

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Extended Study Session

July 26, 2004
6:00 p.m.

Council Conference Room
Bellevue, Washington

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

ABSENT: Councilmembers Davidson and Lee

1. Executive Session

At 6:01 p.m., Deputy Mayor Noble opened the meeting and announced recess to Executive Session for approximately one hour to discuss two items of potential litigation and one item of property acquisition.

The meeting resumed at 7:15 p.m. with Mayor Marshall presiding.

2. Oral Communications

Mayor Marshall reminded citizens they are not allowed to comment on Agenda Item 3(f) regarding the appeal of the conditional use permit application of Michael's Toyota.

Siona Windsor, Assistant City Attorney, explained that the appeal is a quasi-judicial matter in which Councilmembers act as judges and make a decision as to the rights of specific interested parties under the City's regulations. If members of the public wish to comment on this or any other quasi-judicial matter pending before the City Council, communications should be directed to Myrna Basich, City Clerk. Such communications must be received by 1:00 p.m. on the Wednesday before the Council meeting in which the material will be considered.

- (a) Lindy Bruce, former member of the West Lake Hills Citizen Advisory Committee and current Secretary of the Sunset Community Association, expressed concern about a staff proposal to defer funding in the Capital Investment Program (CIP) Plan for the 145th Place SE (SE 8th to SE 24th) and SE 16th Street (145th to 148th SE) projects. She said the projects were discussed with staff over several months and identified by residents as top priorities for the area.
- (b) Clyde Bell encouraged Council to increase funding for the Neighborhood Enhancement Program from \$150,000 to \$250,000. He said it is frustrating for residents to be asked to

develop proposals and then to find out there is insufficient funding for some desired projects.

- (c) Paul Taipale said the proposed sign code amendment to allow signage on the upper levels of high-rise buildings in downtown Bellevue appears to be a well thought out approach. However, he expressed concern that signs could become too bright or garish.
- (d) Cathy Gwillum spoke against allowing signage on high-rise buildings.
- (e) Al Close, Senior V.P. of Marketing for Safeco Life and Investments, encouraged approval of the proposed sign code amendment. This division of the company will be changing its name soon and signage is an important way to establish name recognition. Mr. Close requested approval for two signs on the east side of the building and nightly illumination of signs.
- (f) Tina Davis, Equity Office Properties, expressed support for the proposed sign code amendments including illuminated signs.
- (g) Robert Sandbo spoke against the proposed sign code amendments.

3. Study Session

- (a) Council New Initiatives

No new initiatives were introduced.

- (b) City Manager's Report

City Manager Steve Sarkozy reminded Councilmembers about the groundbreaking ceremony at the New City Building at 10:00 a.m. on Thursday, July 29. Also on Thursday, the City will take bids on refunding two Water Revenue Bonds to reduce debt service costs. A total savings of approximately \$520,000 is anticipated.

Terry Higashiyama, Parks Assistant Director, and Glenn Kost, Parks Planning Manager, provided an update on the Mercer Slough Environmental Education Center project. Mr. Kost described a proposal to change the location of the center from Bellevue Way to the site of the current education center (Sullivan House) along 118th Avenue SE. Pacific Science Center originally planned a visitors center with exhibits for an admission fee and wanted the higher visibility location. However, the center will now focus only on registered programs and classes and the location is therefore less critical. The design program, architectural style, and operational relationship with Pacific Science Center will not change.

Councilmember Degginger feels the proposed location will be a better site for the education center. Responding to Mayor Marshall, Ms. Higashiyama said the location change will be discussed with Puget Sound Energy, the third project partner, if approved by Council.

Mayor Marshall noted Council consensus to proceed with implementing the project at the new location.

Mr. Kost announced that the bid opening for construction of the South Bellevue Community Center in Eastgate Park is scheduled for July 22. Council action to award the bid is scheduled for August 2. Mr. Kost explained that the bids received exceed available project funding. The low bid of \$9.67 million is seven percent above the engineer's estimate and approximately \$1 million over available project funding. Mr. Kost reviewed three options for approving the lowest responsible bid:

1. Allocate a portion of the project's maintenance and operations funding (\$452,000) to cover project start-up costs.
2. Redirect funds from other Parks capital projects. The Parks Capital Investment Program (CIP) Plan has identified \$2.9 million in potential project deferrals for the 2005-2011 budget, and the Neighborhood Parks CIP line item has an uncommitted balance of \$773,000 available in 2007.
3. Allocate additional CIP funds to the project through the 2005-2011 budget process.

Mayor Marshall spoke in favor of utilizing the \$773,000 in uncommitted Neighborhood Parks funds. Mr. Degginger concurred and discouraged delaying the project.

Mr. Sarkozy said staff will return with a funding proposal next week for Council action.

(c) Bellevue Economic Partnership Update

Ellen Miller-Wolfe, Economic Development Manager, explained that the Bellevue Economic Partnership (BEP) was organized five years ago to recruit and retain high technology business for Bellevue. The BEP's scope has expanded to recruit additional types of businesses with a focus on FIRES (Finance, Insurance, Real Estate, and Services), small businesses, and minority-owned businesses. During the past year, Meydenbauer Convention Center joined the BEP partners – Bellevue Chamber of Commerce, City of Bellevue, Bellevue Downtown Association, and the Port of Seattle/King County. City staff has provided support to all BEP committees.

Ms. Miller-Wolfe introduced Bob McMillan, a member of the Chamber's Executive Committee and the BDA's Land Use Task Force; Betty Nokes, President of Bellevue Chamber; and Steve Gilbert, Chair of BEP Recruitment Committee. Mr. McMillan was recently selected to serve as Vice Chair of an economic development group for the coming year. He reviewed the BEP's activities and noted the program was recently recognized on CNN as one of the top economic development partnerships in the nation. Mr. McMillan described efforts to recruit Safeco's new life insurance company and its 1,000 employees to Bellevue. He discussed the importance of ensuring transportation mobility in recruiting and retaining businesses.

Mr. Gilbert described the Recruitment Committee's activities to attract businesses to Bellevue, including the development of a *Bellevue Advantage* packet of information that can be tailored for individual businesses. The committee has been working with a marketing and branding consultant to continue to lower office vacancy rates in downtown Bellevue. Mr. Gilbert asked

Council to consider authorizing \$35,000 for economic development marketing and branding activities. Mayor Marshall thanked the group for the presentation.

- (d) Proposed amendment of Bellevue City Code to allow signs on downtown high-rise buildings

Planning and Community Development Director Matt Terry opened discussion of proposed amendments to the City's sign code.

Legal Planner Kate Berens recalled previous discussion with Council regarding proposed sign code amendments to allow signs on the upper levels of downtown high-rise buildings. The draft ordinance proposes the following guidelines: 1) limit signs to businesses occupying 200,000 or more net square feet in the building on which the sign is placed, 2) one upper level sign per building, 3) signs should be placed on the most easterly façade of the building, 4) maximum sign size should be limited to 300 square feet, and 5) upper level high-rise signs cannot be illuminated. Ms. Berens noted the photo simulations provided by Safeco, which show larger signs 600 square feet in size.

Ms. Berens requested Council direction on the proposed amendments. Council action will be requested on August 2 or at a future meeting. Ms. Berens said the use of upper level high-rise signs will not affect allowed signage at the ground level of buildings.

Mr. Sarkozy presented a modified proposal. He feels it is important to restrict high-rise signs to corporate headquarters or companies with a significant presence in downtown Bellevue. Only two companies, Puget Sound Energy and Safeco's new company, currently meet this criteria. Mr. Sarkozy expressed support for the 300-square-foot maximum sign size. He recommended allowing two signs per building (northeast and southeast facades) and allowing backlit illumination of signs.

Deputy Mayor Noble expressed support for allowing high-rise signage and encouraged Councilmembers' feedback on the proposals. Mr. Degginger concurred and cited Comprehensive Plan policy EC-13 which recognizes Bellevue's role as a principal economic entity in the region.

Responding to Mayor Marshall, Councilmembers expressed support for the amendment to restrict upper level signage to corporate headquarters or companies occupying 200,000 or more net square feet.

Councilmembers agreed that upper level signs should be restricted to one company name per building. They were not opposed to allowing two signs on two facades (generally facing east toward I-405) per building.

Moving to maximum size, Ms. Berens said the sign on the Hyatt is 288 square feet. Mr. Degginger expressed a preference for a maximum size of 300 square feet, noting that 600 square feet is too large.

Mayor Marshall is in favor of allowing backlit signs. Ms. Berens suggested the signs would be opaque letters with a white light source coming from behind and around the letters, while the letters would not be internally illuminated. Mr. Degginger feels this is the hardest issue to consider and cautioned against lights becoming too bright.

Deputy Mayor Noble favors muted backlit signs over internally illuminated signs. Mr. Sarkozy said the signs will be subject to design review. He suggested the use of color be allowed, particularly for company logos. Mayor Marshall asked staff to provide more details on the parameters proposed for company logos.

Responding to Mayor Marshall, Ms. Berens said flashing or moving signs are not allowed in Bellevue.

Mr. Terry said staff will bring the issue back to Council on August 2 for action. At that time, staff will respond to Council's questions about light intensity and the use of logos.

Mr. Chelminiak expressed concern that some south/southeast-facing signs could be visible from Downtown Park.

At 8:50 p.m., Mayor Marshall declared a break. The meeting resumed at 9:00 p.m.

(e) Cultural Compass – A Strategic Vision for Arts and Culture

Roxanne Shepherd, Arts Commissioner, opened a presentation about the Cultural Compass plan, which is a strategic vision for arts and culture in the community. She recalled previous Council direction to the Arts Commission in November 2002 to conduct a community-based cultural planning process. The result of this process is the new Cultural Compass report. Wolf, Keens and Company was hired to facilitate the process, and a steering committee of 31 residents met eight times during the past year. Activities included more than 60 interviews with community leaders and regional experts, a community forum featuring national experts on arts and cultural development, and seven focus groups.

Ann Oxrieder, Steering Committee Co-Chair, described a vision for arts and cultural opportunities throughout the community developed in part through partnerships between the City, private sector, and arts organizations. The eight primary goals are cultural organizations and artists, cultural economic and business development, cultural diversity, cultural education, cultural facilities, public art, cultural resources, and administrative infrastructure. Ms. Oxrieder said the following four initiatives will link the vision, goals, and strategy:

1. Capitalizing on residents' desire for learning and enthusiasm for hands-on experiences by broadening the range and availability of cultural education opportunities.
2. Establishing cultural districts linked to our major commercial districts (beginning with Downtown, Crossroads, and Factoria).
3. Building visibility, identity, and capacity in the cultural sector.
4. Attracting and developing strong leadership.

George Northcroft, Steering Committee Co-Chair, posed key issues involved with implementing the Cultural Compass plan:

- What is the optimal delivery system for the Cultural Compass plan?
- What is the optimal funding level?
- What should we pursue first? What short-term measures can be implemented now?

He suggested Council begin reaching out to the community early in 2005 to move forward with implementing the plan.

Mayor Marshall thanked everyone for their work and presentation.

(f) Continued discussion of appeal regarding Michael's Toyota

Ms. Berens noted the management brief in the Council packet (Page 3-142) clarifying the traffic analysis associated with the conditional use permit (CUP) application of Michael's Toyota.

Mayor Marshall noted this is a continuation of discussion from July 19 regarding the appeal. She asked legal staff to review the rules and procedures for Council's consideration of the matter.

Siona Windsor, Assistant City Attorney, explained that this agenda item is a continuation of Council's discussion of a limited public appeal hearing on the conditional use permit application of Michael's Toyota. Jennifer Robertson, Scott Robertson, and Michael Alford filed an appeal of the Hearing Examiner's decision to grant the conditional use permit with conditions. Ms. Windsor suggested that Councilmembers disclose any ex parte communications regarding the appeal at this time.

Mayor Marshall reported that all Councilmembers, except Ms. Balducci, received an email dated July 24 from Keith and Lori Watts with one sentence expressing their opposition to another car dealer in South Bellevue. Mrs. Marshall said she forwarded the email to the City Clerk. Mr. Degginger did not open the email from the Watts.

Continuing, Ms. Windsor said Council previously considered three motions made by the appellants. Motions to supplement the record with additional evidence and to continue the hearing were denied by Council. The third motion for additional time to present oral argument was granted by Council, and parties were given five additional minutes for argument. The parties presented oral argument on the appeal and the public hearing was closed. Council questioned the parties and staff, then moved to continue the matter until today's meeting.

Tonight Council will have the opportunity to ask questions and deliberate, and Council may render a decision tonight or at a subsequent meeting. The appellants bear the burden of proof. Council may grant the appeal or grant the appeal with modifications if the appellants have 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. City Council shall accord substantial weight to the Hearing Examiner's decision.

Evidence is material if there is a reasonable probability that, had it been appropriately considered by the fact finder, the result of the proceeding would have been different. 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.

Mayor Marshall opened the floor to Council discussion of the appeal.

Councilmember Chelminiak said he has struggled with the issue of whether an auto dealership at this location is consistent with the Comprehensive Plan. He is not convinced by the circular argument regarding conditional uses and consistency with the Comprehensive Plan. However, he supports the process to date and disagrees with the appellants' allegations that the Hearing Examiner was not objective in his review and decision.

Councilmember Balducci feels the proposal complies with the Comprehensive Plan. She opined that the proximity of an existing car dealership and the freeway make this a good location for another car dealer. However, she too is troubled by the argument regarding conditional uses and the Comprehensive Plan. It appears it would be necessary to change the zoning from community business (CB) to neighborhood business (NB) in order to deny the conditional use. She interprets this to mean a Council could never deny a conditional use based on the use itself. Ms. Balducci cited Comprehensive Plan policies encouraging neighborhood-serving businesses and noted the potential for this location to serve as a gateway to the community. She questioned the desirability of car dealerships at a gateway location.

Deputy Mayor Noble concurred with Mr. Chelminiak's support of the hearing process and the Hearing Examiner's objectivity. Mr. Noble agreed with the Hearing Examiner's conclusion that the shopping center's zoning is consistent with the Comprehensive Plan and it allows for auto sales with a conditional use permit. He would prefer to see a grocery store or similar retail uses in the center. However, he feels the CUP application is consistent with the community business (CB) designation of the center.

Councilmember Degginger referred to CUP approval criteria regarding consistency with the Comprehensive Plan and whether a proposal is materially detrimental to the adjacent area. He does not see anything in the record to indicate the Hearing Examiner erred in his application of the criteria to his decision. While he would prefer to see a new grocery store in the shopping center, he feels the proposal is consistent with the Comprehensive Plan. Mr. Degginger sees no evidence in the record to reverse the Hearing Examiner's decision.

Mayor Marshall reiterated that the burden of proof is on the appellants. She feels the CUP application is consistent with the Comprehensive Plan and compatible with the nearby Mormon temple. While she too would prefer to see a grocery store or other business, she said the rights of the property owner must be respected and a car dealership is an allowed use through the CUP process.

Following brief discussion, Mayor Marshall noted a majority of Council in favor of denying the appeal.

- Councilmember Chelminiak moved to direct staff to prepare an ordinance denying the appeal for Council action next week. Mr. Noble seconded the motion.
- The motion to direct staff to prepare an ordinance denying the appeal, for Council action next week, carried by a vote of 5-0.

(g) Proposed Port Investment in Meydenbauer Center Expansion

Mr. Terry introduced Belinda Miller, Port of Seattle; Stacy Graven, Executive Director of Meydenbauer Convention Center; Roger Anderson, Bellevue Convention Center Authority (BCCA) Board Member; and Jim Reinhartsen, lead consultant for the feasibility report.

Mr. Terry recalled that a citizen advisory committee issued a report in 1997 recommending the expansion of Meydenbauer Center in order to enhance its position in the regional marketplace. The report concluded that expansion should be accomplished within TOT (transient occupancy tax) collections and with an adjacent hotel. Expansion positions the Center to attract larger regional events, adds \$50 million in new economic impact to the region, improves the operating efficiency of the Center.

Mr. Terry described the Port of Seattle's key role in economic development in the region. The City, the Port, and the BCCA initiated a feasibility study in March, which concluded that a Port investment in the expansion of Meydenbauer Center is financially feasible and provides significant benefits to the regional economy. The feasibility study addressed:

- Program and design for the convention and trade center – The report concluded that convention center expansion is appropriately sized to respond to market requirements. Expansion includes a new World Trade Center Eastside component.
 - Investment structure acceptable to the Port and the City – The Port anticipates a seven percent return on its investment (\$25 million investment returned to the Port within 30 years) and would continue as an equity owner of the center. The City could commit its TOT collections, which are already dedicated to Meydenbauer Center, for a sufficient period of time to ensure the Port's return on investment is realized.
- At 9:58 p.m., Deputy Mayor Noble moved to extend the meeting to 10:30 p.m. Mayor Marshall seconded the motion.
 - The motion to extend the meeting to 10:30 p.m. carried by a vote of 5-0.
 - A governance model – The current legal structure of Meydenbauer Center would continue. However, the BCCA Board would be reorganized to contain five members appointed by the City and two members appointed by the Port. At least one Port vote would be required on the following key financial issues: 1) adoption of annual finance plan, 2) amendment to Charter or operating agreement, and 3) any capital improvement not in the finance plan.

- Operating principles for the new center will continue as they are now. The finance plan will be structured to meet or exceed the Port's financial return expectations. An operational reassessment will be conducted upon completion of the expansion.
- Legal Authority – The City, BCCA, and Port have the legal authority to proceed with the joint partnership. Legal documents will be modified to reflect ownership structure and the change in governance.

If the feasibility report is accepted by Council and the Port of Seattle, more work is needed on program development, development of an operating and capital budget, and legal documentation. A final investment decision by the City and the Port is targeted for November.

Councilmember Degginger suggested the reassessment should focus on the core principle of meeting or exceeding financial performance. He feels the review and reevaluation should be required immediately following completion of the expansion.

Mayor Marshall indicated Council consensus to accept the recommendation of the feasibility team and to direct staff to bring forward an amendment to the MOU incorporating the Feasibility Study results.

Mayor Marshall thanked staff for the presentation.

(h) Regional Issues

Diane Carlson, Director of Intergovernmental Relations, noted the draft letter in Council's desk packet to the Washington State Department of Transportation regarding the I-405 Early Environmental Investments Program.

Brad Miyake, Utilities Director, explained that environmental mitigation measures associated with the future expansion of I-405 include several projects in the Lake Sammamish watershed. The draft letter indicates Bellevue's willingness to mitigate watershed impacts for Lake Washington as well as the City's objection to projects affecting Lake Sammamish.

Mayor Marshall expressed support for Deputy Mayor Noble's suggestion earlier in the day that the letter articulate Bellevue's strong opposition to the identified projects near Lake Sammamish.

Responding to Ms. Balducci, Stream Scientist Kit Paulsen said the criteria used to compile the project list were environmental benefit and feasibility. Ms. Paulsen explained that WSDOT is focusing on the larger WRIA (Water Resource Inventory Area) 8 basin while City staff support mitigation measures in the Lake Washington watershed only.

Moving to the proposed interest statement regarding I-405, Ms. Carlson explained that the statement addresses not only the EEI program but overall water quality issues. The statement encourages a focus on the Lake Washington watershed only and on viable mitigation measures closer to I-405.

Following brief discussion, Mayor Marshall indicated Council consensus to send the letter now. Council supports the interest statement but would like to give Councilmember Davidson an opportunity to review it before sending it to WSDOT.

Moving to page 8 of the Regional Issues packet, Ms. Carlson requested Council consideration of a draft interest statement on future high capacity transit to be planned and implemented by Sound Transit. She noted the City's priorities of I-90, I-405, and Eastside activity center connections outlined in the interest statement. Kim Becklund, Transportation Policy Adviser, said the Eastside Transportation Partnership is seeking input from cities within Sound Transit's East Subarea regarding interests and priorities for Phase II planning.

Mayor Marshall suggested: 1) adding a bulleted item in the interest statement encouraging preservation of the railroad right-of-way for possible HCT use, 2) adding language to priority 2, I-405, to elaborate that the emphasis on I-405 is needed to support residential and employment densities, 3) adding a fourth priority to coordinate HCT with local bus service.

Staff will bring the HCT interest statement back for final Council approval in early September.

Ms. Carlson requested Council consideration of the draft Regional Human Services Task Force Interest Statement (Page 17 of Regional Issues packet). The task force expects to complete its work in August. Council's preliminary interest statement was provided to the task force in early July. Staff proposes refinement of the statement to provide further input before the task force's draft report is available for public comment. The task force proposes the creation of a regional human services board with subregional administrative and service forums.

Responding to Ms. Carlson, Mayor Marshall concurred with selecting a Councilmember to provide public testimony regarding human services and to deliver the City's interest statement.

Deputy Mayor Noble suggested allowing the participation of private and nonprofit partners in the subregional forums.

Mayor Marshall asked staff to draft a letter to accompany the interest statement and to return next week for Council approval.

Mayor Marshall requested feedback on the draft letter in Council's desk packet requesting a METRO ride-free area in downtown Bellevue. Councilmembers expressed support for sending the letter.

Mayor Marshall declared the meeting adjourned at 10:34 p.m.

Myrna L. Basich
City Clerk

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