BELLEVUE ARTS COMMISSION
SPECIAL MEETING
MINUTES

January 15, 2013
4:00 p.m.

Bellevue City Hall
Room 1E -109

COMMISSIONERS PRESENT:	Chairperson Smith, Commissioners Cole, Fateeva, Jackson, Manfredi, Tremblay
COMMISSIONERS ABSENT:	Commissioner Liljablad
STAFF PRESENT:	Mary Pat Byrne, Department of Planning and Community Development
OTHERS PRESENT:	Matt Segal, Jessica, Pacifica Law Group
RECORDING SECRETARY:	Gerry Lindsay

I. CALL TO ORDER

The meeting was called to order at 4:35 p.m. by Chairperson Smith who presided. All Commissioners were present with the exception of Commissioner Tremblay, who arrived at 4:41 p.m., and Commissioner Liljablad, who was excused.

2. APPROVAL OF AGENDA AND MINUTES

A. Approval of Agenda

A motion to indicate the correct date and location for the meeting on the agenda and to approve the agenda as amended was made by Commissioner Jackson. The motion was seconded by Commissioner Cole and it carried unanimously.

B. Approval of Minutes

Commissioner Cole called attention to the last paragraph on page 2 and noted that the statement should be credited to Commissioner Jackson instead.

A motion to approve the November 6, 2012, minutes as amended was made by Commissioner Cole. The motion was seconded by Commissioner Jackson and it carried unanimously.

3. ORAL COMMUNICATIONS – None

4. ACTION ITEMS AND DISCUSSION ITEMS

A. Meeting Protocols and Public Meeting Requirements

Arts Specialist Mary Pat Byrne said that at City Council's direction, the City Manager and City Clerk arranged for all of the city's boards and commissions to be given an update regarding meeting protocols and public meeting requirements.

Matt Segal and Jessica Skelton, both partners at Pacifica Law Group were introduced to make the presentation. After providing some personal background about them both, Mr. Segal said Pacifica Law Group focuses substantially on public clients, including the city of Bellevue. They provided the

Commission with detailed descriptions of various aspects of meeting protocols and public meeting requirements.

Ms. Byrne said members of the Arts Commission are often offered tickets to various events, including events funded by the city. The rule of thumb worked out by the city attorney's office in the past has been that the offered tickets cannot convey a special interest to Commissioners by virtue of their position. As a rule of thumb, if the organizer gives away 50 or more tickets, those given to a Commissioner are not deemed to convey a special interest.

Ms. Byrne pointed out that it is not unusual for a Commission member also to serve in an unpaid capacity on the board of an organization that applies to the Commission for funding. Mr. Segal said there is case law relative to the issue of volunteer board service. The general rule is that by virtue of serving on a board, even as a volunteer, a person has some interest in the proceedings, though such persons are not automatically disqualified for having a conflict of interest; steps have been taken to avoid casting the net so broadly that no one could possibly serve on a board or commission. The specific facts and circumstances surrounding the specific funding request and the affected Commissioner's specific relationship to the organization should be taken into consideration; there may be circumstances in which the nexus is close enough that it would be better to err on the side of caution.

Commissioner Jackson asked if a perceived conflict of interest would be different for a Commissioner who merely serves as a member of the board of an organization seeking a grant from the Commission versus a Commissioner who serves as the chair of that board. Mr. Segal said the person serving as chair could certainly be seen to have a conflict of interest, but so could the mere board member who also serves on the fundraising committee that drafted the request for funding that gets submitted to the Commission. If one feels there could be the appearance of impropriety, it would be better all around to simply recuse oneself up front.

Mr. Segal explained that the Open Public Meetings Act applies to basically any acting public body, legislative or advisory. That includes every board and commission in the city of Bellevue. All meetings must be open to the public, with the exception of authorized executive sessions, which are very limited in scope. All meetings must be adequately noticed to the public, an agenda must be published, meeting materials must be made available to the public, and any time action is taken a quorum must be present. Any action taken without a quorum is invalid under the Act. Conversely, any time a quorum of Commissioners meet together outside of a publicly noticed meeting, no Commission business can be discussed. Small groups of less than a quorum are allowed to meet and discuss Commission business, though they cannot take any voting action. Under the Act, qualifying subcommittees must operate with a quorum of the subcommittee members and are required to be noticed and open to the public.

Mr. Segal said technology has made it easier for people to meet in ways never imagined at the time the Open Public Meetings Act was originally passed. In 2001 a case arose in which school board members were meeting in groups having less than a quorum, but they were communicating via email, and the email string slowly brought other members into the communication. The court of appeals ultimately ruled that the serial meeting constituted a meeting and that it was in violation of the Act in that there had been no public notice, there was no published agenda, and the public was not invited. Through the use of the reply all feature, emails very quickly can involve a full quorum. Commissioners from time to time receive email communications addressed to all members of the Commission from staff or from the public, and a reply all response in which the issues are discussed can be considered to be a meeting and can be considered taking action.

Ms. Byrne clarified that where emails are received from members of the public, a Commissioner should thank the sender and then forward the email to her so everyone can receive a copy of it through the proper channels.

Mr. Segal added that communications between a Commissioner and staff do not constitute a meeting. A Commissioner can ask staff to bring something to the attention of the full Commission, for instance. The staff is trained in how to deal with such communications in ways that do not run afoul of the Act. Violations of the Act do carry some monetary penalties, but they also carry political ramifications. Such violations must be made knowing the implications, thus making simple mistakes generally do not trigger penalties.

Mr. Segal then discussed the Public Records Act.

Ms. Skelton pointed out that there is city policy regarding the use of official use of social media. While that likely is not something the Commission should concern itself with, the personal use of social media might implicate the role of Commissioners. With regard to the Open Public Meetings Act, the primary concern is the serial meeting concept. Emails, tweets, and posts to Facebook involving a quorum of Commissioners could create a serial meeting that potentially could be in violation of the Act. The implications for the Public Records Act are somewhat more extensive. Under the Act, what constitutes a public record is very broad and includes all forms of electronic media, email, web pages, tweets, database files and Facebook posts, each of which is subject to retention depending on their retention value. Questions about how to retain such information should be forwarded to the staff. To the extent that a Commissioner has an interaction with a member of the public using any form of social media, the Commissioner's role is implicated and could be considered to be a record under the Act.

Mr. Segal said it has become more prevalent for public officials to use social media during a meeting. Members of the public are savvy about that, and if they want records that relate to something before the body, and they saw a member using social media while the issue was discussed, they can easily come forward asking for the records of the tweets and posts to be handed over.

Answering a question asked by Commissioner Jackson, Mr. Segal said Commissioners can as citizens promote arts groups, like them on Facebook, and post something about their great performance without necessarily making those actions a public record. However, a post saying the Commission will be taking up such and such an issue and then taking a clear position on that issue could become a public record, particularly if another Commissioner or two were to add comments to the post. In all such posts it should be clear that the Commissioner is speaking on their own behalf and not as a member of the Commission.

Ms. Skelton informed the Commissioners that state law restricts the use of public resources for the purpose of electoral politics. The law prohibits the use of any public facilities, either directly or indirectly, on behalf of a candidate or a valid proposition. The Public Disclosure Commission has issued guidelines with respect to the permissible use of official resources. A public body like the Arts Commission can present an objective and fair presentation of the facts relating to an issue, but it cannot campaign or lobby on behalf of a candidate or an issue. Commissioners who use their own email accounts on behalf of a candidate or proposition should always make it clear they are acting in their own capacity and not in their capacity as a Commissioner.

Chair Smith asked if he could sign an endorsement saying he supports Candidate A and indicate that he is the chair of the Arts Commission. Mr. Segal said the better approach would be to leave out any indication of affiliation with the Commission in making an endorsement. By including affiliation and title, it could be construed that the endorsement in fact is coming from the Commission as a whole. Where there are questions, a phone call to the Public Disclosure Commission will yield an answer.

B. Comprehensive Plan Update

Ms. Byrne reminded the Commissioners about the upcoming Comprehensive Plan scoping session slated for January 24 at City Hall. She urged the Commissioners to RSVP to Senior Planner Nicholas Matz as soon as possible. The scoping session will be repeated on January 29 at Crossroads Community Center.

Ms. Byrne said the Arts Commission itself was established through an early Comprehensive Plan development exercise. In 1970 someone suggested it would be a good idea for the city to have an Arts Commission, so a group of people met for two years planning and working out details, and in 1973 the Commission was formally established. The Comprehensive Plan is the document that houses the policies that serve as the bones upon which the city is built.

There are cultural and arts policies and references in several different chapters of the Comprehensive Plan. As a result, arts and culture are interwoven with other categories of city policies. For instance, the Parks Open Space and Recreation element includes numerous references to arts and culture, and accordingly the Parks Department has broadened its focus on cultural activities in its programming.

Ms. Byrne said at the scoping session staff will share some data about trends, but staff's priority will be to listen to comments about what things will or should look like in Bellevue in 2035.

Commissioner Tremblay said things have really shifted and ignited over the past few years, particularly in the way technology is used and the ways in which people communicate with each other. She said it will be interesting to see how that will be reflected and how what amounts to a different kind of vocabulary will be incorporated in the plan.

Commissioner Jackson commented that the current plan does a very good job of painting the picture of Bellevue as a city in a park, yet roads keep getting widened and old trees are being removed as a result. The policies say one thing but the actions say something else. If continued, the city could end up without a tree in sight except in the parks.

Commissioner Tremblay asked if the city in the park vision will be allowed to run its course and be replaced by something fresh and new through the Comprehensive Plan update process. Ms. Byrne said it is unlikely that the community would give up the "City in a Park" identification.

Commissioner Jackson said to some extent the city in a park phrasing feels dated. What Bellevue looks like currently is what Palo Alto looked like before the tech boom which triggered expansion that simply paved over everything leaving little more than a desert except in the wealthy places. There are studies that show the wealthy districts of cities always have street trees and the poor districts do not. The fact is that the greener a city is, the more livable it is.

Commissioner Fateeva said she the city is not yet a "must visit" place for tourists, but it could be in the future. Chair Smith said the Visit Bellevue campaign is a good step in that direction. He said it is good to have plans and to keep them updated, but they will amount to nothing if they are not associated with action.

Commissioner Tremblay said Bellevue's image needs to be worked on. Those who bash the city clearly do not spend any time in Bellevue, but even so steps should be taken to make Bellevue a place people from all over will want to visit. Rebranding will have to be part of that process in some shape or form.

Chair Smith said the Bellevue of ten years ago had relatively few towers in the downtown. The policies contained in the Comprehensive Plan shaped the building boom. Bellevue is a very young city, and few if any of the commercial buildings predate Bellevue's incorporation. It has all come about in a single generation, which is unique, but that in fact is part of the issue.

Commissioner Jackson noted that the city has an obligation to accommodate its share of King County growth, and beyond the obligation the city should want to accept the growth as part of the city's maturation. The growth, however, should be carefully crafted.

Ms. Byrne mentioned earlier suggestions from Commissioners that Bel Red could be designated an experimental zone in which permitting rules are relaxed a little to encourage new ideas to be tried. If what occurs is not good it could be stopped, but if it is good consideration should be given to allowing it other areas.

Commissioner Cole said she worked for a city at one time that had something called turbo resolutions which essentially streamlined the approval process for projects that were outside the norm. It worked very well and was welcomed by investors and developers. The city continues to use the tool.

Commissioner Jackson said her main concern going forward is that the city will not have any arts venues or rehearsal space. Absent such places, the city will also lose its student base.

Ms. Byrne suggested the time to experiment will be the next ten years. That will be especially true in the Bel-Red area as East Link is constructed. Commissioner Tremblay concurred and said she has yet to see practiced the idea of artists living and working in Bellevue. The Bel-Red policies include the notion, but it has not been put into practice.

Chair Smith said if the Spring District gets developed, careful attention will need to be paid to what will happen in the rest of the Bel-Red corridor. There is a huge difference between what the area is now and what the plan calls for it to be in the future, and it will be very interesting to see if it works. The city will need to keep a careful watch to see if the plans can be realized, and if they cannot they will need to be revised before waiting too long.

Commissioner Tremblay said change often starts with small actions. The idea of somehow igniting artist entrepreneurs and creative business owners generally could be the spark the area needs, and figuring out how to attract them should be the first step.

Ms. Byrne explained that the Comprehensive Plan is a collection of policies with some narrative in between. There also is a series of functional plans that support the policies and to more fully explain what the policies mean. The Cultural Compass is one of those functional plans and updating the plan is the responsibility of the Commission. She said the Commission should pay close attention to is how well the Cultural Compass fits in with the policies that are coming up, and the notion whether the Cultural Compass or Comprehensive Plan policies need to be revised.

Commissioner Tremblay suggested the subcommittee could be brought back together to continue the conversation. Ms. Byrne said that could work if the conversation were structured and focused.

C. 2013 Work Plan Update

Ms. Byrne said the Commission has a role to play in many of the initiatives that have been approved by the City Council. She said the list on page 12 of the packet highlights the projects the Commission committed to as part of the Budget One process; she said the Commission will be held accountable for accomplishing those tasks. The list on page 13, however, represents the larger initiatives around which the Commission can have an impact. She noted that the Commission is already involved in the Comprehensive Plan update and the Downtown Livability Initiative. Little has been said to date about the other initiatives, but there are changes coming to the programs and the Commission will be involved with them as well. She suggested the chair should appoint Commissioners to serve as lead for each initiative and have them poised to act; she added that three of the projects are currently ready for a lead assignment: the Comprehensive Plan update, Downtown Livability, and Storefronts Bellevue.

Commissioners Cole and Jackson both volunteered to serve as lead for the downtown livability initiative. Ms. Byrne said the initiative will result in zoning updates regarding bonuses and incentives for the downtown.

Chair Smith said he would have lead names by the February meeting of the Commission.

5. COMMISSION QUICK BUSINESS

A. February Meeting Offsite

Ms. Byrne said she is waiting for confirmation from KidsQuest about conducting the Commission's February 5 meeting at that location.

6. REPORTS

A. Commissioner's Committee and Lead Reports -- As Noted

B. Staff Reports

1. Project Status Report

Ms. Byrne said construction of the Bridle Trails project is under way. The boulders are at the shop to be cut, and once that is done the artist will begin investing them with the designs. The site at NE 24th Street and 120th Avenue NE will likely be addressed first.

Arts Program Assistant Scott MacDonald has begun work on the citywide public art map.

The cultural demographic survey is officially under way; some basic contact questions will be asked of artists first through an online survey, then some will be asked to serve in focus groups where more in-depth questions will be asked. The demographer has been invited to the February meeting of the Commission. Ms. Byrne encouraged the Commissioners to forward to her the names of culturally diverse artists so they can be included in the survey.

Ms. Byrne informed the Commissioners that *The Oregonian* Visit Bellevue recently had a nice write-up about Bellevue. The art map served as the impetus for the story.

7. CORRESPONDENCE, INFORMATION

A. Written Correspondence

1. Thank-you from Bellevue Arts Museum
2. Thank-you from KidsQuest Children's Museum
3. Thank-you from Pacific Northwest Ballet
4. Thank-you from Village Theatre

B. Information -- As Noted

1. Upcoming Agenda Items
2. Commission Committee Chairs and Leads for 2012-2013
3. Cultural Compass Update Basics
4. Public Art Program Budget Update

There was agreement that the Cultural Compass subcommittee should begin ramping up during the months of February and March.

8. COMMISSIONER UPDATES ON LOCAL ACTIVITIES

Commissioner Cole reported that she received an invitation from the Bellevue Youth Symphony Orchestra and took the opportunity to go see them perform at Meydenbauer Center. She said they were very good.

Commissioner Tremblay said she served on the 4Culture facilities panel recently. The focus was on reviewing applications and making award recommendations regarding organizations relative to building or improving facilities and new equipment.

9. ADJOURNMENT

Chair Smith adjourned the meeting at 6:36 p.m.