damage to residential property values as a result of Downtown Implementation Plan discussions.

#### 4. Reports of Community Councils, Boards and Commissions

Dave Elliott, Chair of Bellevue Transportation Commission, noted a memo in the Council packet (Page 4-1) describing the Commission's recommendation for 15 Capital Investment Program (CIP) projects – six construction projects, seven design projects, and two studies.

Councilmember Mosher, Council liaison, thanked Commissioners for their hard work and long hours throughout the review process.

5. Report of the City Manager

City Manager Steve Sarkozy noted the management brief regarding Ashwood Park (Page 5-1) and asked staff to provide an update. Mr. Foran said the community and City staff have identified the need for a community center in the downtown area. In June 2002, John Su submitted a proposal to sell approximately 15,000 square feet of “community space” to the City within his adjacent residential development. He also plans to build a 200-250 seat performing arts theater in the residential tower. Mr. Foran said staff reviewed the proposal and concluded this would accomplish the goal of creating a downtown community center at a potentially lower cost than building a separate, new facility. Due to competing priorities and decreased City revenues, the City has been unable to make a financial commitment to this proposed partnership.

Mr. Foran referenced staff’s recommendations on page 5-5 of the Council packet. Staff will continue to work with Su Development regarding his adjacent residential project. However, staff recommends against pursuing the “community space” proposal at this time. The City will continue to consider all potential partnerships, including Bellevue Regional Library, for community center sites throughout the downtown.

Mr. Lee cautioned against missing out on this opportunity and encouraged a thorough Council review. Mr. Foran said a partnership could provide a cost-effective approach to creating a community center. However, Mr. Su offered to sell the space at market rates. The City is interested in a community center of approximately 35,000 square feet and the Su proposal provides 15,000 square feet.

In response to Mayor Marshall, Mr. Foran confirmed that the current Su proposal was not part of Council’s discussions about the parks and open space bond. Dr. Davidson is interested in further Council discussion of the proposal. Mayor Marshall asked staff to schedule a discussion for a future study session.

Moving on, Mr. Sarkozy noted the management brief from Police Chief Jim Montgomery addressing a citizen’s comments about police response in the Surrey Downs neighborhood. The subsequent investigation found that no home burglaries have occurred and none of the citizens who called the Police Department requested a personal visit by an officer.

Mayor Marshall asked staff to notify Surrey Downs residents about the findings of the investigation to quell rumors and to reassure them about public safety.

Mr. Sarkozy referenced the management brief on page 5-10 providing an Eastside Concurrency Study Status Report. Kris Liljeblad, Assistant Transportation Director, recalled Council’s support of the study in 2001 following the receipt of a state grant. The purpose of the study is to develop a concurrency approach supporting comprehensive plans and Growth Management Act objectives, account for regional travel and multiple transportation modes, and explore the

feasibility of a common approach by the four participating cities (Bellevue, Kirkland, Issaquah, and Redmond).

6. Council Business

Mr. Mosher participated in the Association of Washington Cities' *Walk Across Washington* today.

Deputy Mayor Degginger attended a meeting of the Growth Management Planning Council in which revised growth targets were approved. He said Cascade Water Alliance has been working to implement the Action Plan recently approved by Council.

Dr. Davidson said the Action Agenda for Water Resource Inventory Area 8 (WRIA 8) has been published and is available for review in the Council office. He attended a meeting of the Environmental Services Commission and noted the ESC public hearing scheduled for November 7 to discuss utility services.

Mr. Creighton has been working with the regional Seafair Committee to coordinate activities with *Bellevue 50 Fest* in 2003.

Mr. Noble attended a Lake Hills community meeting regarding the revitalization of Kelsey Creek Shopping Center and a meeting of the Eastside Human Services Forum.

Mayor Marshall thanked Councilmembers for their leadership. Mrs. Marshall has been working to raise money for *Bellevue 50 Fest* as she continues her involvement with regional transportation planning.

7. Approval of the Agenda

➡ Mr. Degginger moved to approve the agenda, and Mr. Mosher seconded the motion.

➡ The motion to approve the agenda carried by a vote of 7-0.

8. Consent Calendar

➡ Mr. Degginger moved to approve the Consent Calendar with the exception of item 8(h), and Mrs. Marshall seconded the motion.

➡ The motion to approve the Consent Calendar, as amended, carried by a vote of 7-0, and the following items were approved:

- (a) Minutes of September 16, 2002 Study Session
- Minutes of September 16, 2002 Regular Session
- Minutes of September 20, 2002 Special Session
- Minutes of September 23, 2002 Extended Study Session
- Minutes of October 1, 2002 Special Session

- (b) Motion to approve payment of claims for the period ending September 25, 2002, and payroll for the period September 1 through September 15, 2002.
- (c) Telecommunications and Data Services Contracts
  - (1) Resolution No. 6748 authorizing the execution of an agreement with Focal Communications, Inc. to provide local and long distance phone service for the City.
  - (2) Resolution No. 6749 authorizing the execution of an agreement with AT&T to provide Intranet services for the City.
- (d) Resolution No. 6750 authorizing the amendment of the Purchase and Sale Agreement with The Boeing Company to modify the legal description of the property to accommodate existing utilities and to maintain substantially the original square footage of property, and to include additional easements benefiting and burdening the property.
- (e) Ordinance No. 5411 adding new section 11.60.090, Bicycle Helmets, to the Bellevue City Code.
- (f) Motion to award Bid No. 0243 for the purchase of two boom trucks to be used for repair of traffic signals in the amount of \$256,052 to Nelson Truck Equipment Company, Inc., as low bidder.
- (g) Motion to award Bid No. 0247 for the installation of new LED signal heads, signal head mounting brackets, and mounting tenons, as needed, in the lower than originally anticipated amount of \$178,950 to Signal Electric, Inc., as low bidder.
- (i) Ordinance No. 5412 authorizing and providing for condemnation of property rights required for the widening of 112<sup>th</sup> Avenue NE between NE 8<sup>th</sup> and NE 10<sup>th</sup> Streets and for intersection improvements at 112<sup>th</sup> Avenue NE and NE 8<sup>th</sup> Street as part of the Downtown Access project. (CIP Plan No. PW-I-46)
- (j) Motion to award Bid No. 0236 for the replacement of a broken watermain at the Horizon View #3 reservoir and pump station in the amount of \$166,871.12 to Nordic Construction as low bidder. (CIP Plan No. W-16)
- (k) Motion to award Bid No. 0244 for the repair of sanitary sewer lines on NE 28<sup>th</sup> Street along the common city limits of Medina and Clyde Hill in the Bellevue Water Utility's service area in the amount of \$58,842.20 to Earthwork Enterprises, Inc., as low bidder. (CIP Plan No. S-24)
- (l) Resolution No. 6752 authorizing execution of a professional services agreement with S&B, Inc., for engineering and systems integration for the Water Telemetry Upgrades project in an amount not to exceed \$294,123.36. (CIP Plan No. W-90)

- (m) Resolution No. 6753 authorizing execution of a professional services agreement with Northwest Hydraulic Consultants, Inc., for Phase 2 of the Kelsey Creek Basin Hydrology Study in an amount not to exceed \$80,000.

Item for Council Discussion:

- (h) Resolution No. 6751 authorizing execution of a Right-of-Way (ROW) Use Agreement with AT&T Wireless Services for the installation and operation of wireless communications facilities in certain City rights-of-way.  
*(The Planning Commission is still considering potential changes to the Comprehensive Plan and Land Use Code related to equipment size and siting and will make recommendations to Council at a later date.)*

Deputy Mayor Degginger said the contract to be approved by Resolution No. 6751 was not available for Council's review prior to tonight's meeting. Mr. Noble concurred and noted the complexity of this issue. Mayor Marshall noted Council's request to discuss the issue in study session.

- Deputy Mayor Degginger moved to postpone action on item 8(h), Resolution No. 6751, and to schedule the item for a Study Session discussion. Mr. Noble seconded the motion.
- The motion to postpone action on item 8(h), Resolution No. 6751, and to schedule the item for a Study Session discussion carried by a vote of 7-0.

9. Public Hearings

Mayor Marshall introduced the public hearings to accept testimony regarding Initiative 776 and Initiative 790. Initiative 776 proposes state and local government changes affecting motor vehicle taxes and fees. Initiative 790 addresses the Law Enforcement Officers and Fire Fighters Retirement System Plan 2 (LEOFF 2). Mrs. Marshall asked the City Attorney to comment on the Council's authority to take a formal position on a ballot initiative.

Assistant City Attorney Siona Windsor said RCW 42.17.130 authorizes the City Council to express a collective decision and to vote upon a motion or resolution to support or oppose a ballot proposition at an open public meeting. The City must give prior notice of the meeting including the title and number of the ballot proposition, and this requirement has been met. Members of the Council and the public must be afforded approximately equal opportunity for the expression of an opposing view. Ms. Windsor noted this requirement is met through the public hearing process.

Mayor Marshall explained that each ballot initiative will be handled separately. Staff will provide a report for each public hearing item and speakers will be recognized from the sign-up sheet. Under Council's rules, individuals are allowed three minutes to address the issue, or five minutes if presenting the official position of a recognized community organization. Mrs. Marshall asked the audience to not clap but to indicate agreement by raising their hand.

(a) Initiative 776

Ballot Title:

This measure would require license tab fees of \$30 per year for cars, sport utility vehicles, motorcycles, motor homes, and light trucks. It would also repeal certain laws allowing local governments to impose taxes or fees on motor vehicles for transportation purposes, including voter-approved excise taxes on vehicles for high capacity transportation services. The measure states that the people expect bonds previously issued for light rail to be retired using reserve funds and other sources.

- Deputy Mayor Degginger moved to open the public hearing on Initiative 776, and Mr. Mosher seconded the motion.
- The motion to open the public hearing on Initiative 776 carried by a vote of 7-0.

Diane Carlson, Director of Intergovernmental Relations, provided a staff report on the expected impact of Initiative 776 for the State, Sound Transit, and local governments. The initiative requires motor vehicle license fees to not exceed \$30, resulting in a loss of revenue for the State of approximately \$121 million for 2003-2009 fiscal years. The initiative repeals the local option vehicle license fee, which is imposed by some counties including King County. Currently the proceeds from these fees must be used for transportation projects and/or shared with the cities.

Ms. Carlson said passage of I-776 will result in a direct impact to the City of Bellevue of approximately \$1 million in 2003. The net loss to the City through 2009 is estimated at \$7.2 million, which will have a direct effect on the Transportation Capital Improvement Program (CIP). The third component of I-776 would reduce transportation funding for public transit and eliminates Sound Transit's ability to collect motor vehicle excise taxes. Sound Transit estimates this loss at \$432 million for the 2003-2009 fiscal years. The initiative also requires Sound Transit's bonds to be retired using reserve funds and/or new tax revenues.

Mayor Marshall noted that Sound Transit's East Subarea has accumulated excess revenues, paid by East King County residents, which Council hopes will be programmed into more transit service hours for the Eastside. Responding to Mrs. Marshall, Ms. Carlson said these unanticipated revenues represent approximately \$140 million through Phase 1 (2006). Ms. Carlson reiterated that the initiative requires Sound Transit to use all available reserve fund to retire existing bonds.

No one came forward to comment on the issue.

- Deputy Mayor Degginger moved to close the public hearing, and Mr. Noble seconded the motion.
- The motion to close the public hearing carried by a vote of 7-0.

Resolution No. 6754 - A **supporting** State INITIATIVE 776, limiting license tab fees, repealing the motor vehicle excise tax currently available to transit agencies for high capacity transit, and repealing the local vehicle license fee available to cities and counties, on the November 5, 2002, State General Election Ballot.

**OR**

Resolution No. 6754 - B **opposing** State INITIATIVE 776, limiting license tab fees, repealing the motor vehicle excise tax currently available to transit agencies for high capacity transit, and repealing the local vehicle license fee available to cities and counties, on the November 5, 2002 State General Election Ballot.

- ☛ Mr. Mosher moved to approve Resolution No. 6754-B opposing State Initiative 776, and Mr. Noble seconded the motion.

Mr. Mosher said the initiative is detrimental to state and local government funding, at a time when the State is already experiencing a \$2 billion shortfall and local governments are seeing decreased revenues as well. He is concerned about the negative impact on transit services. Mr. Mosher noted the initiative takes authority away from elected representatives who should be making such decisions. He questioned whether it is appropriate for a statewide initiative to interfere with local government's taxing authority. Mr. Mosher feels the initiative does not represent good government.

Mr. Noble recalled Council's prior discussion about holding these public hearings. Some Councilmembers commented that the City Council should not be telling citizens how to vote. Mr. Noble agrees with these comments. However, he feels Councilmembers have an obligation to analyze the initiative to determine its effect on the City as a whole. In this regard, Mr. Noble said I-776 is a bad idea. He is concerned about the loss of transportation, including transit, funding. He is opposed to reducing license fees for light trucks, which cause more wear and tear on roads based on their weight. Overall, I-776 is not good for the City and Mr. Noble opposes it. Mayor Marshall concurred.

Dr. Davidson feels the motor vehicle excise tax (MVET) has been abused by the State over the years. However, Initiative 695 was similar to I-776 and was subsequently declared unconstitutional. Although he is not a fan of Sound Transit, Dr. Davidson acknowledged that a vote of the people approved Sound Transit's taxing authority to provide transit services. He said it is not fair for a new initiative to eliminate this taxing authority previously approved by citizens. He will support the motion to oppose I-776.

Deputy Mayor Degginger said this region is currently in a transportation crisis and at risk for losing its mobility, an important measure of our quality of life. He is concerned about the potential loss of transportation funding, particularly when Council and staff have worked so hard to deliver needed local and regional projects. Mr. Degginger concurred with Mr. Noble's comments and expressed support for the motion to oppose I-776.

Mr. Lee said he will not vote on the motion because he does not think it is appropriate for him to take a position. He feels a quick vote does not allow for the full explanation and delivery of the message.

Mr. Creighton expressed support for the motion and concurred with Mr. Degginger's and Mr. Noble's comments, in particular. As a Councilmember, he agrees that I-776 will be detrimental to the City. He noted that Sound Transit has been criticized for its light rail project. However, the Eastside has benefited greatly from its expanded bus service. He does not want to risk losing the unanticipated revenues currently held by Sound Transit for Eastside projects and service hours. Mr. Creighton noted that public officials are often criticized for not taking leadership on issues. He feels this Council is taking a leadership position by communicating the right course of action for the overall community.

- The motion to approve Resolution No. 6754-B opposing State Initiative 776 carried by a vote of 7-0, with Mr. Lee not voting. [According to Council rules, Councilmembers cannot abstain and the lack of a vote is counted in the affirmative.]

(b) Initiative 790

Ballot Title:

This measure would establish a new board of trustees to manage the law enforcement officers and fire fighters (LEOFF) pension system, plan 2. The board would consist of three law enforcement officers, three fire fighters, three employer representatives, and two legislators. The board would be authorized to analyze costs; design, recommend and implement increased benefits; and establish minimum benefits. The contribution funding ratio would be: 50% member contributions, 30% employer contributions, and 20% state contributions.

- Deputy Mayor Degginger moved to open the public hearing on Initiative 790, and Mr. Noble seconded the motion.
- The motion to open the public hearing on Initiative 790 carried by a vote of 7-0.

Ms. Carlson provided a staff report on Initiative 790, which affects the governance of the Law Enforcement Officers and Fire Fighters Pension System Plan 2 (LEOFF 2). Pension benefits for public employees, including law enforcement officers and fire fighters, have been established by the state legislature. Employees, local governments, and the State contribute to the costs of the pension plans. The Washington State Department of Retirement Systems (DRS) currently administers all public retirement plans, and any changes in benefits and contribution rates are proposed and approved by the legislature.

Ms. Carlson said I-790 would create a new board for the LEOFF 2 pension plan consisting of 11 members – six active LEOFF 2 members, three employer representatives, and two legislators. The new board would have the authority to design and implement changes in benefits, with

legislative approval. According to I-790, the board can authorize benefit increases that cost less than 20 percent of the aggregate covered payroll. These benefit increases would go into effect unless actively repealed by the state legislature. A proposal to increase benefits above the 20 percent threshold requires legislative approval, however. I-790 requires that all earnings of the LEOFF 2 pension fund in excess of the actuarially assumed rate of return would be used exclusively for additional benefits. The current assumed investment return rate is 8 percent.

Ms. Carlson said Initiative 790 establishes a minimum level of benefits guaranteed as of July 1, 2003, which could not be reduced in the future. The Office of the State Actuary and the Office of Financial Management, as well as the Association of Washington Cities, have provided information to cities regarding the potential impact of I-790. Current City of Bellevue LEOFF 2 expenses are approximately \$800,000 per year. I-790 represents a relatively minimal impact for administration of the new board. The transfer of investment earnings provision could potentially cost the City of Bellevue an additional \$2.65 million per year. A benefit increase up to the 20 percent level could cost the City an additional \$2.1 million. Benefit increases above the 20 percent level could result in additional costs as well.

Responding to Mr. Mosher, Ms. Carlson confirmed the impact to the City of Bellevue could be as high as \$6.85 million per year, if all provisions were implemented.

Mayor Marshall posed a hypothetical situation in which the new LEOFF 2 board, which contains a majority of LEOFF 2 members, could increase benefits by as much as 19 percent without state legislative approval. Ms. Carlson said such an increase would be submitted to the state legislature, which must then take action to repeal the proposal. Otherwise the benefit increase would go into effect.

- (1) Barbara Chadwick, speaking on behalf of Bellevue Fire Fighters Local 1604, said Washington is one of four states in the nation that does not allow police officers and fire fighters a voice in their pension plan. She said Washington police officers and fire fighters contribute 50 percent of the pension funds, and public employers contribute 30 percent of the funds. Yet neither employees or employers have a voice in the pension plan. Instead, the plan is controlled by the state legislature which contributes 20 percent of the funds. Ms. Chadwick said I-790 would create a board of representatives who contribute to the plan. She noted that although a majority of the board reflects LEOFF 2 members, any proposals would be subject to repeal or approval by the state legislature. The governor would continue to have veto power as well.

Ms. Chadwick said this proposal was originally presented to the state legislature last year as House Bill 2931. It was reviewed by the State Actuary and given a fiscal impact of none. Ms. Chadwick said if the cost to the City of Bellevue were \$6 million, the proportional impact to plan members in Bellevue would be \$10 million. She said police officers and fire fighters are merely seeking a voice in their pension plan. Ms. Chadwick urged Council to support Initiative 790, which she feels will not result in increased costs to the City or the State. She said estimates of fiscal impacts are based on extreme assumptions, including the assumption of a benefit that is not contained within the language of the initiative.

Responding to Mr. Lee, Ms. Chadwick said the plan is currently governed by the Joint Committee on Pension Policy consisting of 16 state legislators. In further response, Ms. Chadwick said the membership of the proposed LEOFF 2 board is intended to be representative of relative contribution levels by plan members, employers, and state legislators, with the exception of one additional plan member on the board.

Mr. Mosher questioned how many states allow a majority of active plan members on their governing boards. Ms. Chadwick did not know the answer but noted it is unusual for a state legislature to have complete control.

Mr. Noble questioned the rationale for the I-790 provision requiring that all earnings of the LEOFF 2 pension fund in excess of the actuarially assumed rate of return be used for additional benefits for members and beneficiaries. Ms. Chadwick said the intent of this language is to prevent the state legislature from using excess funds for other purposes within the state budget. She said contributions have been unilaterally reduced over the years by the state legislature to reduce its responsibility to the plan. During the 1990s when investment returns were strong, the state legislature reduced contribution rates and used funds elsewhere in the state budget.

Mayor Marshall suggested Council continue the public hearing to next week's meeting to allow further testimony.

☞ Deputy Mayor Degginger moved to continue the public hearing on October 14, and Mr. Lee seconded the motion.

☞ The motion to continue the public hearing carried by a vote of 7-0.

10. Land Use: None.

11. Other Ordinances, Resolutions and Motions: None.

12. Unfinished Business: None.

13. Continued Oral Communications

(a) Shannon Piper, who works at Ivanhoe Theatre, requested increased funding for and media attention about this valuable community arts program.

Mayor Marshall thanked Mr. and Mrs. Piper for their interest in and support of the Crossroads/Ivanhoe Theatre program.

14. New business: None.

15. Executive Session: None.

16. Adjournment

At 9:54 p.m., Mayor Marshall declared the meeting adjourned.

Myrna L. Basich  
City Clerk

kaw