

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Regular Meeting

October 23, 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. Executive Session

(a) Personnel Matter [RCW 42.30.110(1)(g)]

Mayor Robinson declared recess to Executive Session for approximately 10 minutes to discuss a personnel item.

The meeting resumed at 6:10 p.m.

3. Roll Call; Flag Salute

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

(a) Hindu American Awareness and Appreciation Month Proclamation

Councilmember Stokes read the proclamation recognizing October 2023 as Hindu American Awareness and Appreciation Month in Bellevue and encouraged everyone to increase their understanding of the significant contributions of the Hindu American community.

An individual from the Hindu community thanked the Council for the proclamation and noted that today was a Hindu holiday known as Vijayadashami or Dussehera, which symbolizes the triumph of good over evil. He noted the significant growth of Hindu Americans in the region and thanked the City of Bellevue for continuing to embrace and celebrate cultural diversity.

4. Approval of Agenda

- Deputy Mayor Nieuwenhuis moved to approve the agenda, amended to add Resolution No. 10312 for discussion and consideration under Council Business and New Initiatives as Item 8(a). Councilmember Stokes seconded the motion.
- The motion carried by a vote of 7-0.

5. Oral Communications

City Clerk Arredondo said the total time for oral communications is for a period not to exceed 30 minutes and topics must relate to City of Bellevue government. Persons speaking to items on the agenda will be called first and if time remains, others will be called. The presiding officer is authorized to give preference to individuals who have not spoken to the Council within the past 60 days or who are speaking to items that will come before the Council in the upcoming 60 days. Ms. Arredondo reminded the public that no election-related topics may be discussed during oral communications, including promoting or opposing a ballot measure or candidate.

- (a) Victor Bishop, speaking on behalf of the Eastside Transportation Association (ETA), thanked the Council for its endorsement of the completion of the I-405 Master Plan, including two major interchange projects. He said the ETA supports the concept that nothing is more important to the wellbeing of residents and businesses than to fix the I-405 corridor to reduce congestion. He expressed concern that traffic congestion on I-405 often spills over to Bellevue streets. Mr. Bishop said the state legislature needs to find a sustainable revenue source to supplement the longstanding gas tax funding source for streets and highways. He thanked the Council for its strong transportation agenda.
- (b) Arvand Elmi shared a quote by Nigerian writer Chimamanda Ngozi Adichie that “when we reject the single story, when we realize there is not a single story about any place, we regain a kind of paradise.” He said ethnic barriers can cause a loss of opportunities, misunderstandings and in severe cases violence, and every community should strive to overcome these barriers. He said Bellevue is lucky to have multiple cultures. However, not all cultures are equally represented. He said the number of immigrants from the Middle East and North Africa is increasing in Bellevue and more often than not, those regions are negatively portrayed due to the lack of representation of their populations. Mr. Elmi said he founded Modern Mesopotamia, an organization dedicated to sharing the richness and diversity of the region. The organization aims to showcase the beauty of Middle Eastern and North African cultures and to make a positive impact on those in need who live in those regions.
- (c) Don Marsh, speaking on behalf of the Sierra Club, 300 Trees and Trees 4 Livability, expressed concern that the City has scheduled a public information session on Bellevue’s draft tree codes at the same time as the land use hearing for the Energize Eastside North Segment project. He said Puget Sound Energy’s project will destroy hundreds of mature trees and both efforts are of interest to residents who are trying to protect Bellevue’s critical tree canopy. He learned from the City Manager that the scheduling conflict was

an accidental oversight. Mr. Marsh encouraged the City to reschedule the tree codes meeting. He said Puget Sound Energy plans to remove 70 percent of the trees growing in its transmission line corridor in central Bellevue, affecting areas that already suffer from the hottest temperatures in the community. He said the heat can become a matter of life and death during a heat dome event, such as the one experienced in June and July 2021. That heat wave was the deadliest natural disaster in the Pacific Northwest. Mr. Marsh said that one in five residents living in the area along the transmission line live below the poverty level.

- (d) Dan Becker, a Medina resident, described a flooding incident at his home to which the Bellevue Fire Department responded. He then called the City's Utilities Department and the flow of water continued for more than one hour before someone was able to turn it off. He said the water came from an older water main that burst while City staff were repairing another water line a couple of blocks away. He said the damage to his home is estimated at \$300,000 to \$400,000. He said the City asked him to accept a partial payment of \$24,999, sign a partial release of claim and to agree that the payment is not to be construed as an admission of liability. Mr. Becker said he and his family are currently living elsewhere. He asked the Council to provide City staff with the funds to pay for the cleanup and repairs and to replace their vehicles and other damaged property. He said there is still a problem in the vicinity of the water main break, which he has pointed out to City staff. He said the roadway continues to settle and the asphalt is separating from the base of the road.

Mayor Robinson asked City Manager Miyake to provide a response to Mr. Becker.

- (e) Betsi Hummer said she recently attended the City's 22nd free women's self defense workshop offered by Bellevue Police Officer Craig Hanaumi. She has attended 19 of the events and each one has had 50 attendees to learn jiu-jitsu techniques to protect themselves from an attack. Additional officers at the workshop were Rachel Serna, Madison Beyer, Gabrielle Igo and Lakita Hemsley, who demonstrated individual techniques and helped coach the participants. The session ended with a discussion about domestic violence. Ms. Hummer said several survivors spoke up and the officers told the group how to report an assault and how we can all be supportive of our families, friends and colleagues. She said Officer Hemsley talked about her role with the Community Crisis Assistance Team (CCAT). Ms. Hummer said the entire evening was a testament to the Bellevue Police Department's commitment to community policing and working together for a safer Bellevue. She thanked the Council for supporting the CCAT program and Chief of Police Wendell Shirley for allowing Officer Hanaumi to do this good work in the community.
- (f) Alex Tsimerman commented about Palestinians, Iranian Muslims, and Jews.
- (g) Joe Kunzler opined that the previous speaker should have been stopped for his antisemitic and disparaging comments of other cultures. He expressed concern that the City and the Council are seemingly voices for appeasing his behavior.

6. Reports of Boards and Commissions: None.

7. Report of the City Manager: None.

8. Council Business and New Initiatives

(a) Resolution No. 10312 designating Diane Carlson to perform the duties of the City Manager pursuant to RCW 35A.13.150(2) (i.e., designated Acting City Manager) effective December 2, 2023.

→ Deputy Mayor Nieuwenhuis moved to approve Resolution No. 10312 appointing Diane Carlson as Acting City Manager effective December 2, 2023. Councilmember Robertson seconded the motion.

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

Ms. Carlson thanked the Council for the opportunity to serve as Acting City Manager.

Mayor Robinson asked staff to provide, at a future council meeting, a review of the process for recruiting and hiring a permanent city manager.

9. Consent Calendar

→ Deputy Mayor Nieuwenhuis moved to approve the Consent Calendar, and Councilmember Stokes 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 9, 2023 Regular Meeting

(b) Resolution No. 10310 determining that the entirety of one water easement and a portion of a second water easement, both located at 15600 NE 8th Street, are surplus to the City's needs and are no longer required for providing continued public utility service; and setting a time and place for a public hearing to consider the release of these easements.

(c) Resolution No. 10311 authorizing execution of a three-year Professional Services Agreement with Washington2 Advocates, LLC to provide federal lobbying contract services for the City of Bellevue, in an amount not to exceed \$388,800, plus all applicable taxes, with an option to extend the contract for three 1-year renewals at \$129,600 per year, plus all applicable taxes, with the same terms and conditions.

10. Public Hearings

- (a) Ordinance No. 6759 adopting a proposed Land Use Code amendment to conform the City's regulations for Wireless Communication Facilities with federal law and address changes in Wireless Communication Facilities technology.

City Manager Brad Miyake introduced the first public hearing regarding a proposed Land Use Code Amendment (LUCA) to conform the City's regulations for wireless communications facilities (WCF) with federal law.

Nick Whipple, Planning Manager, Development Services Department, recalled that the LUCA was discussed with the Council on September 25. At that time, the Council directed staff to schedule the public hearing and voted for the Council to retain the processing of the code amendment.

Caleb Miller, Senior Planner, said the first two phases of the WCF code amendments were adopted in 2019 and applied to small wireless facilities (SWFs) in the right-of-way. He said the Land Use Code regulations governing WCFs on private property have not been significantly updated since 2003. Since that time, new technologies and increased demand have occurred.

The Federal Communications Commission (FCC) has issued several directives over the past 10-12 years related to the local review of WCFs. Mr. Miller presented the time limits that jurisdictions have to review proposals for wireless facilities, which varies from 60 days to 150 days depending on the type of installation of the SWF. In 2014, the FCC established a review process for modifications to WCFs, known as eligible facilities requests. If the proposed modification does not result in a substantial change, the City must review and approve the requests within 60 days if all criteria are met.

Mr. Miller said the purpose of the LUCA is to respond to new technologies (i.e., SWFs and screening techniques), adjust and streamline the permitting process, and to align with FCC orders regarding eligible facilities requests and the time limits for processing applications. The LUCA rewrites LUC 20.20.195 but maintains existing standards for aesthetics, screening and tower separation. The LUCA codifies the process for eligible facilities requests and complies with the FCC processing time limits.

The LUCA revises permit procedures for the approval process. Eligible facilities requests, other modifications, and WCFs attached to existing structures are permitted outright. However, construction or right-of-way permits may be required. WCFs attached to new purpose-built structures (i.e., towers) and requests for departures from WCF standards are processed as administrative conditional use permits (ACUP).

Mr. Miller said staff conducted extensive public engagement over the summer with wireless carriers to revise the code. He said the Council may take action on the LUCA tonight following the public hearing or at a future meeting. He said the LUCA meets the decision criteria under LUC 20.30J.135: 1) consistent with the Comprehensive Plan, 2) enhances public health, safety or

welfare, and 3) is not contrary to the interests of citizens or property owners. He said staff recommends the adoption of Ordinance No. 6759.

Mayor Robinson thanked staff for the presentation.

→ Deputy Mayor Nieuwenhuis moved to open the public hearing, and Councilmember Stokes seconded the motion.

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

Jodie Alberts, representing the Bellevue Chamber of Commerce, expressed support for the LUCA and encouraged the Council to adopt the ordinance. She said the City performed considerable due diligence in developing the LUCA and working with wireless carriers. She noted City staff's involvement with the Chamber's broadband working group to draft the regulations. She said this was done without sacrificing the City's regulatory, aesthetic and technological needs.

→ Deputy Mayor Nieuwenhuis moved to close the public hearing, and Councilmember Stokes seconded the motion.

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

→ Deputy Mayor Nieuwenhuis moved to adopt Ordinance No. 6759, and Councilmember Stokes seconded the motion.

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

- (b) Ordinance No. 6760 extending a temporary and interim official control on sections 20.25A.060 and 20.25A.070 of the Land Use Code to increase the residential floor area in exchange for the provision of affordable housing, allow development flexibility when meeting certain affordable housing thresholds, and provide projects with flexibility in utilizing Floor Area Ratio in the Downtown Perimeter Overlay within a single project limit in order to encourage residential development; providing for vesting to this temporary and interim control; reserving the right to adopt permanent regulations; providing for severability; and establishing an effective date.

City Manager Miyake introduced the public hearing and discussion regarding Ordinance No. 6760 to extend the temporary and interim official control (IOC) increasing the residential floor area ratio (FAR) allowed in exchange for the provision of affordable housing and for providing additional flexibility.

Mr. Whipple said the ordinance is part of the Next Right Work initiative that builds on the Affordable Housing Strategy and is designed to increase the production of market-rate and affordable housing. The increased FAR approach for residential development focuses first on development under the Downtown IOC and will later be applied to mixed use areas throughout

Bellevue. The Downtown IOC is intended to quickly respond to application-ready residential projects and to encourage projects that are contemplating switching from commercial to residential development. Mr. Whipple said the IOC is a way to test the outcome of the FAR increase and to measure that against policy objectives. He said the IOC expires on November 16.

Mathieu Menard, Senior Planner, recalled that the IOC was adopted on May 8, 2023 and applies to the Downtown, except for the DT-OB district and Perimeter Overlay A-1. Four projects have submitted applications under the IOC and could produce 4,750 market-rate units and 285 affordable housing units.

Mr. Menard said Ordinance No. 6760 extends the current IOC with no changes. The IOC addresses the increased FAR exemption, development flexibility in the perimeter (i.e., height increase, stepback reduction and five percent lot coverage increase), no minimum parking requirement for affordable housing and enhanced flexibility for using FAR within one site. If extended, the IOC will expire on May 17, 2024. The IOC is not permanent and is not intended to adversely affect the Council's ability to adopt a LUCA that differs from the IOC. Mr. Menard said permanent regulations will be developed through the Comprehensive Plan Update and LUCA process. Phase 2 expanding the regulations outside of the Downtown will begin in early 2025.

Mayor Robinson thanked staff for the presentation.

- Deputy Mayor Nieuwenhuis moved to open the public hearing, and Councilmember Stokes seconded the motion.
- The motion carried by a vote of 7-0.

City Clerk Arredondo said the Council received one written comment.

- Deputy Mayor Nieuwenhuis moved to close the public hearing, and Councilmember Stokes seconded the motion.
- The motion carried by a vote of 7-0.

Mayor Robinson said that six percent of the housing units identified for the four projects submitted to date under the IOC would be affordable units. She suggested a target of 10 percent and encouraged further discussion about how to increase the production of affordable housing under the permanent regulations. She said the IOC is designed to help developers willing to pivot from office to residential development. She expressed support for extending the IOC for an additional six months.

Councilmember Zahn concurred with Mayor Robinson about the need to increase the percentage of affordable housing. Ms. Zahn expressed support for extending the IOC.

Responding to Councilmember Zahn, Mr. Whipple said that when the IOC extension expires on May 17, 2024, the regulations will revert back to the existing Land Use Code requirements while

the Council is actively developing affordable housing policy. He said one year with the IOC in place will be a good test period to guide the development of the permanent code.

Councilmember Robertson said she originally supported the IOC because it allows developers to pivot from commercial to residential development and to provide affordable housing. She said the Council recently received a comment from the public about the vesting under the IOC. She said that with regard to the market-rate housing to affordable housing 4:1 ratio incentive, the applicant is vested for only two years if using a Master Development Plan (MDP), unless they pull building permits. She said a MDP is typically used to build projects in phases and it would be difficult to make a developer change course with regard to the market-rate to affordable housing ratio if the permanent regulations end up changing from the IOC.

Responding to Mayor Robinson, Ms. Robertson said a developer could apply for a MDP under the IOC. However, if they do not get the building permit within two years, their whole plan is no longer valid and the project will need to be redesigned. Ms. Robertson said this seems to be unduly burdensome when the purpose of the IOC was to lift barriers to creating affordable housing.

Mayor Robinson said the IOC was designed for developers who are permit-ready. Ms. Robertson concurred but noted that a developer may be able to receive a permit for the first building or phase but not for the second phase.

Mr. Whipple said the IOC allows projects to vest at the time of the land use permit submittal. The two-year period begins at the date of issuance of the permit. The public comment was received from one of the four project developers using the IOC. The other three developers have indicated that this is not a concern. Mr. Whipple said the suggested change would allow the vesting to align with the MDP, which could result in up to 10 years of vesting for the 4:1 market-rate to affordable housing ratio. When the developer is ready for the next phase, they could come in for their permit applications and still take advantage of the 4:1 ratio.

Responding to Mayor Robinson, Mr. Whipple said staff would come back with a revised ordinance if the Council wishes to align the vesting language with what would be allowed under a MDP. He said the ordinance presented for tonight's public hearing simply extends the existing IOC.

Responding to Councilmember Robertson, Mr. Whipple said that if there was no IOC and someone applied for a MDP, they would be vested for two years and would have the opportunity for extended vesting of up to 10 years. Ms. Robertson said the IOC takes away the ability to request extended vesting.

Councilmember Robertson suggested that the IOC should be consistent with how MDPs are handled. She would prefer to revise the ordinance to address this issue before taking action on extending the IOC.

Councilmember Stokes asked how difficult it would be to change the language. Mr. Whipple said the language in the current IOC limits vesting to two years for the 4:1 market-rate to

affordable housing ratio. When the IOC was established, the two years seemed reasonable given the intent to use for application-ready projects. In further response to Mr. Stokes, Mr. Whipple said that allowing vesting for 10 years versus two years could result in the completion of a development in 10 or more years under the ratio established by the current IOC.

Responding to Mayor Robinson, Mr. Whipple said that under the current Land Use Code, all phases of a project under a MDP would be subject to the same regulations if the developer were granted extended vesting. Mr. Whipple said the IOC does not allow requests for extended vesting because it is intended to be applied to projects that are ready to move forward.

Responding to Councilmember Stokes, Mr. Whipple said that if the vesting language in the IOC is changed to align with the MDP phasing schedule, projects that are not ready for development now would be vested under the temporary IOC for a much longer period. Mr. Whipple said three projects are ready to move forward. However, he noted staff's understanding that this is an issue for projects with longer phasing schedules.

Mr. Whipple said staff wanted to use the IOC for one year as a testing period to determine how it would affect housing development. He said the Land Use Code does not vest entitlements until they are issued so there is a period of uncertainty as an applicant moves through the permit process. He said the IOC was designed to allow the two-year vesting to begin at the time of design review approval.

Responding to Mayor Robinson, Mr. Whipple said that, given the schedule for the Comprehensive Plan update, the Council could take action on permanent regulations in June 2025. In further response, Mr. Whipple said the IOC did not have the benefit of an economic analysis, which would be needed before adopting permanent regulations.

Responding to Mayor Robinson, Councilmember Robertson suggested applying the MDP vesting period for projects under the IOC where the developer is using a MDP. Ms. Robertson said developers could then ask for an extension under the IOC beyond the two-year vesting, as is currently allowed for a MDP. She said the only element in the IOC with two-year vesting is the 4:1 market-rate to affordable housing ratio. Other components of the project would be vested and could have the longer MDP vesting.

City Attorney Kathy Gerla said Ordinance No. 6760 presented for the public hearing would extend the current IOC, which involved a State Environmental Policy Act (SEPA) review. She said the Council could revise the IOC but formal action would need to occur at another meeting.

Responding to Councilmember Barksdale, Mr. Whipple said that the way the IOC is currently drafted, the 4:1 market-rate to affordable housing ratio would revert back to the 2.5:1 ratio in the Land Use Code, or whatever the Council might choose during the Phase 2 work. The amount of exempt FAR would change from 50 percent of the base FAR to 1.0 FAR.

Mr. Barksdale expressed support for moving forward with extending the IOC as presented in Ordinance No. 6760.

Councilmember Lee said the purpose of the IOC is to stimulate the development of housing. He suggested that developers are driven more by economic feasibility than the vesting schedule. He supports regulations that provide the incentive to develop housing and affordable housing. He expressed support for allowing an extended vesting period under the IOC. He suggested finding out from developers what are the most effective incentives.

Deputy Mayor Nieuwenhuis noted he will miss Councilmember Robertson's expertise when she is no longer on the Council. He suggested flexibility with developers given the goal of increasing the production of housing. He said he would be interested in further analysis of the suggestion to allow extended vesting under the IOC.

Responding to Mr. Nieuwenhuis, Mr. Whipple noted that staff will be coming to the Council in December with a proposed LUCA addressing extended vesting for administrative design reviews. He said the City does not currently have that option. The LUCA to be presented in December would potentially allow a two-year vesting extension to a two-year approval, for a total of four years for administrative design reviews. Mr. Whipple said it is possible that could be crafted in a way that the additional two years could apply to the IOC as well.

Mr. Whipple suggested that the Council could approve the ordinance tonight to extend the IOC and staff could come back in the future to discuss ways to allow the vesting to align with the MDP provisions.

Deputy City Manager Diane Carlson said Mr. Whipple's suggestion would allow staff to conduct further analysis and provide more information. She said it is unlikely that could be completed and presented to the Council before the end of the year, however.

Mayor Robinson said she would be comfortable with extending the IOC now without changes, with the understanding that the City will conduct additional outreach with developers to refine the regulations.

Councilmember Zahn expressed support for adopting the ordinance tonight while continuing to work on other ideas. Noting that two more developers are potentially interested in the IOC, she said she does not want to prevent any projects from moving forward.

Councilmember Stokes concurred with Mayor Robinson's suggestion.

Deputy Mayor Nieuwenhuis expressed support for moving forward as suggested as well. Responding to Mr. Nieuwenhuis, Mr. Whipple said staff will conduct additional stakeholder outreach. He noted that additional environmental review might be needed to change the vesting period.

Responding to Councilmember Lee, Mr. Whipple said that of the four projects vested now under the IOC, one developer is concerned that the vesting period is not the same 10 years allowed in the current Land Use Code. Mr. Whipple said the two-year vesting period in the IOC was a compromise between the development community and affordable housing advocates. He said the permanent regulations will have the benefit of a future economic analysis. He said staff is also

working with a group of private developers, non-profit affordable housing developers, land use attorneys and others to inform the development of permanent regulations while the IOC is in place.

Mr. Whipple noted that three of the four developers vested under the IOC are ready to move forward. His understanding of the project that has raised the issue of the vesting period is that the developer submitted an application for a MDP as well as an application for design review. The second phase of that project is planned for well into the future, which is common with MDPs. The IOC requires them to submit either an administrative design review for the next project phase or a building permit for the next phase within two years of their initial MDP approval. Mr. Whipple said two years is not enough time for them under their phasing schedule.

Councilmember Robertson said there will be at least a one-year gap between the expiration of the IOC and the adoption of permanent regulations.

Responding to Mayor Robinson, Mr. Whipple said the Council could adopt a new IOC when the current one is set to expire next year.

Councilmember Robertson said this does not take the vesting from two years to ten years but allows a request for additional vesting of up to 10 years, consistent with MDP regulations. She said she is hearing that two of the four projects have raised the vesting issue.

Ms. Robertson said the Council has the authority to change ordinances, even after a public hearing. She would like to amend the ordinance tonight or to defer action until a future meeting. She said her suggestion requires changing only one sentence.

Councilmember Barksdale expressed support for adopting the ordinance as presented tonight and having it come back in the future for further consideration of the vesting provision.

→ Councilmember Robertson moved to adopt Ordinance No. 6760, with an amendment to Section 5 to remove the sentence that states: "Any extended vesting period for a MDP and associated Design Review approval shall not apply to Section 2.B.1.a of this interim official control Ordinance, and vesting to Section 2.B.1.a of this Ordinance shall be controlled by LUC 20.40.500 exclusively." Deputy Mayor Nieuwenhuis seconded the motion.

City Attorney Gerla advised that the Council does not have the authority to amend the ordinance tonight.

→ The motion carried by a vote of 4-3, with Mayor Robinson, Councilmember Barksdale and Councilmember Zahn opposed.

At 7:53 p.m., Mayor Robinson declared a short break. The meeting resumed at 8:05 p.m.

Councilmember Stokes requested a reconsideration of the previous motion.

City Clerk Arredondo confirmed that under the Council Rules, a Councilmember who votes on the prevailing side of a motion can make a motion to reconsider at the same or the next subsequent meeting.

- Councilmember Stokes moved to reconsider the motion, and Councilmember Barksdale seconded the motion.
- The motion to reconsider carried by a vote of 4-3, with Deputy Mayor Nieuwenhuis, Councilmember Lee and Councilmember Robertson opposed.

City Clerk Arredondo read the original motion.

- The original motion failed by a vote of 3-4, with Deputy Mayor Nieuwenhuis, Councilmember Lee and Councilmember Robertson in favor.
- Councilmember Robertson moved to direct staff to bring back the interim official control (IOC) ordinance, amended as stated in her previous motion, for action at a future meeting. Deputy Mayor Nieuwenhuis seconded the motion.

Councilmember Zahn asked whether it is possible for staff to conduct additional analysis and take other actions needed to bring the ordinance back for Council action before the IOC expires on November 16.

Mayor Robinson said she would not support the motion. She would like staff to conduct an analysis and to make a recommendation for the Council's consideration.

Responding to Ms. Zahn, Development Services Director Rebecca Horner said it would be challenging for staff to meet the timeline before the IOC expires. Ms. Horner stated her understanding that the Council is interested in ensuring that there is sufficient time to evaluate the existing IOC ordinance and a desire to resolve the timing issue prior to the expiration of the IOC in May 2024, if extended. She said staff would have adequate time to conduct further analysis by May.

Councilmember Robertson said the Council would need to take action by the November 13 meeting before the IOC expires on November 16.

Mr. Whipple said it would be challenging to meet the deadline for publishing the proposal in the weekly permit bulletin and for publishing the public hearing notice in The Seattle Times. He said additional discussion with stakeholders would be needed as well.

Responding to Ms. Robertson, Mr. Whipple said that bringing the matter back on November 27 would be more helpful.

Councilmember Robertson suggested adopting Ordinance No. 6760 tonight and directing staff to come back on November 27 with a revised version that fixes the vesting issue.

- Councilmember Robertson withdrew her previous motion and moved to instead adopt Ordinance No. 6760 as written and to direct staff to bring back a revised ordinance to resolve the vesting issue as discussed tonight, no later than November 27, 2023. Councilmember Stokes seconded the amendment.

Mayor Robinson said she did not support the motion. She reiterated her earlier comment that she would like staff to conduct their due diligence and to come back with a recommendation.

- The motion failed by a vote of 3-4, with Deputy Mayor Nieuwenhuis, Councilmember Lee and Councilmember Robertson in favor.
- Councilmember Barksdale moved to adopt Ordinance No. 6760, and Councilmember Stokes seconded the motion.
- Councilmember Zahn moved a friendly amendment to direct staff to bring back a recommendation before the IOC expires in May 2024. Councilmember Barksdale accepted the amendment.
- The amendment carried by a vote of 4-3, with Deputy Mayor Nieuwenhuis, Councilmember Lee and Councilmember Robertson opposed.
- The motion to adopt Ordinance No. 6760, amended to direct staff to bring back a recommendation on the vesting issue before the IOC extension expires in May 2024, carried by a vote of 4-3 with Deputy Mayor Nieuwenhuis, Councilmember Lee and Councilmember Robertson opposed.

11. Study Session Items

(a) Draft 2024 State Legislative Agenda

City Manager Miyake introduced discussion regarding the draft 2024 state legislative agenda.

Genesee Adkins, Chief of External Affairs, said the 60-day state legislative session begins on January 8, 2024. The state legislature will develop its supplemental budgets for the operating, capital and transportation budgets. The next revenue review is November 26 and will be used by Governor Inslee to base his final supplemental budget proposals. Ms. Adkins said the general fund budget is relatively positive due to employment growth and strong growth in personal income. She said the transportation budget is facing a significant deficit over the next 10 years, however.

Lacey Jane Wolfe, Assistant Director, Intergovernmental Relations, highlighted the top priorities from the Council's legislative agenda: affordable housing, land use, and infrastructure for a growing community. These include a desire to create effective legislation related to transit-oriented development and exploring new, flexible local funding options for affordable housing. Infrastructure priorities include seeking funding in partnership with the City of Redmond for an electric fire engine and charging infrastructure, revising the timing of funding for the Mountains

to Sound Greenway Trail, and addressing the funding gap for implementing the I-405 master plan.

Ms. Wolfe said the Association of Washington Cities (AWC) adopted its legislative priorities in late September to: 1) help recruit and retain police officers, 2) continue investing in infrastructure, 3) revise the arbitrary property tax cap, and 4) provide behavioral health resources.

→ Deputy Mayor Nieuwenhuis moved to adopt the 2024 State Legislative Agenda, and Councilmember Stokes seconded the motion.

Deputy Mayor Nieuwenhuis complimented Ms. Adkins and Ms. Wolfe on their work. Responding to Mr. Nieuwenhuis, Ms. Adkins confirmed that the Real Estate Excise Tax (REET) continues to be listed as a possible local funding option for affordable housing. She said it is important to continue to emphasize the significant affordable housing needs and to consider local funding options. She said the AWC, many individual cities and housing advocates support identifying the REET as a potential local funding source.

Councilmember Zahn expressed support for the emphasis on affordable housing. She said she has heard from developers and realtors that they would like to work with the Council to discuss possible revisions to the REET proposal. She expressed an interest in housing stability programs for renters.

Responding to Ms. Zahn regarding the section on sustainability and the environment, Ms. Wolfe said she believes there is sufficient language to enable Bellevue to weigh in on related legislative proposals.

Ms. Zahn said she is pleased to see the 124th Avenue interchange project and I-405 projects on the state legislative agenda. She asked about funding for the Eastrail and for helping small businesses related to utilities costs and high rental rates.

Ms. Wolfe said the legislative agenda includes language related to small businesses for displacement and other types of support. She said the language is purposely broad to enable staff to be nimble in responding to a range of legislative proposals that could fall into that category.

Regarding the Eastrail, Ms. Wolfe said the State is dealing with a number of challenges in transportation funding. The transportation budget approved last year provided funding for the Eastrail. However, for the next legislative session, the legislative agenda is focusing on large transportation projects.

Ms. Adkins noted that the Eastrail is mentioned in the public works section of the legislative agenda. She said it is highlighted to a greater extent in the federal legislative agenda because federal transportation funds will likely be a more viable option.

Mayor Robinson thanked staff for their work. She expressed concern regarding the impact of the lack of funding for King County on local communities. She said she appreciated including a

review of the property tax cap in the legislative agenda and asked about the potential impact on Bellevue property owners if the property tax could be increased by more than one percent annually.

John Resha, Director of the Finance and Asset Management (FAM) Department, said a one percent property tax generates approximately \$500,000 and equates to approximately \$9 per year for a \$1 million home.

Councilmember Lee noted that the AWC's legislative agenda refers to the arbitrary property tax cap, but it is not arbitrary. He said that years ago the Bellevue City Council led the reduction in the property tax. Before that time, every jurisdiction automatically collected an annual six percent increase.

Mayor Robinson commented that Tim Eyman's proposed property tax cap was arbitrary.

Mr. Lee said the City has a banked property tax capacity that could be used in the future if desired.

Ms. Adkins said the City's draft state legislative agenda does not use the word "arbitrary" and states that the City "supports replacing the one-percent cap on annual property tax increases with a limit that allows cities to respond to local needs." Councilmember Lee said he supported that language.

Councilmember Robertson noted that Bellevue's legislative agenda indicates support for AWC's legislative agenda. However, she observed that there are items in the AWC agenda that the Council might not fully support. Ms. Wolfe said that statement was added to Bellevue's legislative agenda last year. She said staff does not interpret it to mean that the City would support everything the AWC supports.

Ms. Robertson said she would support removing the REET from the language regarding affordable housing funding tools. She expressed support for the transportation section and the infrastructure section. She suggested language to support maintaining affordable utilities costs.

Ms. Wolfe noted a statement in the legislative agenda under the public works and infrastructure section that speaks to opposing proposals that shift costs to utility ratepayers.

Councilmember Barksdale thanked staff for their hard work and the comprehensive information. He expressed support for moving forward and retaining the REET language due to the challenge of funding affordable housing, especially for households earning below 30 percent of the area median income (AMI).

Councilmember Stokes concurred with the suggestion to keep the reference to the REET as a potential funding tool. He noted his support for the Eastrail. He said it is important to educate the public about the property tax, including that the portion they pay for the City property tax is only approximately 11 percent of their overall property tax bill. He said the City is very conservative in its use of property tax increases.

- Councilmember Robertson moved to amend the 2024 State Legislative Agenda in the Highest Priority Issues, Affordable Housing and Land Use section, 3rd paragraph to remove the phrase: “such as local adoption real estate excise tax (REET).” Deputy Mayor Nieuwenhuis seconded the motion.
 - The amendment failed by a vote of 3-4, with Deputy Mayor Nieuwenhuis, Councilmember Lee and Councilmember Robertson in favor.
 - The motion to adopt the 2024 State Legislative Agenda carried by a vote of 7-0.
- (b) Budget Update: Development Services Permit Fees and Issaquah and Renton School Districts Impact Fee Schedules

City Manager Miyake introduced staff’s budget update regarding development services permit fees and school impact fees.

Jake Hesselgesser, Assistant Director, Development Services Department, highlighted development activity over the past 10 years, noting that the number of permits is back down to pre-pandemic levels following an increase through 2021 and 2022. He noted the current challenges of high construction costs and high interest rates. He said 2023 has been a record year in terms of inspection activity out in the field with the City on pace to conduct more than 100,000 inspections for the first time ever.

As development activity begins to decrease, staff focuses on process improvements. Mr. Hesselgesser said the new Bellevue Development Committee established by Director Horner has met twice so far and the meetings were well attended including architects, engineers, developers, non-profit affordable housing providers and business and industry representatives. He said the customer experience program uses a survey platform integrated within the permit tracking system to solicit feedback throughout the permitting process. Key themes for process improvements are to improve consistency and predictability, continue to streamline the permitting process, respond to new mandates and to focus on expediting permitting and lower fees for affordable housing programs.

Mr. Hesselgesser described the cost recovery objectives established by the Council in the early 2000s. Pre-submittal support is provided at no cost while remaining services are fully funded through development services fees: land use review, engineering review, inspection and business support. The financial management guiding principles provide a funding structure to support development services through economic cycles. Permit applicants should pay for the services they receive and fees should be predictable and understandable to the customer. Fees should also be regionally competitive.

Teri Jones, Fiscal Manager, said the proposed fee adjustments update hourly rates and adjust flat fees, update building permit fees by CPI-W, update the building valuation table to 2023 and apply the Washington State modifier. Hourly rates increase by 3.03 percent for land use review, 3.69 percent for transportation review and inspection, 3.63 percent for fire review and inspection

and 3.89 percent for utilities review and inspection. The flat fee rate for land use review related to a minor clear and grade permit increases by \$16 and the flat fee for a utilities inspection for a new single family home increases by \$115. Flat fees for minor commercial projects and a single family home 500 square foot addition are valuation based and increase by \$493 for the former and \$184 for the latter.

Ms. Jones said the City code includes a provision that allows school districts within Bellevue to adopt school impact fees. The Issaquah School District and Renton School District charge impact fees on new residential construction to cover the cost of capital facilities. The fees are collected by the City and transferred to the school districts. Ms. Jones noted that the Bellevue School District and the Lake Washington School District do not charge impact fees.

Ms. Jones said the Issaquah School District 2024 impact fee for single family construction is \$15,510, an increase of \$4,133. Their fee for multifamily construction is \$3,514, a decrease of \$1,204. For the Renton School District, the 2024 single family impact fee is \$2,161, a decrease of \$750, and the multifamily impact fee is \$4,257, an increase of \$560.

Ms. Jones said the public hearing on the budget is scheduled for November 13 and budget adoption is anticipated for November 20.

Councilmember Robertson expressed support for the proposed development services fees. She asked whether the City is required by state law to collect and distribute the impact fees to school districts. City Attorney Gerla said cities are not required to do so under state law. However, Bellevue has a code provision that requires the City to do so.

Ms. Robertson expressed concern about the single family impact fee of \$15,510, an increase of \$4,133, for the Issaquah School District. She said there have been fairly significant adjustments to their fees in recent years, both up and down, and she suggested that there needs to be better forecasting and planning. She said she supports impact fees because they help growth pay for growth, and she wishes the Bellevue School District collected impact fees. However, she is concerned about the high housing costs and the lack of predictability.

Councilmember Robertson suggested that the Council consider changing the code provision that requires the City to collect and distribute the fees to school districts. She noted that impact fees for the Renton School District have been relatively steady. A representative of the Issaquah School District said the capital facilities plan is updated annually. She said the district has had significant increases in students for a number of years, and the student generation rate is the primary driver of the formula that determines the per-unit impact fee. She said the 2022 rate reflects a level of instability in enrollment following the pandemic.

Mayor Robinson said she too is concerned about the increases and fluctuations in the impact fees. She expressed an interest in reviewing how the City handles impact fees. She asked whether Issaquah residents pay the same impact fees. The Issaquah School District representative said the Issaquah City Council is considering the same proposal and has not made a decision about the impact fee rates. Mayor Robinson stated her understanding that the Issaquah

City Council has the ability to lower the rates for their residents but the Bellevue City Council does not.

Mayor Robinson expressed support for how the Development Services Department manages through development cycles. However, she is interested in reducing fees. She suggested that the City explore pre-approved permits for detached dwelling units for cottage multi-development on single lots. Mayor Robinson said that might speed up the permitting process and potentially reduce fees. She said the City of Kirkland has four pre-approved detached accessory dwelling unit (DADU) plans.

Councilmember Stokes thanked staff for the presentation and expressed support for the development services fees. Regarding the school impact fee, he said he did not understand why the Issaquah School District does not collect the fees directly. He said Bellevue residents should not pay higher impact fees than Issaquah residents. He expressed support for reviewing and potentially revising Bellevue's code related to impact fees.

Deputy Mayor Nieuwenhuis temporarily presided over the meeting while Mayor Robinson was away from the dais. Mr. Nieuwenhuis thanked development services staff for their work and said he is pleased to see the creation of the new Bellevue Development Committee of community stakeholders. He expressed support for the proposed development services fees. He said he shares the concern about school impact fees and the ability of the Issaquah City Council to adjust the fees for their residents while Bellevue cannot do so. He agreed that the issue should be reviewed.

Responding to Mr. Nieuwenhuis, Mr. Hesselgesser said the City relies on the customer experience program to solicit input from parties who might be first-time or one-time users of development services. Mr. Nieuwenhuis expressed support for this approach and asked whether one-time users are involved with the Bellevue Development Committee. Ms. Horner said anyone can attend the meetings. She said the City does capture some input through the contractors who attend the meetings.

Deputy Mayor Nieuwenhuis requested that the City put into its process that neighborhood associations are notified whenever the City establishes a new committee or wants to get feedback on any program or services that impact residents.

Mr. Nieuwenhuis concurred with Mayor Robinson's suggestion about pre-approved plans and lowering fees for DADUs.

Councilmember Zahn said it would be helpful to address ways to avoid misunderstandings or misinterpretations at the inspection phase. She concurred with Deputy Mayor Nieuwenhuis's comments about enhancing public outreach to increase involvement with the Bellevue Development Committee. She expressed support for exploring pre-approved plans for DADUs.

Regarding school impact fees, Ms. Zahn said she did not realize that Bellevue cannot adjust the fees while Issaquah and Renton are able to do so. She suggested there should be a better alignment of the fees.

Councilmember Barksdale suggested more robust outreach to cultural organizations, in addition to neighborhood associations, that might be affected by City initiatives, programs and services. Mr. Barksdale expressed support for DADUs and for the standardization of the process to ease the development of DADUs.

Councilmember Lee expressed support for development services staff and the proposed fees. Responding to Mr. Lee, Ms. Horner said the department has a mix of employees, including limited-term positions, and also has contingency funds for the use of consultants to help manage through development cycles. Mr. Lee encouraged exploring ways to connect with immigrants who are not familiar with how to work with the City.

12. Land Use: None.
13. Other Ordinances, Resolution, and Motions: None.
14. Written Reports
 - (a) Report of Emergency Procurement for Public Works Contract
15. Unfinished Business: None.
16. New Business: None.
17. Adjournment

At 9:30 p.m., Mayor Robinson declared the meeting adjourned.

Charmaine Arredondo, CMC
City Clerk

/kaw