

CITY OF BELLEVUE  
CITY COUNCIL

Summary Minutes of Regular Meeting

November 6, 2023  
6:00 p.m.

Council Chambers  
Bellevue, Washington

PRESENT: Mayor Robinson, Deputy Mayor Nieuwenhuis and Councilmembers Barksdale, Lee, Robertson, Stokes and Zahn

ABSENT: None.

1. Call to Order

The meeting was called to order at 6:00 p.m., with Mayor Robinson presiding.

2. Roll Call; Flag Salute

City Clerk Charmaine Arredondo called the roll and all Councilmembers were present. Councilmember Robertson led the flag salute.

(a) Diwali, the Festival of Lights Proclamation

Deputy Mayor Nieuwenhuis read the proclamation recognizing November 12, 2023 as Diwali, the Festival of Lights, in Bellevue and encouraged everyone to celebrate Diwali's message of bringing light to the world through tolerance, compassion and understanding. The holiday is celebrated annually around the world by Hindus, Jains, Sikhs and Buddhists.

Dr. Linda Whitehead, City Manager's Office, introduced Pranaya Hart, Community Development Department, and Lalita Uppala, Executive Director of the Indian American Community Services (IACS) organization.

Ms. Uppala introduced Dr. Pran Wahi, IACS Seniors Program Director and a founding member and volunteer over the past 39 years. Ms. Uppala said Dr. Wahi embodies the vision of being inclusive, compassionate and respectful to everyone and all cultures.

Dr. Wahi thanked the Council for the proclamation.

(b) Lung Cancer Awareness Month Proclamation

Councilmember Stokes read the proclamation declaring November 2023 as Lung Cancer Awareness Month in Bellevue to increase awareness of the severity of this disease and to emphasize the importance of screening for high-risk individuals.

3. Approval of Agenda

→ Deputy Mayor Nieuwenhuis moved to approve the agenda, and Councilmember Stokes seconded the motion.

→ The motion carried by a vote of 7-0.

4. Oral Communications

City Clerk Arredondo reminded the public that no election-related topics may be discussed during oral communications, including promoting or opposing a ballot measure or candidate. Oral communications are heard for a period of 30 minutes and individuals speaking to items on the evening's agenda will be given preference, followed by those who have not spoken to the Council within the past 60 days or are speaking to items that will come before the Council over the next 60 days.

(a) Jodie Alberts, representing the Bellevue Chamber of Commerce, commented regarding the proposed Land Use Code Amendment (LUCA) that would allow extensions of design review approvals [Agenda Item 10(a)]. She thanked the Council and staff for addressing this item, given the slowdown in development activity. She said the added flexibility will help to support the industry as projects navigate changing building codes. Ms. Alberts suggested that the Council consider what surrounding jurisdictions are offering in terms of extensions. The City of Seattle just issued notice of their Master Use Permit (MUP) extensions of three years. The extensions are automatic for all projects and do not require input from City staff on an individual basis. The City of Redmond does not limit the number of extensions that can be granted to a project. Ms. Alberts said Bellevue's proposed LUCA allows a maximum extension of two years under what the City would deem as extenuating circumstances. She encouraged the Council to consider automatically extending all design review permits issued from now through the end of 2024, incorporating extensions administratively into the building code, and extending permits to four years to be competitive with Seattle's three-year extensions.

(b) Katherine Robbins commented regarding Bellevue's tree codes, noting the significant environmental and development changes in South Bellevue and the surrounding area over the past 20 years. In the past five years, five mega-houses have been developed in her cul de sac. They are classified as single-family residences, with the largest owned by a corporation and having eight bedrooms for employee housing. Ms. Robbins said that house can be vacant for long periods of time. She said the tree canopy in her neighborhood has decreased significantly due to the removal of trees by developers followed by additional tree removal when the new residents move in. Ms. Robbins said

she recently learned that a new neighbor had a tree service file permits to remove two trees on her property. She was alarmed that a tree service would file permits without her consent at her neighbor's request. Ms. Robbins said she does have a separate tree deemed as hazardous. However, she cannot afford to remove the tree. She thanked the Council for addressing these concerns.

- (c) Joe Kunzler commented regarding the code of ethics and ethics officer legal services [Agenda Item 10(b)]. He said the Council's code of ethics makes it clear that everyone on the Council shall comply with federal, state and city laws in the performance of their duties. He said those laws pertain to election campaigns, financial disclosures and open government. He said there is an individual running for City Council, Alex Tsimerman, who has been found by the Public Disclosure Commission to owe them more than \$30,000 in fines from four different complaints. Mr. Kunzler encouraged everyone to vote.
- (d) Nicole Myers said she hopes that when the Council reconsiders the vesting options provided under Ordinance No. 6760, they might also be able to reduce the potential for undesirable building designs to be constructed 10 years from now. In addition to the change from 2.5 square feet to 4 bonus square feet for every square foot of affordable housing, the ordinance allows buildings in the downtown perimeter to add a couple of extra floors. She said it was mentioned during a Council meeting that no economic analysis has been done to ensure Bellevue will gain affordable housing in a reasonable proportion to the generous terms of the ordinance. She said she shares Councilmember Robertson's disappointment that only six percent of the new units will be affordable. Ms. Myers said she supports the production of both market-rate and affordable housing. However, she expressed concern that the potential for adding eight years of extended vesting moves away from the original intent of supporting shovel-ready projects in the defined area. She expressed concern about losing stepback requirements.
- (e) Patrick Sathyanathan said he has ongoing complaints about the Bellevue Police Department. He noted that certain terms are used in police incident reports to describe him. He said an incident occurred in January 2019 when he was violently arrested for not committing any crime. He said the NORCOM transcript of the incident describes someone committing a violent act somewhere as well as a description of another violent act somewhere else. He said he was drawn into the reports after he tried to pick up his car from a towing company. He said several police officers arrived and pointed guns at him while he sat inside his Jeep. He said he was not allowed to go into his home. He said his complaint to the office of accountability has been closed.
- (f) Alex Tsimerman said he has lived in Bellevue for 35 years fighting what he calls the Democrat mafia. He expressed concern about antisemitism.
- (g) Neil Christiansen, a merit badge counselor for the Boy Scouts, said he brought 13 scouts to the meeting who are earning their Citizenship in the Community merit badge. He acknowledged the scouts and said it is great to see government in action.

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

6. Report of the City Manager

(a) Winter Weather Preparedness and Response

City Manager Brad Miyake introduced staff's update regarding the winter weather preparedness and response program.

Chris Long, Assistant Director, Transportation Department, said this winter is an El Nino year following three years of La Nina weather. Wetter weather is expected for the southern half of the United States and warmer weather is expected for the northern half.

Mr. Long said the snow response project team includes employees from the Transportation Department, Parks and Community Services Department, Finance and Asset Management Department and Utilities Department. He said Bellevue TV recorded all of the classroom training this year to be used for training new employees. He said the City is deploying five weather sensors around the community to help support the contractor that provides Bellevue-specific weather forecasts. He said that is particularly important for anti-icing efforts.

Mr. Long recalled that the winter event response map was launched last year. The map provides information about when roads have been serviced by snow plows and is available online during winter storm events at <https://bellevueWA.gov/winter-response-map>. Mr. Long said the first snow and heavy ice event last winter occurred in mid-December. He highlighted efforts to prepare for storms at higher elevations in Bellevue.

7. Council Business and New Initiatives

Mayor Robinson said she would be participating remotely for the November 13 meeting and Deputy Mayor Nieuwenhuis would preside over the meeting.

8. Consent Calendar

→ Deputy Mayor Nieuwenhuis moved to approve the Consent Calendar, and Councilmember Robertson seconded the motion.

→ The motion to approve the Consent Calendar carried by a vote of 7-0, and the following items were approved:

(a) Council Minutes

*Minutes of October 16, 2023 Regular Meeting*

*Minutes of October 23, 2023 Regular Meeting*

(b) Motion to reject the bid protest from HCON Incorporated and award Bid No. 23063 for the Water Main Replacement 2022 project to Fury Site Works Inc., as

the lowest responsive and responsible bidder, in an amount not to exceed \$6,059,761.61, plus all applicable taxes (CIP Plans No. W-16 and W-67).

- (c) Resolution No. 10313 determining that a portion of an existing sewer easement located at 3002 139th Ave SE is surplus to the City's needs and is no longer required for providing continued sewer service; and setting a time and place for a public hearing to consider the partial release of this easement.
- (d) Resolution No. 10314 authorizing execution of an amendment to the Interlocal Agreement for Inmate Housing with South Correctional Entity (SCORE) to increase the number of guaranteed beds to 30 and increase the service fees and charges.
- (e) Resolution No. 10315 authorizing execution of all documents necessary for the acquisition of property in the West Lake Sammamish neighborhood area located at 1809 West Lake Sammamish Pkwy SE, including a purchase and sale agreement, in an amount not to exceed a purchase price of \$985,000, plus related costs.

9. Public Hearing: None.

10. Study Session Items

- (a) Proposed Amendments to Land Use Code to Allow Extensions for Design Review Approvals

City Manager Miyake introduced discussion regarding proposed amendments to the Land Use Code to allow greater flexibility for developers in response to Council direction earlier this year. The code amendment would allow the Director of the Development Services Department (DSD) to extend the design review approval period under certain circumstances.

Nick Whipple, Code and Policy Director, recalled that on March 13, 2023, the Council initiated and retained processing of the Land Use Code Amendment (LUCA) to allow extensions for design review approvals.

Liz Stead, Land Use Director, said staff is seeking direction to prepare the proposed LUCA for public hearing at a future meeting. Staff proposes that this be a permanent code amendment to provide flexibility to the development community related to fluctuations in development activity. Under the current code, design review approvals expire after two years, meaning that a developer has two years from the date of approval to apply for a building permit.

The LUCA amends LUC 20.30F related to the timing of the request, situations when extensions are allowed and time limitations on the extensions. Ms. Stead recalled there was discussion about timing the extension requests to be submitted no earlier than 45 days before the expiration of the original design approval. She said staff researched regulations in other jurisdictions to determine when extensions should be allowed. She noted that Bellevue's current code allows the extension

of a critical areas land use permit or shoreline permit based on certain criteria. She said staff suggests considering unforeseen circumstances and situations in which the expiration of design review approval would result in an unreasonable hardship.

Ms. Stead said staff recommended extensions for up to two years, potentially with the ability to grant an additional extension up to a maximum of four years.

Mr. Whipple said the objectives of the LUCA are to: 1) provide consistency in extension practices, 2) allow additional time for applicants to complete projects, and 3) balance flexibility for projects and the public purposes of new land use regulations.

Mr. Whipple said staff is seeking Council input regarding the LUCA and direction to schedule a public hearing.

Deputy Mayor Nieuwenhuis thanked staff for the presentation and expressed support for providing flexibility for developers. Given that some jurisdictions allow longer extension periods and/or more extensions, he asked about staff's proposal for two-year extensions. He concurred with comments during earlier oral communications about ensuring Bellevue remains competitive with other jurisdictions.

Ms. Stead said staff's proposal falls in the middle of the regulations in other jurisdictions. She said that in the City of Seattle, a developer can extend their design review approval only if the project still meets the current code, including any changes. Ms. Stead said Bellevue's proposal allows developers to operate under the same Land Use Code provisions for a longer period of time. She said there are a number of ways to approach this and staff decided on what it considers a middle ground. She said staff can provide more information about other jurisdictions for the public hearing. Ms. Stead noted staff's efforts to balance the needs of the customer/developer with the Council's policy direction.

Mr. Nieuwenhuis noted the importance of predictability in terms of being competitive with other jurisdictions. He said "unforeseen circumstances" and "unreasonable hardship" could be interpreted differently by a number of individuals. He questioned the downside of allowing automatic extensions. Ms. Stead said staff is interested in retaining consistency in the code, and other code sections that currently allow for extensions to vesting contain specific criteria. She said the City has been flexible in the past in determining hardship requests. She said staff would follow up with additional information.

Councilmember Robertson concurred with Deputy Mayor Nieuwenhuis's interest in providing predictability for developers. Ms. Robertson said it would be helpful for the Council and the public to better understand what design review entails and how it interconnects with other permits throughout the process. She said one benefit of extended vesting is that phased projects will retain the same look and feel within the development over time.

Ms. Robertson said she shared Mr. Nieuwenhuis's interest in clearer definitions for hardships and unforeseen circumstances.

Responding to Mayor Robinson, Mr. Whipple said staff could present options for the Council to consider to be included for the public hearing.

Responding to Councilmember Robertson regarding project phasing, Ms. Stead said that a larger project involving multiple buildings generally follows requirements in the code for a master development plan. The plan allows staff to review the entire project and to consider unity of design. She said one option is to combine the master development plan with administrative design review for one or more of the buildings. At that point, staff typically looks for up to 10-year vesting for the master development plan and conducts administrative design review for the buildings themselves. The City generally does not grant a full 10 years of vesting for the buildings. The developer can apply for design review at any time within the 10 years vesting for the master development plan. Ms. Stead said the City generally does not like giving a 10-year vesting for design review because architectural styles and building needs can change within relatively short time periods. She said staff works with developers to understand what they need to obtain permits and construct their projects.

Councilmember Zahn suggested considering automatic extensions for up to two years. She said there are enough complexities in working with the development community and suggested not creating any additional complexity.

Councilmember Lee said it is important to understand what the City can be flexible about and which regulations should be more constrained.

Councilmember Barksdale acknowledged the goals of providing flexibility for developers and predictability regarding the outcome of development throughout Bellevue. He expressed support for adding more specific criteria applicable to extension requests. Responding to Mr. Barksdale, Ms. Stead said staff can further explore the issue of whether design review vesting should be subject to Land Use Code changes. The City of Seattle requires a new round of design review if the Land Use Code changes.

Councilmember Stokes expressed support for automatic design review extensions without overly complex regulations.

Responding to Mayor Robinson, Ms. Stead clarified that after a two-year extension, additional extensions (e.g., one year or two years each) could be approved for a total of four years.

Responding to Mayor Robinson, Mr. Miyake said the Council could bring this topic back for another study session or Councilmembers could receive individual briefings before holding the public hearing.

Rebecca Horner, DSD Director, said a Bellevue Development Committee meeting was scheduled for the following week and staff plans to discuss this proposed LUCA.

Mayor Robinson suggested trying individual Councilmember briefings to determine whether the Council can reach a consensus before scheduling the public hearing.

(b) Proposed Steps for Procurement of Ethics Officer Legal Services to comply with Bellevue City Code Chapter 3.92

City Manager Miyake introduced discussion regarding the procurement of Ethics Officer legal services. He recalled that in 2013, the Council adopted a code of ethics that requires the City to hire an Ethics Officer. He said the current contract has expired and staff will provide information regarding the process for filling that role.

Soojin Kim, Assistant City Attorney, said staff is requesting Council direction to start the procurement process for a new Ethics Officer contract. The code states that the position cannot be a City employee and the contract can be awarded only after the candidates are interviewed by the Council and selected by a unanimous vote.

The Ethics Officer's duties include periodic review of the code of ethics and related training materials and the issuance of advisory ethics opinions concerning the applicability of the code of ethics to hypothetical situations of city-wide interest or solely related to the persons making the request. Other significant duties include reviewing and issuing decisions on ethics complaints against public officials filed with the City Clerk and providing prompt and fair enforcement of BCC 3.92 when necessary. The code of ethics applies to City Councilmembers, Board and Commission members, and other advisory committees appointed by the Council.

Ms. Kim said the code requires that the Ethics Officer be a lawyer with sufficient experience and training. She noted that only one law firm responded to the last request for proposals (RFP). She said staff plans to advertise the contract more widely this time. The City Attorney's Office and the City Clerk's Office will screen the responses and arrange for interviews with the Council. The contract value is estimated at \$50,000 to \$100,000 for an initial two-year term. The previous contract was extended for a total of six years.

Responding to Councilmember Lee, Ms. Kim said the most recent Ethics Officer contract expired in 2022 and the expenditures over a six-year period totaled approximately \$126,000. Mr. Lee requested an itemization of the expenditures.

Councilmember Robertson suggested that one criteria for the Ethics Officer should be how quickly they can respond to the City's requests for services. Mayor Robinson concurred.

Councilmember Zahn recommended continuing to allow contract extensions. She said this is a good time for a review of the code of ethics in anticipation of new Councilmembers and ongoing changes in Board and Commission members.

- Deputy Mayor Nieuwenhuis moved to direct the City Attorney's Office to commence a procurement process for Ethics Officer legal services along the lines recommended to comply with BCC Chapter 3.92. Councilmember Stokes seconded the motion.
- The motion carried by a vote of 7-0.

11. Land Use: None.



12. Other Ordinances, Resolutions, and Motions: None.
13. Written Reports
  - (a) Parks and Community Services Board Third Quarter 2023 Report and Communication
14. Unfinished Business: None.
15. New Business: None.
16. Adjournment

At 7:40 p.m., Mayor Robinson declared the meeting adjourned.

Charmaine Arredondo, CMC  
City Clerk

/kaw