

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Study Session

October 17, 2005
6:00 p.m.

Council Conference Room
Bellevue, Washington

PRESENT: Mayor Marshall and Councilmembers Balducci, Chelminiak, Davidson, Degginger, and Lee

ABSENT: Deputy Mayor Noble

1. Executive Session

At 6:02 p.m., Mayor Marshall opened the meeting and announced recess to Executive Session for approximately 45 minutes to discuss one item of potential litigation and one item of labor negotiations.

The Study Session resumed at 6:42 p.m. with Mayor Marshall presiding.

2. Study Session

(a) Critical Areas

City Manager Steve Sarkozy noted ongoing discussions with Council regarding proposed amendments to the Land Use Code's critical areas regulations.

Kate Berens, Legal Planner, recalled that staff is seeking Council direction regarding the regulatory alternative, recommended by the Planning Commission, or the programmatic alternative for meeting Critical Areas Update goals. Bellevue adopted critical areas protections in the 1970s and 1980s, before the Growth Management Act was implemented, and updated its regulations when the Act became effective. Since that time, the Act was amended to require that local jurisdictions not only protect critical areas but that they apply the best available science to their regulations.

Ms. Berens clarified that the regulatory and programmatic alternatives both reflect a mix of regulations, incentives, and programs for protecting critical areas. She described efforts by the Planning Commission and staff to make the proposed Land Use Code amendments as

straightforward as possible. Outreach activities emphasized portions of the Commission's recommendations that will have the most direct impact on private property.

The Planning Commission's recommended approach has been called the regulatory alternative by staff and proposes amendments to the Land Use Code. Ms. Berens said the amendments fall into two categories: 1) those consistent with best available science, and 2) those that add flexibility to the code. Flexibility-focused amendments include accommodations for existing development, incentives for property owners, changes to subdivision and planned unit development (PUD) requirements, PUD incentives, and the site-specific Critical Areas Report process.

The programmatic alternative, as described in the draft Environmental Impact Statement (DEIS), retains existing regulations and focuses efforts on: 1) acquisition, 2) rehabilitation and restoration of habitat, 3) education and stewardship, and 4) monitoring.

Ms. Berens said the Planning Commission discussed both the regulatory and programmatic alternatives. The Commission felt the regulatory alternative represents relatively modest changes in regulations and greatly enhanced flexibility for property owners. The Commission sees it as a baseline approach for protecting critical areas within the city.

Ms. Berens said staff concurs with the Commission's recommendation of the regulatory alternative. Staff is concerned about uncertainties associated with the programmatic approach including the acceptance of this alternative by state regulatory agencies. Staff feels the increased flexibility in the recommended Land Use Code amendments will benefit property owners and the overall community.

Ms. Berens explained that the programmatic alternative would require additional work with the City's consultant to formulate detailed plans for each of the four program areas noted above. She noted Consent Calendar item 8(m) on the Regular Session agenda to approve an amendment to the contract with Herrera Environmental Consultants should Council direct staff to pursue this alternative.

Ms. Berens noted the option for Council to modify the Planning Commission's recommendation without adopting the full programmatic alternative. She explained that the proposed amendments of the regulatory alternative can be modified without necessarily affecting the overall package's compliance with the Growth Management Act. However, changes in definitions (e.g., stream and wetland typing systems) could have an impact in terms of best available science compliance.

Responding to Councilmember Chelminiak, Ms. Berens said the City's review and update of shoreline regulations is due in 2009 and will be initiated in 2006 or 2007. The State's shoreline guidelines are available now. Staff reviewed these guidelines and feels the current recommended amendments regarding setbacks, bulkheads, and docks are consistent with the guidelines.

Mr. Chelminiak would like to keep the City's options open and favors extending the contract with Herrera.

Mr. Lee feels the programmatic alternative makes more sense as a holistic, long-term approach.

Dr. Davidson spoke in favor of continuing to consider and analyze both alternatives at this point. He requested a map reflecting the proposed stream and wetland typing systems and questioned the feasibility of some of the proposed buffer widths.

Ms. Berens reminded Council of the December 1 deadline for complying with the Growth Management Act.

Mr. Degginger thanked the Planning Commission and staff for all their hard work on the Critical Areas Update. He would like a better understanding of how the incentives in the regulatory alternative would be implemented.

Responding to Mr. Degginger, Ms. Berens said the City could benefit from additional work by Herrera regardless of whether the regulatory or programmatic alternative is selected. Michael Paine, Environmental Issues Planning Manager, said programmatic components could be added in the future.

Ms. Berens explained that the Department of Ecology has challenged regulations by the City of Kent, which opted to retain its existing stream and wetland typing systems and buffer requirements. Kent decided to rely on a strategy of acquisition and restoration for wetlands, which has been challenged by the DOE. Arguments before the Growth Management Hearings Board are scheduled for January.

Responding to Councilmember Balducci, Ms. Berens confirmed that the Planning Commission rejected the programmatic alternative.

Mr. Paine commented that regulations can have a positive impact on a stream section or specific wetland. However, it is more difficult to have a positive effect from an overall watershed perspective except through acquisitions and restoration.

Responding to Ms. Balducci, Ms. Berens said the estimated cost of the programmatic approach is \$2 million to \$5 million annually. Mr. Paine commented that many jurisdictions have combinations of regulatory and programmatic approaches.

Mayor Marshall supports the proposed amendments to enhance flexibility for property owners. She asked how much open space would need to be preserved and/or acquired as a balancing factor if the City chose to retain its current critical areas buffer widths. She questioned how the programmatic approach would be funded and how annual expenditure levels would be established. Mrs. Marshall emphasized that many current and upcoming transportation projects have mitigation components that will have a positive impact on overall environmental functioning. She favors further exploration of the programmatic approach.

Dr. Davidson requested a map depicting proposed wetland buffers.

(b) Electronic Home Detention Program Code Amendment

Police Chief Jim Montgomery introduced staff's recommendation to repeal the existing Electronic Home Detention Program ordinance and replace it with a new ordinance that better conforms with state law and allows individuals awaiting trial or sentencing to participate in the program.

Jerome Roaché, Assistant City Attorney, said the City adopted the electronic home detention ordinance in 1996 as an alternative to formal incarceration. A number of changes in state law since that time prompted staff to review the ordinance. The proposed replacement ordinance allows Probation Department staff to modify the ordinance using criteria-based guidelines in response to future federal, state, and local legislative changes without seeking Council approval.

Responding to Councilmember Balducci, Mr. Roaché said one example of a change in state law is the 1999 DUI law that mandates home detention. Tandra Schwamberg, Probation and EHD Program Manager, explained that state DUI laws mandate electronic home detention, in addition to jail time, for second and subsequent DUI offenses. If offenders are not eligible for Bellevue's EHD program, the Court is obligated to place them in another program such as the King County Jail. This increases costs because the City must pay the County for a jail bed and the defendant must pay the cost of electronic home detention. The proposed ordinance will reduce costs in this area. Ms. Schwamberg said Bellevue's criteria for EHD eligibility is strict and includes a full, in-person evaluation and assessment.

In further response to Ms. Balducci, Mr. Roaché clarified that the King County Jail charges the City of Bellevue for jail costs while also billing the offender for EHD costs, which in effect results in double billing.

Judge Yates provided examples of two recently sentenced individuals to illustrate how the EHD program saves money while continuing to protect public safety because individuals are monitored.

Councilmember Chelminiak noted the Probation Advisory Board's support of the proposed EHD ordinance.

Chief Montgomery expressed confidence in the ability of EHD staff to properly determine eligibility for program participation.

(c) Cascade Water Alliance 2006 Budget

Utilities Director Brad Miyake provided a presentation regarding Cascade Water Alliance's 2006 budget. He recalled that Cascade signed an agreement in July to begin purchasing water from the City of Tacoma in 2008, which has an impact on short-term water needs.

The Cascade Board is scheduled to adopt the budget on October 26. The budget: 1) provides necessary revenue to meet Cascade's water supply objectives, 2) moves Cascade's plan forward to the implementation phase, 3) is consistent with Bellevue's 2005-2006 budget reflecting no

customer rate increases in 2006, and 4) increases the regional connection charge for new development.

Michael Gagliardo, Cascade General Manager, noted Cascade's transition from the planning stage into implementation. The 2006 operating budget is \$19.7 million, compared to \$17.6 million in 2005. Mr. Gagliardo said a major factor in the increased budget is the cost of water purchases from Seattle, which will exceed \$14 million in 2006. Additional budget components include taking over the operation of Lake Tapps in 2006, increased insurance coverage, staff additions, and debt service on Cascade's first issuance of debt in early 2006.

Cascade's 50-year capital budget totals \$780 million and includes the acquisition of Lake Tapps, construction of transmission lines, Lake Tapps treatment plant, and Tacoma water connection charges. The regional capital facilities charge (RCFC) for a new single-family residence is \$2,222 in 2005 and will increase to \$4,677 in 2006.

Mr. Miyake said Bellevue's rates will increase after 2006 by 4-6 percent annually in the short term (2007-2011) and 1-3 percent annually in the long term (2012-2050). Staff recommends support of Cascade's proposed 2006 budget.

Dr. Davidson expressed support for Cascade's work plan and budget. He expressed concern, however, about RCFC charges in addition to the impact fees associated with King County's construction of the new Brightwater treatment plant.

Councilmember Degginger expressed support for the budget. He commended the planned addition of a finance director for Cascade Water Alliance.

Mr. Lee said he is pleased with the responsible representation and leadership of Cascade Water Alliance.

Mayor Marshall noted general Council support of Cascade's 2006 budget.

At 8:00 p.m., Mayor Marshall announced recess to the Regular Session.

Myrna L. Basich
City Clerk

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