

CITY OF BELLEVUE  
CITY COUNCIL

Summary Minutes of Regular Session

May 16, 2005  
8:00 p.m.

Council Chambers  
Bellevue, Washington

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

ABSENT: Councilmembers Chelminiak and Lee

1. Call to Order

The meeting was called to order at 8:01 p.m. by Mayor Marshall, who presided.

2. Roll Call, Flag Salute

Upon roll call by the Deputy City Clerk, all Councilmembers except Mr. Chelminiak and Mr. Lee were present. Deputy Mayor Noble led the flag salute.

(a) Access Downtown Project Awards Presentation

Transportation Director Goran Sparrman provided the final report on the Access Downtown project, which was completed under budget and one year ahead of schedule. The project team included the City of Bellevue, Washington State Department of Transportation, Sound Transit, Federal Highway Administration, Atkinson Construction, and HDR, Inc. Access Downtown involved innovative project delivery in the areas of engineering design, traffic management, public communication, and the coordination of multiple projects.

Significant downtown improvements were completed on 110<sup>th</sup> Avenue NE, NE 2<sup>nd</sup> Street, 112<sup>th</sup> Avenue, and the NE 8<sup>th</sup> Street and 116<sup>th</sup> Avenue intersection. Major I-405 freeway components included a new interchange and northbound ramp at SE 8<sup>th</sup> Street (February 2003), a new southbound ramp at SE 8<sup>th</sup> Street (August 2003), a new NE 8<sup>th</sup> Street interchange (December 2003), a newly rebuilt NE 4<sup>th</sup> Street interchange (June 2004), and a direct access interchange at NE 6<sup>th</sup> Street for HOV access into downtown and Bellevue Transit Center.

Mr. Sparrman said all components of the project were completed for a total of \$139 million, a savings of nearly \$25 million compared to the original budget of \$164.5 million. Of this savings, the City accrued nearly \$6 million in savings through surface arterial work and its contribution to the mainline work. Sound Transit realized nearly \$20 million in savings. An additional savings

of \$8-9 million is anticipated if contingency funds are not needed. Mr. Sparrman explained that incentives and disincentives were built into project contracts to facilitate accelerated completion and a final project cost below budget. He emphasized the importance of an early investment in traffic management and communication strategies.

Mr. Sparrman said the City Council's support of this project was key to its success. Sound Transit provided the majority of funding for the project. The state Transportation Improvement Board provided significant funding support for specific pieces of the project, and King County Metro Transit was involved early in the design process.

The Access Downtown project received the *2005 Pride in Transportation Construction* award from the American Road and Transportation Builders Association. The award recognizes the project partners for "community relations and public education that enhance the image of the U.S. transportation construction industry."

Mayor Marshall commended the Access Downtown project for changing the way thousands of citizens get in and out of downtown Bellevue, and for maintaining access to the downtown while construction was underway. The Council presented plaques to the following individuals: Doran Beauclair, Dave Berg, Tresa Berg, Jim Firestone, Ron Kessack, Fred Liang, Rick Logwood, Barbara Ramey, Don Tolstedt, Mike Whiteaker, and Goran Sparrman.

3. Communications: Written and Oral

Mayor Marshall explained that citizens are not allowed to comment regarding Agenda Item 10(a), CamWest's Process I land use application for the Hillside planned unit development (PUD) and preliminary plat, because it is a quasi-judicial matter.

- (a) Renay Bennett spoke in favor of the draft ordinance regarding temporary use permits and homeless encampments [See Agenda Item 5(b)]. She submitted a petition supporting the ordinance.
- (b) James Nakatsu supports the draft ordinance regarding temporary use permits and homeless encampments. He expressed concern and submitted written materials regarding public health issues associated with encampments.

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

5. Report of the City Manager

- (a) Management Brief – Response to May 2, 2005 DSI Discussion

Mike Brennan, Development Services Deputy Director, noted the management brief on page 5-1 of the packet responding to questions raised during the May 2 Study Session update to Council. Staff is working to improve consistency in the delivery of inspection services through the Inspection Services Improvement Work Plan.

Responding to Councilmember Degginger, Mr. Brennan said he follows up with contractors upon completion of projects to solicit feedback regarding inspections and interactions with staff. This information is incorporated into performance appraisals and used for ongoing coaching and training.

(b) Management Brief – Temporary Encampments

Legal Planner Kate Berens noted the management brief regarding temporary encampments beginning on page 5-5 of the Council packet. A public hearing on the topic is scheduled for the June 6 City Council Regular Session. Mayor Marshall noted one typographical error in the draft ordinance, which will be corrected.

(c) Agenda Highlights

City Manager Steve Sarkozy highlighted Agenda Item 8(e), an agreement with Bellevue School District to purchase and install playground equipment at Spiritridge Elementary School as part of the Neighborhood Enhancement Program (NEP).

Agenda Item 8(m) will provide the construction of a boardwalk along 156<sup>th</sup> Avenue SE from SE 11<sup>th</sup> Street to SE 16<sup>th</sup> Street. This project was identified through the West Lake Hills Neighborhood Investment Strategy (NIS) project.

6. Council Business

Dr. Davidson attended the WRIA 8 Forum meeting.

Ms. Balducci participated in the Arbor Day celebration at Bellevue Botanical Garden and represented Bellevue at King County Library System's "Day of the Children/Day of the Books" event.

Mr. Degginger praised Bellevue Youth Theatre's production of "Tom Sawyer." He attended meetings of the JAG (Jail Advisory Group) and Cascade Water Alliance.

Deputy Mayor Noble attended meetings of the Eastside Transportation Partnership and the Eastside Human Services Forum.

Mayor Marshall attended Sound Transit meetings.

7. Approval of the Agenda

Mayor Marshall noted a correction to Agenda Item 8(e) to add "Resolution No. 7185."

➡ Deputy Mayor Noble moved to approve the agenda, as amended, and Mr. Degginger seconded the motion.

➡ The motion to approve the amended agenda carried by a vote of 5-0.

8. Consent Calendar

➡ Mr. Noble moved to approve the Consent Calendar, and Ms. Balducci seconded the motion.

➡ The motion to approve the Consent Calendar carried by a vote of 5-0, and the following items were approved:

- (a) Minutes of April 25, 2005 Extended Study Session  
Minutes of April 28, 2005 Special Meeting  
Minutes of May 2, 2005 Study Session  
Minutes of May 2, 2005 Regular Session
- (b) Motion to approve payment of claims for the period April 30 through May 13, 2005, and payroll for the period April 16 through April 30, 2005.
- (c) Resolution No. 7180 authorizing execution of an Agreement for Non-Professional Services with ABC Legal Services in an amount not to exceed \$150,000 over a three-year period for legal delivery services.
- (d) Resolution No. 7181 authorizing to enter into a 2005-2007 successor labor agreement with the Bellevue Police Management Association (BPMA) representing Police Captains and Majors.
- (e) Resolution No. 7185 ~~Motion to approve a~~ authorizing a Purchase Agreement with the Bellevue School District and Playscapes Northwest, Inc., in the amount of \$59,826.44, including Washington state sales tax, to purchase and install playground equipment at Spiritridge Elementary School as part of the Neighborhood Enhancement Program ( NEP).
- (f) Ordinance No. 5597 authorizing an amendment to the 2005-2006 Biennial Budget which approves the conversion of three Limited Term Employees (LTE) in the Department of Planning and Community Development into Full-Time Employees (FTE) in order to support Development Services activities.
- (g) Resolution No. 7182 authorizing execution of a fourth amendment to the School Resource Officer (SRO) contract with the Bellevue School District for payment of SRO training costs.
- (h) Ordinance No. 5598 relating to NE 2<sup>nd</sup> Street roadway enhancements authorizing:  
1) execution of a grant agreement and supplements, if necessary, with the Washington State Department of Transportation to accept \$304,166 in Federal Surface Transportation funds awarded through the Puget Sound Regional Council Countywide competition; and 2) amendment to the 2005-2011 General Capital Investment Program Plan to create a new project entitled “NE 2<sup>nd</sup> Street Roadway Enhancements – Pre-Design (Proposed Plan No. PW-R-150) and decreasing the

project budget for CIP Plan No. PW-R-147, Early Implementation of Downtown Plan, by \$50,000; and 3) amendment to the 2005-2006 General CIP Fund to increase the appropriation by \$304,000 in grant funds.

- (i) Ordinance No. 5599 establishing a speed limit of 35 mph on the newly built NE 29<sup>th</sup> Place connection, between 148<sup>th</sup> Avenue NE and NE 24<sup>th</sup> Street, and amending Section 11.32.022 of the Bellevue City Code.
- (j) Resolution No. 7183 relating to NE 10<sup>th</sup> Street Overcrossing, committing the City to support planning, permitting and construction efforts to develop the extension of NE 10<sup>th</sup> Street between 116<sup>th</sup> Avenue NE and 112<sup>th</sup> Avenue NE, necessary to facilitate the Overlake Hospital Medical Center and Group Health Cooperative proposals to expand the Overlake campus.
- (k) Motion to reject all bids received from Bid No. 0517 for the 2005 asphalt and concrete replacement project and to re-bid the project with a reduced scope of work.
- (l) Resolution No. 7184 authorizing execution of two one-year contract renewals for two tree maintenance and removal contracts, one with Asplundh Tree Experts and the second with Davey Tree, for total contract renewal amounts of \$70,000 each (two renewals each at \$35,000 per renewal).
- (m) Motion to award Bid No. 0516 to Precision Earthworks, Inc., in the amount of \$675,222 as the lowest responsible bidder for the installation of a new boardwalk on the east side of 156<sup>th</sup> Avenue SE from SE 11<sup>th</sup> Street to SE 16<sup>th</sup> Street, a component of the West Lake Hills Neighborhood Investment Strategy (NIS) improvements. (CIP Plan No. NIS-1)

Separate Item for Council Consideration:

Mayor Marshall noted a memo from the Council liaisons to the Transportation Commission, Parks and Community Services Board, and Environmental Services Commission making recommendations for reappointments.

- ➡ Deputy Mayor Noble moved to reappoint Jim Young to the Transportation Commission, Jane Bennett to the Parks and Community Services Board, and Steve Szablya to the Environmental Services Commission. Ms. Balducci seconded the motion.
- ➡ The motion to reappoint Jim Young to the Transportation Commission, Jane Bennett to the Parks and Community Services Board, and Steve Szablya to the Environmental Services Commission carried by a vote of 5-0.

9. Public Hearings: None.

10. Land Use

- (a) \* Continued discussion of appeal of application by CamWest for a Planned Unit Development and Preliminary Plat for the Hillside Development  
*(This is a Process I Land Use application. Under Process I, the Hearing Examiner is the final decision maker for the City unless the decision is appealed to the City Council. The Limited Public Hearing on this matter was held and closed on May 2, 2005. No additional public comment on this matter will be taken.)*

Mayor Marshall explained that this item is a continuation of Council consideration of the appeal on the decision of the Hearing Examiner regarding the application of CamWest Development for the Hillside planned unit development (PUD) and preliminary plat.

Lori Riordan, City Attorney, reviewed the rules and procedures for Council's consideration of the appeal and application of CamWest for a PUD and preliminary plat for a 41-lot, single-family development (Hearing Examiner File No. 03-131600-LK). This is an appeal filed by Sally Feldman on behalf of the Silverleaf Homeowners Association and Greg Clausius, Krishunan Gopalan, Jayashree Krishman, Mr. and Mrs. Fausto Ibarra, Mr. T. Schilds, and Mrs. Darla Schilds of the Hearing Examiner's decision to approve the PUD and preliminary plat. The appeal hearing was limited to the issues decided by the Hearing Examiner after taking testimony during the hearing held on January 26, 2005. The parties to the appeal are the appellants named above and the respondents (CamWest Development and the Director of Planning and Community Development).

The Limited Public Hearing portion of this appeal was concluded on May 2, 2005, and the matter is now under consideration by Council for a decision. The parties will not be permitted to make additional presentations but will be permitted to respond to the questions raised by Council during and following the public hearing on May 2<sup>nd</sup>, and also to respond to additional questions raised by Council this evening. The Council may ask questions of any party or staff, or of any other person about any matter contained in the record. However, new material not contained in the record made before the Hearing Examiner may not be presented. After the Council has asked any questions it may have, the Council will have the opportunity to deliberate and render a decision, either tonight or at a subsequent meeting.

Ms. Riordan explained that the appellants bear the burden of proof. Council may grant the appeal or grant the appeal with modifications, if the appellants have carried their burden of proof and the Council finds that the decision of the Hearing Examiner is not supported by material and substantial evidence. The Council shall accord substantial weight to the decision of the Hearing Examiner. Alternatively, should Council conclude that additional evidence should be taken or the Hearing Examiner's decision must be clarified in order for Council to render a decision, Council may remand the matter to the Hearing Examiner for an additional hearing limited to specific issues identified by the Council.

The City Clerk timely received additional submittals from respondent CamWest and the Department of Planning and Community Development. Ms. Riordan reviewed those submittals to determine whether they contained evidence not in the Hearing Examiner's record. She noted that the second paragraph on page 10-8 of the Council packet should have been redacted because

it contains information not contained in the Hearing Examiner's record. It should not be considered by Council in making a decision at this time.

Ms. Riordan recalled that Council raised a number of questions with the parties at the May 2<sup>nd</sup> Limited Public Appeal hearing. The submittal made by PCD staff addresses those questions to the extent that they could be offered without adding new evidence.

Staff has recommended remanding the matter to the Hearing Examiner consistent with Councilmembers' discussion following the presentation by the parties so that the Examiner can clarify his decision and be directed to take evidence, as outlined in the staff recommendation contained on page 10-11 of the Council packet. Some Councilmembers indicated they had additional questions regarding the issues on this appeal.

In terms of how to proceed tonight, Ms. Riordan suggested Councilmembers first be given an opportunity to ask any follow-up questions of the parties and then pose additional questions. The code provisions governing Process I appeals limit the parties in their ability to offer evidence not contained in the record, so the parties may not be able to fully answer questions at this time. Once Councilmembers have had the opportunity to ask their remaining questions, Council will need to take action to either grant the appeal, deny the appeal, or remand the matter back to the Hearing Examiner with specific instructions as to the scope of the remand hearing.

Ms. Riordan displayed a slide depicting the Hillside PUD and preliminary plat, Hillside School, and neighboring Silverleaf plat. Most of the questions raised by Council at the May 2<sup>nd</sup> hearing related to the open space requirement and trail locations. The bulk of the proposed open space is contained in a retained vegetation area (RVA) located along the western edge of the plat, adjacent to the Hillside School. Council was concerned that ownership of the RVA would remain in the hands of the Hillside School and whether the open space would be accessible to residents of the plat.

Ms. Riordan said remand by Council of this matter to the Hearing Examiner, as recommended by PCD staff, would be for the purpose of allowing the Hearing Examiner to take additional evidence and further develop the record regarding the open space conditions.

Responding to Dr. Davidson, Legal Planner Kate Berens said Tract E, the proposed open space, is not a protected area steep slope.

Responding to Mr. Degginger, Ms. Berens indicated that the decision criteria are outlined beginning on page 6 of the Hearing Examiner's report.

- Deputy Mayor Noble moved to remand the Hillside PUD and preliminary plat application and appeal matter to the Hearing Examiner with instructions to address the following three issues: 1) Clarify the status of CamWest Development and the Hillside School as property owners and applicants, including a clarification of what portion of the total Hillside School ownership is subject to the PUD application, 2) Clarify the City's authority and the conditions that affect the property subject to the PUD application, including open space Tract E, which will continue to be owned by the Hillside School,

and 3) Clarify the decision relating to the two trail connections required as part of the PUD approval, in contrast with the voluntary covenant offered by the Hillside School over the Hillside School site. Mr. Degginger seconded the motion.

- Mr. Degginger suggested an amendment to the motion to instruct the Hearing Examiner to: 1) Clarify his decision regarding whether the PUD as proposed is compatible with the existing land use or property that abuts or is directly across the street from the subject property, as indicated by Decision Criteria D (LUC 20.30D.150), and 2) Clarify his reasoning for how each decision criteria was met. Mr. Noble accepted the amendment.

Mr. Degginger noted that density within the Hillside PUD (R-3.5) will be higher than in the R-5 zone to the north. His amendment requests clarification regarding this point.

- ☉ The motion to remand the Hillside PUD and preliminary plat application and appeal matter to the Hearing Examiner with instructions to: 1) Clarify the status of CamWest Development and the Hillside School as property owners and applicants, including a clarification of what portion of the total Hillside School ownership is subject to the PUD application, 2) Clarify the City's authority and the conditions that affect the property subject to the PUD application, including open space Tract E, which will continue to be owned by the Hillside School, 3) Clarify the decision relating to the two trail connections required as part of the PUD approval, in contrast with the voluntary covenant offered by the Hillside School over the Hillside School site, 4) Clarify the Hearing Examiner's decision regarding whether the PUD as proposed is compatible with the existing land use or property that abuts or is directly across the street from the subject property, as indicated by Decision Criteria D (LUC 20.30D.150), and 5) Clarify his reasoning for how each decision criteria was met, carried by a vote of 5-0.

11. Other Ordinances, Resolutions and Motions: None.

12. Unfinished Business: None.

13. Continued Oral Communications: None.

14. New Business: None.

15. Executive Session: None.

16. Adjournment

At 8:58 p.m., Mayor Marshall declared the meeting adjourned.

Michelle Murphy, CMC  
Deputy City Clerk

kaw