

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Regular Session

October 3, 2005
8:00 p.m.

Council Chambers
Bellevue, Washington

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

ABSENT: Councilmember Degginger

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 City Clerk, all Councilmembers except Mr. Degginger were present. Councilmember Balducci led the flag salute.

(a) Police Department and Eastside Communications Center Accreditation

Police Chief Jim Montgomery announced that the Bellevue Police Department and the Eastside Communications Center were recently accredited by the Commission on the Accreditation of Law Enforcement Agencies (CALEA) and exceeded the requirements of national law enforcement standards. He introduced Chief Garry Anderson from the Renton Police Department, which was one of the first CALEA accredited agencies in Washington state, and thanked him and his staff for their support in this process.

Chief Anderson commended the City Manager and City Council for their support of the Police Department. He noted that the Eastside Communications Center is only the second communications center west of the Mississippi to be accredited.

Chief Montgomery thanked Deputy Chief Linda Pillo, Deputy Chief David Gans, Captain Bill Ferguson, Captain Todd Simonton, Officer Judy Fleissner, Communications Manager Alan Komenski, and Eastside Communications Accreditation Manager Sheryl Mullen for their work on this project during the past three years.

Mayor Marshall thanked Chief Anderson for the recognition and commended Chief Montgomery and the accreditation team. City Manager Steve Sarkozy noted he attended a peer assessment in which the Bellevue Police Department was described as a top-notch law enforcement agency.

3. Communications: Written and Oral

- (a) Paul Sanders expressed concern regarding provisions in the proposed Critical Areas regulations that restrict tree trimming and do not honor neighborhood covenants. He said he has been topping his Douglas firs for 40 years and they continue to grow two feet annually and have not died. He noted a decrease in value of \$25,000-50,000 for property owners who lose their views due to tree growth. Mr. Sanders asked Council to amend the Planning Commission's recommendations to allow the topping of trees as long as they are not damaged. He asked the City to honor and protect neighborhood covenants and individual property rights or to compensate property owners for the decrease in property values.
- (b) Brian Hottinger, a Spiritridge resident, said he bought his house six years ago and paid a premium for the view. Since that time the view has diminished due to tree growth. He asked Council to honor neighborhood covenants that preserve views. He encouraged regulations better tailored to neighborhood interests in preserving trees or views instead of one approach for the whole city.
- (c) Tim Rogers said his family has lived in the Beaumont division for many years because they love the views. He expressed concern that City regulations do not respect neighborhood covenants regarding view preservation. He noted his home's assessed valuation keeps increasing because it is designated as a view property even though the view is significantly diminished by the growth of trees.

Mayor Marshall asked staff to address the issue of view preservation during the Critical Areas Update discussion scheduled for October 10.

- (d) Gary Manzari encouraged Council to enforce the temporary encampments ordinance in reference to Temple B'nai Torah's application. He is concerned because the sponsor has applied for 17 hardship exceptions to the ordinance. He submitted written materials regarding the neighborhood's concerns.
- (e) Joel Jackman, also a neighbor of Temple B'nai Torah, thanked Council for the recently adopted temporary encampments ordinance. He noted the requested exception regarding a requirement to place refuse containers on stands. He feels the requirement should be enforced to prevent animals, particularly raccoons, from tipping over trash cans and the trash then attracting rats. Mr. Jackman thanked the City for Hillaire Park.
- (f) Susie Winkowski, Vasa Park Resort, recalled that in the spring before the City Council, City staff proposed issuing a temporary use permit to Vasa Park to allow them to continue to operate this summer. Staff indicated they would meet with park personnel

and reach a compromise. She said there was no compromise but City staff indicated Vasa Park Resort would have to post City of Bellevue park signs on their private property and allow right of entry at any time. She said she was informed the City Council did not want to do anything to help Vasa Park. On August 21, the park was closed for a private party. Bellevue Police arrived and said they had a search warrant, which they would not show to Vasa Park personnel. When she called a King County officer into her office, the Bellevue officer left the park. A Bellevue police car sat outside the park for two hours, and Vasa Park refunded \$4,000 to the client at the end of the day. Ms. Winkowski noted that only two people are complaining about noise from the park while more than 85,000 visitors enjoy the park during the summer season. She requested Council's help on this issue.

Mayor Marshall requested a Management Brief regarding Vasa Park.

(g) Marcia McGhee reiterated her ongoing concern that her civil rights have been violated and that the Police Department owes her an apology. She urged the Police Department to investigate her allegations of assault, for which she was awarded a civil settlement.

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

5. Report of the City Manager

City Manager Steve Sarkozy asked that Agenda Item 8(f)(1) be removed from the Consent Calendar to be brought back next week. He requested adding Agenda Item 11(a) regarding Citizen Initiative No. 6.

6. Council Business

Dr. Davidson attended the Cascade Water Alliance meeting and the reopening of Kamber Road.

Councilmembers Balducci and Degginger traveled with the Bellevue Sister Cities delegation to Liepaja, Latvia, and Kladno, Czech Republic. Ms. Balducci attended the Kamber Road opening, the grand opening of Lake Hills Elementary School, a special meeting of the Eastside Transportation Partnership, and the Eastside Latino Leadership Forum's annual heritage celebration.

Mr. Chelminiak attended meetings of the Puget Sound Regional Council (PSRC) Economic Development District Committee and the Bellevue Economic Partnership Job Retention Committee.

Mr. Lee attended the Kamber Road opening, Lakemont skate park opening, and the superbloc opening. He commended Bellevue youth involved in helping to create the skate park. Mr. Lee attended meetings of Bellevue Economic Partnership and the West Lake Hills Neighborhood Enhancement Program.

Deputy Mayor Noble described a special meeting of the Eastside Transportation Partnership to respond to Sound Transit's request for suggested Phase 2 projects. A letter of recommendations was ultimately approved by all jurisdictions. Mr. Noble attended meetings of PSRC's Executive Committee and the Regional Transportation Leadership subcommittee on boundaries and structure. He attended the Eastside Human Services Forum workshop and Bellevue Chamber of Commerce annual dinner.

Mayor Marshall noted she attended many of the same meetings and events already mentioned by Councilmembers.

7. Approval of the Agenda

➡ Deputy Mayor Noble moved to approve the agenda, amended to remove Item 8(f)(1) and to add Item 11(a). Ms. Balducci seconded the motion.

➡ The motion to approve the amended agenda carried by a vote of 6-0.

8. Consent Calendar

➡ Deputy Mayor Noble moved to approve the Consent Calendar, with the exception of Item 8(f)(1). Ms. Balducci seconded the motion.

➡ The motion to approve the Consent Calendar, as amended, carried by a vote of 6-0, and the following items were approved:

- (a) Minutes of September 12, 2005 Extended Study Session
Minutes of September 19, 2005 Study Session
Minutes of September 19, 2005 Regular Session
- (b) Motion to approve payment of claims for the period September 17 through 30, 2005, and payroll for the period September 1 through 15, 2005.
- (c) Resolution No. 7257 authorizing execution of a second amendment to the professional services agreement with Cable, Langenbach, Kinerk & Bauer, LLP, to increase the total contract amount from \$149,000 to \$281,000 for legal services in the lawsuit of Preciado v. City of Bellevue, et al. KCSC No. 03-2-35310-8 SEA.
- (d) Resolution No. 7258 authorizing execution of a contract with Washington State Department of General Administration for the disposal of City surplus property.
- (e) Ordinance No. 5626 relating to the Sale of City Property; amending Bellevue City Code Chapter 4.32 and Section 1 of Ordinance No. 1981; adding Sections 4.32.015 and 4.32.031, and establishing an effective date.
- (f) New City Hall

- (2) Resolution No. 7260 authorizing execution of an Interlocal Agreement with the Washington State Department of Services for the Blind, Business Enterprise Program, for food service operation at the New City Hall.
(Discussed with Council during the September 26, 2005, Extended Study Session.)

- (g) Resolution No. 7263 authorizing execution of an amendment to the Interlocal Agreement with King County governing the distribution of Conservation Futures Funds.

- (h) Resolution No. 7261 authorizing execution of all documents necessary to grant the property owners of 13533 SE 52nd Street the option of pursuing a “Boundary Line Adjustment” and grant to the City a non-exclusive, non-motorized pedestrian easement to provide permanent public access from SE 52nd Street to Tract C, Forest Hill, commonly known as the Westwood Highlands Open Space.

- (i) Resolution No. 7248 authorizing execution of an Interlocal Agreement with the City of Renton for temporary housing of Bellevue inmates in the Renton City Jail and increasing the inmate fee rate.

- (j) Resolution No. 7262 authorizing execution of an amendment to the professional services agreement with H.W. Lochner, Inc., in an amount not to exceed \$30,000 to provide engineering services to revise the 150th Avenue SE design and furnish all materials necessary to prepare final Plans, Specifications and Estimates for the 150th Avenue SE project. (CIP Plan No. PW-R-105) *(Discussed during the Second Quarter Update of the Transportation CIP on September 19, 2005.)*

Item Removed for Future Consideration:

- (f) (1) Resolution No. 7259 authorizing execution of contracts with SBM Group for custodial, Olympic Security for security, University Mechanical Contractors for HVAC, and KONE for elevator services at the New City Hall.

9. Public Hearings: None.

10. Land Use

- (a) Continued discussion of appeal of application of Cam West for a Planned Unit Development and Preliminary Plat for the Hillside Development.

[Postponed to October 17; See memo on page 10-1 of Council packet.]

11. Other Ordinances, Resolutions and Motions:

(a) Citizen Initiative No. 6

Mr. Sarkozy described the receipt of a citizen initiative on September 29 from Geoffrey J. Bidwell, Chairman of the V.O.T.E. (Victory Over Tax Excess) Committee. The stated purpose of the initiative is to remove taxation from the City's drinking water.

City Attorney Lori Riordan explained that City Code provisions relating to initiatives and referenda require the City Attorney to draft an initiative statement within 10 days of receipt. A petition is then circulated by the sponsor to gather signatures from 15 percent of registered voters within 90 days. Petitions are submitted to the City Clerk, who must certify the sufficiency of the petitions within three days. Ten days are allotted to allow King County elections personnel to verify the validity of the signatures. The initiative would then be presented to the City Council for a decision to either adopt the ordinance or put it to a vote of the people.

Ms. Riordan said the initiative is legally flawed. She asked Council to approve Resolution No. 7264 directing the City Attorney to reject the proposed initiative and to notify the sponsor of the rejection. Ms. Riordan explained that the initiative is legally flawed for several reasons:

- Initiatives are not appropriate under the law for repealing portions of existing law. They are to be used to propose new laws.
- The ordinance the initiative seeks to amend was passed by the Council in December 2004. A citizen vote to repeal an ordinance passed by Council must be brought forward within 30 days of the effective date of the ordinance.
- The policy decision by the City Council regarding the assessment of utility taxes was made decades ago. The percent change in the tax is best characterized as administrative rather than legislative and is, therefore, not subject to initiative or referendum.
- Under Bellevue City Code and state law, ordinances that authorize the levy of taxes are exempt from the initiative and referendum process.

Ms. Riordan urged approval of Resolution No. 7264 to avoid wasting citizens' time and City resources on an initiative that could not be legally sustained.

Responding to Councilmember Lee, Ms. Riordan said she chose to bring this matter to Council publicly to fully document the rejection of the initiative.

Deputy Mayor Noble stated his understanding that the City Attorney is asking Council to stop the process now rather than go through the petition process and then advise Council that the initiative is legally flawed. Ms. Riordan concurred.

- ➡ Deputy Mayor Noble moved to approve Resolution No. 7264, and Mayor Marshall seconded the motion.

Ms. Balducci acknowledged this is an unusual situation but supports the recommendation from staff.

Mr. Chelminiak suggested clarification of the initiative process in the City Code.

➡ The motion to approve Resolution No. 7264 carried by a vote of 6-0.

12. Unfinished Business: None.

13. Continued Oral Communications

(a) Nancy Gilchrist, Lake Hills Montessori School, commented on the application for Tent City 4 at Temple B'nai Torah. The school participated in a meet and confer meeting with the sponsor on September 29. She submitted a summary of the issues discussed and the result of the meeting. The school requested a six-foot security fence, proof of identification from all encampment residents, and independent security personnel (Monday through Friday, 8:30 a.m. to 3:30 p.m.). The sponsor rejected the request for independent security personnel, even if the school were willing to pay for this item. The school requests that the City provide a public health nurse on the site daily.

(b) Parul Houlahan expressed support for the City's temporary encampments ordinance. While some exceptions requested by the applicant are reasonable, she feels other requests potentially put the community at risk. She urged Council to pay special attention to security issues.

14. New Business: None.

15. Executive Session: None.

16. Adjournment

At 9:08 p.m., Mayor Marshall declared the meeting adjourned.

Myrna L. Basich
City Clerk

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