

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Regular Session

November 21, 2005
8:00 p.m.

Council Chambers
Bellevue, Washington

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

ABSENT: None.

1. Call to Order

The meeting was called to order at 8:00 p.m. by Mayor Marshall, who presided.

2. Roll Call, Flag Salute

Upon roll call by the City Clerk, all Councilmembers were present. Councilmember Lee led the flag salute.

(a) Second Annual Crossroads Parade

Parks and Community Services Assistant Director Terry Higashiyama reported that more than 300 spectators attended the Second Annual *Cultural Crossroads on Parade* on November 12.

Councilmember Balducci recalled that the parade was a project of the Advance Bellevue Leadership Training Program's 2004 graduating class. She noted the tremendous growth in participation this year and distributed certificates of appreciation to Ellen Cooksley and Lynn Terpstra (Crossroads Bellevue) and Kevin Henry, Dan Lassiter, and Lourdes Salazar (Parks and Community Services).

(b) Council statement regarding Tent City 4

Mayor Marshall noted the candlelight vigil in front of City Hall tonight regarding Tent City 4. She asked Tim Waters, Communications Director, to repeat the comments he made to the group outside.

Mr. Waters said 100 to 125 people gathered outside City Hall to express their position regarding the City's ordinance regulating homeless encampments. Mr. Waters read a statement expressing

the City Council's disappointment that Temple B'nai Torah and SHARE/WHEEL have decided to challenge the permit issued for Tent City 4. The statement notes that no other city has taken the time Bellevue did to listen to all points of view and to study and deliberate the issue. The City is confident the ordinance ensures acceptable living standards in a way that does not infringe on the rights of religious organizations. The City is now unfortunately required to spend thousands of dollars in legal costs. City staff recently informed Temple officials that the requirement for showers could be met through the use of shower facilities at a nearby church or other organizations within reasonable walking distance.

Mr. Waters explained that the pending legal challenge diverts time and money away from the real issue of helping the homeless. The City has worked for years with religious organizations and others to provide systematic, coordinated support for the homeless and human services programs.

3. Communications: Written and Oral

- (a) Tim Rogers submitted and summarized written comments from Frank Klein regarding proposed amendments to the Critical Areas Ordinance. Mr. Klein states that the functions, values, and best available science utilized to date represents the position of large agencies such as the Department of Forestry and the Department of Fish and Wildlife. He encourages the City to examine the functions and values for this community as well as observed best available science. Mr. Rogers said forestry officials have the opinion that topping trees will kill them. Residents' experience with the past topping of 60 trees indicates all are thriving and none have died. Mr. Rogers encouraged Council to study this issue within the context of our urban, developed community. He noted that residents spend a great deal of money on landscaping and preserving the environment.
- (b) John Alton feels that the language of the temporary encampments ordinance has led to the lawsuit regarding Tent City 4 at Temple B'nai Torah. As a taxpayer, he is opposed to spending money on this litigation. Mr. Alton recalled temporary housing along Seattle's waterfront during the Depression. He encouraged Council to reconsider the ordinance.
- (c) Arnie Brandon expressed support for the temporary encampments ordinance. Mr. Brandon feels SHARE/WHEEL is exploiting the homeless. He noted SHARE/WHEEL's refusal to participate in supplying information for the Safe Harbors national database on the homeless, which resulted in the loss of significant funding. Mr. Brandon is disappointed the Temple chose to initiate a lawsuit against the City.
- (d) Thomas Walker, a Bellevue resident speaking for the Episcopal Peace Fellowship (King County Chapter), said St. Mark's Church in Seattle has hosted Tent City 3 annually for five years without any security problems. He noted that temporary encampments are one of the few places for homeless families to stay together. He resents spending money on related litigation.
- (e) Charlie Klinge, a land use attorney, is pleased to hear the Council has directed staff to continue to study the Critical Areas Update further. He opined that the shoreline

ordinance is contrary to the state legislative mandate and the City's Comprehensive Plan, which indicate that critical areas associated with shorelines are to be addressed when the Shoreline Master Program is updated in the future. Mr. Klinge said imposing a new critical areas ordinance on existing single-family residences represents a serious impact on property values and property rights. He said this may be illegal as applied to certain properties. The regulations are not needed to protect the resources, given that development and landscaping already exist.

- (f) Dick Mandeville lives on 167th Avenue NE where he and his neighbors have struggled to maintain their views over the years. He asked the Council to give reasonable consideration to residents' property values in drafting the critical areas ordinance.
- (g) Gary Manzari noted the City's core values posted in Council Chambers and affirmed that the City's temporary encampments ordinance reflects these values. The City notified Temple B'nai Torah that they could include the Temple's existing sinks and toilets as part of the necessary facilities for Tent City. In response to the City, neighboring churches agreed to allow Tent City residents to use their showers. Mr. Manzari opined that SHARE/WHEEL, not the City, is limiting the number of Tent City residents. He feels SHARE/WHEEL is intimidating Eastside cities with religious rights and lawsuits at the expense of the homeless. Mr. Manzari said SHARE/WHEEL's refusal to provide information to the Safe Harbors database hurts the homeless through a loss of funding that would help identify solutions for homelessness.
- (h) Barry Lewine lives near Tent City 4's most recent Woodinville location and is a member of Temple B'nai Torah. He feels Bellevue's ordinance was designed to make it as expensive and difficult as possible for organizations to host Tent City. He asked Councilmembers to reconsider the ordinance.
- (i) Dutch Sedentopf distributed photographs of tree topping taken at a residence near him in the Summit community of South Bellevue. He noted 60 to 80 foot trees that were topped to a height of 10 feet. He feels the proposed critical areas ordinance is not as stringent as it needs to be. Mr. Sedentopf feels it would be difficult to enforce a regulation allowing some tree topping. He thanked Councilmembers for their thoughtful debate and consideration of this issue.
- (j) Carmie DeFrancis thanked Council and the City for all of the time and effort invested in the temporary encampments ordinance. She is disappointed the Temple has taken the path of civil confrontation. She noted that neighbors' offers of support to the Temple have been rejected.

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

5. Report of the City Manager: None.

6. Council Business

[Council Business was reported during the earlier Study Session.]

7. Approval of the Agenda

- Deputy Mayor Noble moved to approve the agenda, and Mr. Lee seconded the motion.
- The motion to approve the agenda carried by a vote of 7-0.

8. Consent Calendar

Councilmember Balducci asked to pull Agenda Item 8(e) from Consent Calendar approval.

- Deputy Mayor Noble moved to approve the Consent Calendar, amended to delete Agenda Item 8(e). Ms. Balducci seconded the motion.
- The motion to approve the Consent Calendar, as amended, carried by a vote of 7-0, and the following items were approved:
 - (a) Minutes of November 3, 2005 Special Meeting
Minutes of November 7, 2005 Special Meeting
Minutes of November 7, 2005 Study Session
Minutes of November 7, 2005 Regular Session
 - (b) Motion to approve payment of claims for the period November 5 through November 18, 2005, and payroll for the period October 16 through October 31, 2005.
 - (c) Resolution No. 7283 authorizing execution of an amendment to the Agreement for Professional Services with Cable Langenbach Kinerk & Bauer, LLP, for a total contract amount not to exceed \$215,000 to provide legal representation in the lawsuit of Evans v. City of Bellevue, KCSC No. 03-2-39331-2 SEA.
 - (d) Resolution No. 7284 authorizing execution of a second amendment to the Agreement for Professional Services with Sebris Busto James for a total contract amount not to exceed \$149,000 to provide legal representation in the lawsuit of Evans v. City of Bellevue, KCSC No. 03-2-39331-2 SEA.
 - (f) Resolution No. 7286 authorizing an amendment to the agreement with Active Network, LTD, in the amount of \$62,847.23 for the purchase of point of sale equipment, software, and maintenance. (*Discussed with Council as part of IT Department update on November 14, 2005.*)
 - (g) Resolution No. 7287 authorizing execution of a contract with Verizon in the amount of \$66,715.41 to provide for the relocation of the existing telephone switch, installation and bracing of the switch, and connecting and testing all associated phones.

- (h) Motion to award Bid No. 0563 to Precision Earthwork, Inc., in the amount of \$27,720 as the lowest responsible bidder to construct the Lakemont Pedestrian Bridge.
- (i) Resolution No. 7288 authorizing execution of an amendment to the Professional Services Agreement with Berryman & Henigar, Inc. in the amount of \$150,000 for building plan review services.

Item for Council Discussion:

- (e) Resolution No. 7285 authorizing execution of a second amendment to the Agreement for Professional Services with Preston Gates & Ellis, LLP, for a total contract amount not to exceed \$250,000 for legal services related to temporary encampments.

Councilmember Balducci explained her intent to vote against Resolution No. 7285. She commended the Council for attempting to strike a balance in developing the temporary encampments ordinance. However, she feels the current lawsuit could have been avoided with relatively minor revisions to the ordinance.

Deputy Mayor Noble feels Council is obligated to provide funds for the defense of the lawsuit filed against the City.

- ➡ Deputy Mayor Noble moved to approve Resolution No. 7285, and Mr. Chelminiak seconded the motion.
- ➡ The motion to approve Resolution No. 7285 carried by a vote of 6-1, with Councilmember Balducci dissenting.

9. Public Hearings: None.

10. Land Use

- (a) Ordinance No. 5637 denying the appeal and granting a planned unit development and preliminary short plat, with conditions, on the application of CamWest Development for a 41-lot single-family PUD on 9.01 acres, west of 164th Avenue SE in the Newcastle Subarea, commonly known as the Hillside PUD. Application No. 03-131600LK.

Deputy Mayor Noble explained that he was absent during previous discussions regarding the Hillside PUD application and will therefore refrain from participating in action on Ordinance No. 5637.

Mayor Marshall recalled that Council continued discussion of this quasi-judicial matter on October 17 and provided direction regarding development of the ordinance for Council action tonight.

- Ms. Balducci moved to adopt Ordinance No. 5637, and Mr. Chelminiak seconded the motion.

Councilmember Degginger asked staff to schedule a future discussion regarding PUD regulations relating to lot size.

- The motion to adopt Ordinance No. 5637 carried by a vote of 6-0, with Mr. Noble not participating.

- (b) Ordinance No. 5638 approving application of Calvary Chapel Eastside for the rezone of a one-acre parcel, near the corner of 164th Avenue SE and Lakemont Boulevard, from R-5 to Office/C for the extension of a Concomitant Agreement to that lot and modification to perimeter landscape buffers. File No. 97-008786LQ.

Mayor Marshall explained that Ordinance No. 5638 approves the application of Calvary Chapel Eastside for the rezone of a one-acre parcel, near the corner of 164th Avenue SE and Lakemont Boulevard, from R-5 to Office/C for the extension of a Concomitant Agreement to that lot and modification to perimeter landscape buffers. This is a Process III application in which the Hearing Examiner provided a written recommendation to Council, which is the decision-making body. The Hearing Examiner recommends Council approval, with conditions.

- Deputy Mayor Noble moved to adopt Ordinance No. 5638, and Mr. Chelminiak seconded the motion.

Mayor Marshall noted there were no appeals from the community of the Hearing Examiner's decision.

Responding to Mr. Degginger, City Attorney Lori Riordan said the ordinance requires compliance with existing setback standards if the building currently encroaching into the buffer is removed and rebuilt.

Responding to Mr. Noble, staff confirmed there has been no public opposition to the application.

- The motion to adopt Ordinance No. 5638 carried by a vote of 7-0.

11. Other Ordinances, Resolutions and Motions: None.

12. Unfinished Business: None.

13. Continued Oral Communications

- (a) Joel Jackman expressed support for the temporary encampments ordinance. He said the City should be commended rather than criticized as it has been in the media. He feels the City has advocated a higher standard of care for the homeless than SHARE/WHEEL has been providing in its Tent Cities. He said SHARE/WHEEL is not a religious organization and is not protected by federal law. SHARE/WHEEL will lose City of Seattle funding next year for refusing to participate in the Safe Harbors database.
- (b) Ann Lewis thanked Councilmember Balducci for supporting Tent City 4 and encouraged the City to negotiate further with the Temple and SHARE/WHEEL. She noted that many or all SHARE/WHEEL staff are homeless themselves.
- (c) Sandy Brown, Executive Director of the Church Council of Greater Seattle, reported on the candlelight vigil held outside City Hall tonight. He apologized for the candle wax out on the sidewalk and encouraged the City to contact a local church for tips on how to easily remove the wax. Mr. Brown said 100 to 125 people representing 25 faith communities gathered to protest the City's temporary encampments ordinance. He noted that the Church Council of Greater Seattle disagrees with SHARE/WHEEL's position to not cooperate with the collection of information for the Safe Harbors database. Mr. Brown said the City of Bellevue has not formally responded to requests submitted by nine denominational representatives. Mayor Marshall, Deputy Mayor Noble, and Councilmember Balducci affirmed these positions but the rest of the Council did not.
- (d) Melvin Woodworth, former pastor of First United Methodist Church in Bellevue, feels the Council's statement that the temporary encampments ordinance is intended to ensure minimum health and safety conditions for the homeless is disingenuous. He said homelessness is a complex issue requiring many solutions. He feels Tent City 4 is a poor solution, but it appears to be working for some. Mr. Woodworth asked Councilmembers to spend some time with the homeless and then they will realize that the ordinance does not meet their needs.
- (e) Damian Golden asserted that Temple B'nai Torah is not following its own insurance guidelines as they related to Tent City 4.
- (f) Tonya King expressed support for the temporary encampments ordinance and encouraged Council and the City to continue to defend it. She hopes the media will now focus more attention on SHARE/WHEEL and the motivations of the Church Council of Greater Seattle. Ms. King said many within the religious community support Bellevue's ordinance.

14. New Business: None.

15. Executive Session

At 8:58 p.m., Mayor Marshall declared recess to Executive Session for approximately one hour and 30 minutes to discuss one item of potential litigation and one personnel matter. The

Executive Session convened at 9:04 p.m. and concluded at 9:47 p.m. The personnel matter was not discussed.

16. Adjournment

At 9:48 p.m., Mayor Marshall declared the meeting adjourned.

Myrna L. Basich
City Clerk

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