

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Extended Study Session

November 14, 2005
6:00 p.m.

Council Conference Room
Bellevue, Washington

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

ABSENT: None.

1. Executive Session

At 6:02 p.m., Deputy Mayor Noble opened the meeting and declared recess to Executive Session for approximately 30 minutes to continue discussion of one item of pending litigation and to discuss an additional item of pending litigation.

The Study Session resumed at 6:50 p.m. with Mayor Marshall presiding.

2. Oral Communications

- (a) Riley Groh, representing Bellevue Youth Theatre, invited Council and the public to the upcoming production of "Wizard."
- (b) Dick Siebe noted others in the audience wearing Vasa Park stickers. He distributed and read a statement of support signed by homeowners along SE 38th Place (overlooking Vasa Park) endorsing staff's recommendation to Council to require Vasa Park to operate within Bellevue's regulations for public parks.
- (c) Susie Winkowski, Co-Manager of Vasa Park Resort, said the park was opened in 1926 and has been owned by Vasa Home Association since that time. The park will celebrate its 80th anniversary in 2006. Amplified sound has been used for parties at the park since the invention of amplifiers. The park is open from May 15 to October 15, from 9:00 a.m. to 8:00 p.m., seven days a week. Vasa Park is an asset to the community and provides a free annual Easter egg hunt and the Midsummer Festival which is free to the public. Boys and Girls Clubs from Everett to Federal Way enjoy the park every summer. Ms. Winkowski listed other schools, events, and businesses in Bellevue that use amplified sound after 5:00 p.m. and/or on Sundays. She submitted her comments in writing. Ms. Winkowski asked the Council to treat Vasa Park like any other business or event in Bellevue. She thanked them for their time and consideration on this issue.

- (d) Tim Austin, legal counsel for Vasa Park Resort, respectfully disagreed with staff's recommendation that Vasa Park be treated the same as a public park. He expressed concern with the City's efforts to regulate a private business in the same manner as a public park. Vasa Park is asking to be treated equitably with regard to amplified sound. Mr. Austin noted that Bellevue City Code section 9.14 was adopted in 1961 and may now be archaic. He asked Council to repeal BCC section 9.14 and to revise section 9.18. He emphasized that Vasa Park is a good neighbor and is open only a portion of the year.
- (e) Karla Steele lives above Vasa Park, where she and her neighbors are bothered by noise from the park. She acknowledged that noise from Vasa Park does not affect all surrounding homeowners. She disagreed that the park closes by 8:00 p.m. and noted amplified sound from the red barn sometimes until 1:00 a.m.
- (f) John Jackson, Bentall Capital, owns Newport Corporate Center in the Factoria area. He noted Agenda Item 3(h), Bentall Capital's request to modify the lot coverage limitation in the F-3 Land Use District. Newport Corporate Center was developed in unincorporated King County and annexed to Bellevue in 1963. The annexation agreement granted a maximum of 950,000 square feet of development. The corresponding Land Use Code limited lot coverage to 35 percent. Bentall Capital would like to increase the lot coverage to nearly 40 percent to achieve the maximum square footage granted in the annexation agreement. The building's primary tenant, T-Mobile, occupies three of six buildings on the campus and would like to be able to expand further on the site. Mr. Jackson thanked Council for its consideration of this request.
- (g) Tim Rogers, a resident of the Beaumont area, commented on the critical areas ordinance. He represents Frank Klein from the Somerset neighborhood as well. The residents met today with Heidi Bedwell from the Planning Division and found her to be helpful. She explained staff's interpretation of "steep slope," which differs from his and Mr. Klein's interpretation. Ms. Bedwell has agreed to meet with Mr. Rogers on Thursday to walk through his neighborhood and identify steep slopes. He suggested revising critical areas regulations to exclude the majority of properties that do not contain geologic hazards or sensitive habitats. Mr. Rogers said residents would like the option to top trees, even on steep slopes. He recently counted 60 topped trees in his neighborhood, all of which are healthy. Mr. Rogers said many would not be recognizable as topped to the untrained eye. He asked Council to direct staff to revise the ordinance to allow tree topping.

3. Study Session

- (a) Council New Initiatives

[No new initiatives were introduced.]

- (b) Tent City 4 Relocation to Bellevue

City Manager Steve Sarkozy recalled Council's adoption of Ordinance No. 5615 regulating temporary encampments on June 27, 2005. Temple B'nai Torah applied for a temporary

encampment permit on September 15. The Director of Planning and Community Development approved the permit with conditions on November 3. Tent City 4 is scheduled to move to the Temple site on November 16. Mr. Sarkozy asked staff to provide an update regarding preparation for Tent City 4's move to Bellevue.

Carol Helland, Land Use Director, described staff's role in reviewing Temple B'nai Torah's permit application, working with the community, and collecting information from other jurisdictions that have hosted Tent City 4. Development Services staff will be at the Temple site on November 16 to observe the relocation and to inspect electrical and other systems. The City's web site has been updated with contact information related to the temporary encampment and any issues that may arise.

Raj Johal, Code Officer for Lake Hills/Crossroads, will be on site during the initial setup of Tent City 4 at Temple B'nai Torah to ensure compliance with the permit conditions. He will visit the site at least two days per week during its 60-day stay. If a violation occurs, procedures outlined in BCC 1.18, Notice of Civil Violation, will be followed and a hearing will be scheduled.

Denny Bronson, Police Captain, described the Police Department's participation in community meetings as well as meetings with representatives of Jewish Day School and Temple B'nai Torah. Captain Bronson spoke with peers in the Bothell and Kirkland Police Departments and the King County Sheriff's Office to hear their assessment of previous Tent City 4 sites. In addition, Bellevue Police have visited the current Tent City 4 location to get to know the residents and staff. A handout reviewing Bellevue park rules and civil violations was distributed to Tent City residents. Bellevue Police will make regular visits to the encampment and the neighborhood.

SHARE/WHEEL has been asked to call Bellevue Police in the event of a crime, verbal disturbance, a resident's refusal to leave when asked, identification of a person with an outstanding warrant for arrest, identification of a person who is required to register as a sex offender, and the identification of any person who is the respondent to an order of protection, no contact, or harassment. All calls for service and contacts, other than routine visits, will be documented and forwarded to Captain Bronson for review.

Emily Leslie, Human Services Manager, distributed copies of a resource information booklet for Tent City 4 residents, which is modeled after the booklet created by the City of Kirkland. It includes information on human service agencies near the Temple as well as bus lines, churches, libraries, laundry facilities, and other businesses. The booklet provides phone numbers for the Community Information Line (operated by the Crisis Clinic) and the City's Human Services Division. The Transportation Department's *Crossroads in Motion* project developed a map of bus and public facilities, which will be distributed to Tent City 4 residents along with a parks guide.

Responding to Councilmember Chelminiak, Captain Bronson said the background checks to be conducted by King County will show outstanding warrants, whether the person is a sex offender, and whether there are any protection or no contact orders against the person. They will not provide a full criminal history.

Responding to Mr. Lee, Mr. Johal explained that the goal of inspections for code violations is to educate citizens and encourage compliance. In further response, Captain Bronson said the Police Department does not expect higher than normal calls for service with the relocation of Tent City 4 to Bellevue.

Responding to Ms. Balducci, Ms. Helland noted Police and Code Compliance contact information provided on page 3-5 of the Council packet. This information was mailed directly to neighbors of the encampment.

Ms. Helland introduced Jackie Frank and Wendy Dore, representatives of Temple B'nai Torah. Ms. Dore said the pending relocation of Tent City 4 to Bellevue has generated a significant number of volunteers and donations from the Temple and community groups including Boy Scouts, high school students, and members of other churches. She invited Councilmembers to visit the site. Hot meals have already been scheduled to be delivered nearly every evening of the camp's stay by churches and community groups. A blanket and clothing drive has also been held for encampment residents. Physicians and nurses from the Temple have volunteered to visit camp residents during their stay, and Temple volunteers will sleep overnight at the site.

Mr. Frank thanked Council for the opportunity to provide this update. He thanked City staff for their professionalism and courtesy to Temple officials. The Temple plans to continue ongoing communication with staff. Mr. Frank noted the Temple's request to extend the camp's stay to 90 days, which conflicts with the ordinance. He said Temple officials would like to resolve this issue amicably.

Responding to Dr. Davidson, Mr. Frank said there are currently 37 residents at Tent City 4. However, the original request by the Temple was to host up to 100 residents.

Mr. Lee expressed appreciation for the Temple's generosity in hosting the encampment. He feels the intent of the ordinance is to protect the well-being of Tent City residents and neighbors.

Mr. Chelminiak thanked Temple representatives for attending tonight's meeting. He thanked staff for working to find solutions while complying with the ordinance.

Responding to Mr. Degginger, Mr. Frank said Temple officials will meet with representatives of adjacent schools on a weekly basis. In further response, Ms. Dore said the Temple is attempting to have volunteers ~~in the encampment~~ on site¹ 24 hours a day, if possible.

(d) Critical Areas Update

Planning and Community Development Director Matt Terry noted this is the fourth of five Council discussions regarding the Critical Areas Update. He said the Planning Commission continues to hear from citizens regarding tree topping and is reexamining its position.

Mr. Terry referenced four alternatives outlined in the packet [Beginning on Page 3-20] for meeting the state deadline of updating the critical areas ordinance by December.

¹ Amendment to minutes suggested by Councilmember Chelminiak and approved by Council.

Legal Planner Kate Berens said the first two alternatives are the Planning Commission's recommendation and the Adaptive Management Alternative (formerly referred to as the City Program Alternative). She noted the following ongoing projects that could have an impact on the protection of critical areas' functions and values: 1) Updating the City's stormwater manual, 2) Working with other jurisdictions through the WRIA 8 process to review investments and strategies for regional salmon protection and recovery, and 3) Bel-Red Corridor Study and planning, which could provide opportunities for open space. The Adaptive Management Alternative adopts the Planning Commission's recommendation but initiates further review and potential revisions to these regulations based on the progress of other efforts.

Hybrid Alternative 1 adopts the Planning Commission's recommendation for undeveloped properties only and supplements the regulatory approach with City programs. Hybrid Alternative 2 adopts the Planning Commission's recommendation, except for some or all buffer recommendations, and supplements this approach with programs. Ms. Berens presented a table comparing the alternatives. She reviewed a map showing environmental investment opportunity areas throughout the community including the Bel-Red Corridor, Richards Valley, Mercer Slough, Coal Creek Watershed, Lewis Creek Watershed, and City shoreline properties on both Lake Washington and Lake Sammamish.

Ms. Berens said staff recommends adoption of the Adaptive Management Alternative. Staff is uncertain as to whether either Hybrid Alternative would comply with the state Growth Management Act or provide sufficient predictability for the City and property owners. Ms. Berens reminded Council of the state's deadline of December 1 for updating critical areas regulations.

Responding to Councilmember Lee, Ms. Berens explained that staff does not have full information at this time to determine whether the Adaptive Management Alternative or the Hybrid Alternatives will comply with state law over the long term.

Mr. Chelminiak said he would prefer to continue studying the issues and to postpone Council action to 2006, if necessary². Ms. Berens noted that failing to comply with the December 1 deadline would affect state grant funding. However, the City does not currently have pending grant applications with the affected programs.

Mr. Degginger opined that the regulatory alternative (Planning Commission recommendation) treats all properties as if they have equal environmental value. In reality, some areas are likely to be more valuable than others in terms of environmental function. Therefore a hybrid alternative makes more sense to him because it could incorporate an overall watershed approach.

Dr. Davidson concurred with Mr. Degginger. Dr. Davidson noted his reluctance to impose restrictive regulations and infringe on private property rights without the certainty it will accomplish overall objectives.

² Amendment to minutes suggested by Councilmember Chelminiak and approved by Council.

Mayor Marshall noted general Council consensus that Bellevue has been a responsible environmental steward for many years. She asked if there is an inventory of all of the City's regulations and programs for protecting and preserving critical areas. She feels a discussion of all aspects of the City's approach will help Council to determine the next appropriate course of action.

Ms. Berens said staff has worked with a consultant to develop an inventory of all programs. She noted that the Planning Commission's recommendation addresses future development and redevelopment more extensively than current regulations.

Mrs. Marshall feels that the preservation of Mercer Slough, as an example, represents environmental protection for the present and the future. She agrees with Mr. Chelminiak that it is preferable to postpone action until more information is gathered rather than adopt an approach now and then modify it next year. Mayor Marshall noted that Bellevue has followed high standards for environmental protection and preservation for many years.

Responding to Councilmember Balducci, Ms. Berens said the intent of the Growth Management Act requirement is to mitigate the effects of existing and new development. Ms. Balducci expressed concern that Bellevue could inadvertently be penalized for its past stewardship with the expectation to maintain current environmental functions despite increasing urbanization. She said environmental programs will likely compete with other priorities for funding. Ms. Berens noted staff's estimate of \$2 million to \$5 million annually for the Adaptive Management Alternative.

Mayor Marshall asked staff to include environmental mitigation and enhancement components of major road and freeway projects in the City's inventory of environmental programs.

Mr. Terry summarized that five Councilmembers are interested in some type of program/hybrid alternative. At least two Councilmembers have expressed an interest in taking more time to develop appropriate policies rather than taking action now.

(f) Public Hearing on Mid-Biennium Budget

- Deputy Mayor Noble moved to open the Public Hearing on the Mid-Biennium Budget, and Mr. Degginger seconded the motion.
- The motion to open the Public Hearing on the Mid-Biennium Budget carried by a vote of 7-0.

No one came forward to comment on the mid-biennium budget.

- Deputy Mayor Noble moved to close the Public Hearing on the Mid-Biennium Budget, and Mr. Chelminiak seconded the motion.
- The motion to close the Public Hearing on the Mid-Biennium Budget carried by a vote of 7-0.

(g) Policy Discussion regarding Amplified Sound at Vasa Park

Land Use Director Carol Helland opened discussion regarding Vasa Park's ongoing request for a City Code amendment to allow sound amplification permits on Sundays. She referenced page 3-48 of the Council packet for a chronology of events related to this issue. A table beginning on page 3-53 summarizes current regulations applicable to sound amplification, parks, special events, and noise control. A table beginning on page 3-56 summarizes regulations relating to fixed sound systems. Ms. Helland said a document summarizing sound amplification alternatives was provided to Council in October [Page 3-57 of this meeting packet].

Ms. Helland described staff's recommendation that private parks be treated the same as public parks. Staff recommends an escalating fine schedule because the current penalty of \$250 is not effective in obtaining compliance. Sound generated by private events would need to be managed to ensure volumes are not audible at distances greater than 30 feet. Vasa Park would be allowed to obtain an exemption for the Sound Amplification Code for Special Events. Special events are defined as those open to the public, held for a civic purpose, sanctioned by the City Manager, and located and scheduled so as not to create a public nuisance. Ms. Helland said it is likely the annual Easter egg hunt and Midsummer Festival would qualify as special events. Staff further recommends an amendment to allow private park operators to obtain permits for sound amplification associated with five private events annually.

Ms. Helland said Vasa Park officials have recently indicated an interest in changing their request for a Code amendment to a request to be treated like other businesses, such as car dealerships and restaurants. She noted that these types of businesses would not be allowed to operate in the residential (R-5) district where Vasa Park is located.

Ms. Helland referred Council to page 3-56 of the packet for a summary of how schools are treated in the Land Use Code. Schools and specific other uses may apply for permits to install fixed sound amplification systems. Ms. Helland noted the option to add private parks as a use eligible for applying for a Conditional Use Permit for amplified sound. This process requires a sound study and the identification of impacts. The advantage of fixed amplification systems is it enables a sound study to be conducted. It is not always possible or feasible to test temporary sound systems.

Responding to Councilmember Lee, Ms. Helland said an approach similar to the CUP process was discussed with Vasa Park representatives early last summer. It would have required a sound study and the identification of impacts. Vasa Park applied for a temporary use permit, but this did not provide a sound study.

Responding to Mr. Chelminiak, Ms. Helland said she feels residents originally complained about the amplified sound on Sundays because they wanted the City to enforce the code. Since that time, residents have increasingly complained about high sound levels on other days as well.

Ms. Helland noted the compromise alternative on page 3-58 of the packet, which permits amplified sound in private parks three weekdays and one weekend day per week between 10:00

a.m. and 5:00 p.m. Neighbors have indicated this would still be disruptive if noise levels are not restricted.

Responding to Mr. Chelminiak, Ms. Helland said the City has records on decibel levels measured last summer. She recalled that sound levels were comparable to those generated by heavy construction.

Responding to Dr. Davidson, Ms. Helland clarified that if Vasa Park Resort were classified as a business, it would not be allowed to operate at its current location. In further response, Ms. Helland said another alternative not presented in the Council packet is to amend the Land Use Code to allow the CUP process for fixed sound systems in private parks. It would then be necessary to determine appropriate sound levels to be allowed.

Mr. Noble expressed support for the graduated fine schedule. However, he feels limiting the number of annual events with amplified sound to five is too restrictive.

Ms. Balducci does not see the need to treat Vasa Park as a public park. However, she feels sound levels should be regulated and monitored.

Mayor Marshall noted that King County regulations prior to annexation prohibited amplified sound but the restriction was not enforced. While Vasa Park has been using amplified sound for years, it was never legal. Mrs. Marshall is willing to allow more event days but she feels sound should not be audible beyond 30 feet. She favors continuing the prohibition on amplified sound on Sundays and adopting the escalating fine schedule.

Mr. Degginger said the City's ordinance must be enforceable. Ms. Helland said the Police Department has decibel-reading equipment. However, sound can carry varying distances depending on topography.

Mr. Chelminiak agrees with Mrs. Marshall's suggestions regarding the number of annual events, an amplified sound prohibition for Sunday events, and noise level restrictions.

Mayor Marshall noted majority Council support to prohibit amplified sound on Sundays, restrict noise levels, and to adopt the escalating fine schedule.

Regarding the number of events annually, Mr. Lee wondered how many events are necessary for Vasa Park to continue to be self-supporting.

Dr. Davidson suggested an incentive approach that would establish an allowed number of event days based on compliance with noise level and other regulations.

Following additional brief discussion, Ms. Helland said staff will return to Council with a draft ordinance after the first of the year.

- (h) Land Use Code Amendment request by Bentall Capital/Newport Corporate Center to modify lot coverage limitation in the F-3 Land Use District (Factoria area)

Ms. Helland explained that Newport Corporate Center is located in the F-3 land use district of the Factoria Subarea. A pre-annexation agreement granted a maximum of 950,000 square feet. Bentall Capital is requesting a Land Use Code Amendment to modify the lot coverage limitation in the F-3 district in order to allow full development of the site up to the 950,000 square foot cap.

Responding to Mr. Lee, Ms. Helland said a building on the north end of the site will be removed and a new, larger building will be built. The building will be visually screened by existing buildings.

Responding to Mr. Noble, Ms. Helland said the increased square footage could generate an increase in traffic in the area. Responding to Mr. Lee, Ms. Helland said the increased traffic is included in the recent Factoria Area Transportation Study (FATS) update.

Mayor Marshall noted Council consensus to direct staff to process a Land Use Code Amendment (LUCA) to increase the minimum lot coverage in the F-3 district from 35 to 40 percent.

- (c) Resolution No. 7277 authorizing: 1) execution of a sole source purchase order with Forms and Surfaces in an amount not to exceed \$60,000 for the purchase of trash and recycling receptacles for the New City hall public areas and plaza; and 2) amendment to the Interlocal Agreement with the State of Washington Department of Ecology for the Coordinated Prevention Grant to partially fund the purchase of trash and recycling receptacles. (*Postponed from November 7 Consent Calendar.*)

Steve Sackenreuter, Facilities Manager, opened discussion regarding trash and recycle containers for the New City Hall. He noted the comparison of trash and recycling containers on pages 3-11 and 3-12 of the packet. He explained that the City-proposed containers, which accommodate both trash and recycling, are less expensive than what other private and public buildings spend for separate containers.

Mr. Sackenreuter responded to questions of clarification.

Vikki VanDuyne, Conservation Program Administrator, said the proposed outdoor containers are used by the University of Washington, Tacoma, New York, San Francisco, Los Angeles, and others. Bellevue was able to negotiate a customized container at a cost lower than what other jurisdictions paid.

Responding to Mr. Chelminiak, Ms. VanDuyne said three containers are being provided to the Bellevue Transit Center at the request of a state representative.

- ☉ Deputy Mayor Noble moved to approve Resolution No. 7277, and Mayor Marshall seconded the motion.

☞ The motion to approve Resolution No. 7277 carried by a vote of 6-1, with Mr. Chelminiak dissenting.

(e) Naming of Lewis Creek Park Visitor Center (*Council action scheduled for November 21, 2005.*)

Parks and Community Services Director Patrick Foran described a proposal to establish the name “Headwaters Visitors Center at Lewis Creek Park” for the Lewis Creek Park visitor center. The park contains the headwater wetlands of Lewis Creek. Resolution No. 4803 indicates that parks and recreation facilities should be named based on a natural or geological feature.

Mr. Degginger said his informal discussions with neighbors indicated confusion and a lack of support for the suggested name.

Mayor Marshall said her discussions with staff have persuaded her as to the relevance of the name. The center will provide opportunities for citizens to learn about the site and the name.

Mr. Chelminiak noted the name was approved by a 6-0 vote of the Parks and Community Services Board.

Mr. Foran described the intent to name parks and recreation facilities according to their unique features and environment.

Councilmember Degginger is disappointed that additional potential names were not discussed with Council. Ms. Balducci concurred.

Mayor Marshall noted Council consensus to ask the Park Board to review the issue again and to consider more options.

4. Executive Session

At 9:55 p.m., Mayor Marshall declared recess to return to Executive Session for approximately one hour to discuss one personnel matter.

The Executive Session concluded at 11:05 p.m. and the meeting was adjourned.

Myrna L. Basich
City Clerk

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