

CITY OF BELLEVUE  
CITY COUNCIL

Summary Minutes of Regular Meeting

September 6, 2022  
6:00 p.m.

Council Chambers  
Bellevue, Washington

PRESENT: Mayor Robinson and Councilmembers Barksdale, Lee<sup>1</sup>, Robertson, Stokes and Zahn

ABSENT: Deputy Mayor Nieuwenhuis

1. Call to Order

The meeting was called to order at 6:01 p.m., with Mayor Robinson presiding.

2. Roll Call; Flag Salute

City Clerk Charmaine Arredondo called the roll and all Councilmembers except Deputy Mayor Nieuwenhuis were present. Councilmember Barksdale led the flag salute.

(a) Welcoming Week Proclamation

Councilmember Lee read the proclamation recognizing September 9-18, 2022, as Eastside Welcoming Week in Bellevue. The cities of Bellevue, Issaquah, Kirkland, Redmond and Sammamish have jointly celebrated the week for the past six years and more than 30 percent of East King County residents come from places outside of the United States. Mr. Lee encouraged everyone to take action to achieve a welcoming, equitable and inclusive community.

(b) Hunger Action and Awareness Month Proclamation

Councilmember Stokes read the proclamation recognizing September as Hunger Action and Awareness Month in Bellevue and urged all residents to support food banks, emergency and hot meal programs, and others who are working to address food insecurity.

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<sup>1</sup> Councilmember Lee left the meeting at 8:15 p.m.

(c)     Driving Safety Awareness Day Proclamation

Councilmember Zahn read the proclamation recognizing September 17, 2022, as Driving Safety Awareness Day and encouraged everyone, whether a driver or passenger, to support safe driving habits.

Anya Vaish, a senior at Tesla STEM High School, and Ishika Binu, a senior at Interlake High School, described their initiative to emphasize the importance of safe driving, provide information and resources about driving safety and to encourage others to take the DriveSafe Pledge at <https://safedrive.club/>. They commented on the importance of wearing seatbelts and noted that distracted driving is a leading cause of car collisions. Other factors that contribute to accidents are driving under the influence of alcohol or drugs and driving when sleepy. They cautioned against using cell phones, including texting, when driving because even a second of inattention can cause an accident.

Mayor Robinson thanked Ms. Vaish and Ms. Binu for their presentation and invited everyone to join in taking the DriveSafe pledge.

3.     Approval of Agenda

→     Councilmember Stokes moved to approve the agenda, and Councilmember Lee seconded the motion.

→     The motion carried by a vote of 6-0.

4.     Oral Communications

(a)     Sarah Powers described her life-long focus on trees and expressed concern regarding the loss of trees in Bellevue. She said a number of trees approximately 50 years old have been removed along her street. She encouraged public education regarding tree maintenance. She expressed support for the recommendations of the Trees 4 Livability group. She said she looks forward to the City adopting regulations to protect older trees.

(b)     Steve Fantle urged the Council to provide funding for an Adopt-a-Street program in Bellevue. He said residents value trees, gardens and parks and they want to preserve the natural environment for future generations. He expressed concern regarding litter throughout Bellevue. He said that, over the weekend, he picked up more than 450 items in 45 minutes over a two-block stretch of sidewalk on 110<sup>th</sup> Avenue NE just north of City Hall. He noted that surrounding cities have implemented Adopt-a-Street programs.

(c)     Alex Zimmerman expressed concern about fascism. He said the Seattle City Council allows members of the public only one minute to speak. He expressed concern regarding Sound Transit spending.

- (d) David Bowling, Congregations for the Homeless (CFH), thanked the Council for all of its work over the years to bring dignity, respect and a stable home for individuals who fall into homelessness. He said CFH will open its first permanent supportive emergency shelter early next year. He said housed individuals in the community are welcome to partner with CFH to assist the men. He noted that the project includes public art elements. He encouraged the Council to extend the term of the current shelter until the new shelter and housing opens.
- (e) Heidi Dean said she attended the public meeting regarding the Comprehensive Plan update and the meeting was well attended. She expressed concern that parties from Seattle were providing input regarding Bellevue's plan. She said the Comprehensive Plan update should be guided by Bellevue residents and stakeholders instead of outside interests. She suggested that City staff collect information regarding speakers' places of residence and/or groups they are affiliated with if applicable. She suggested that staff analyze outside input separately from the input of Bellevue residents and stakeholders.
- (f) Dr. Srinivas Samprathi said he moved to Bellevue in 2001 to work at Microsoft. He commented about the importance of preserving trees and encouraged the Council to adopt regulations to protect trees.
- (g) Mike Asai introduced himself as the founder of Emerald City Collective Garden's first downtown Seattle medical dispensary in 2010. He is also Vice President of Black Excellence in Cannabis, a nonprofit organization fighting for inclusion in the billion dollar cannabis industry. He said it is great to see the diversity on the Council and he noted that Bellevue is the most diverse community in the state. He encouraged the City to join with the City of Seattle in creating a social equity cannabis program.
- (h) Peter Manning, President of Black Excellence in Cannabis, said there are no Black-owned cannabis stores in Bellevue and they would like to see at least one Black-owned store. He asked for a referral to speak to the appropriate individuals about their proposal.

Mayor Robinson suggested that Mr. Manning contact City staff to arrange a meeting with her and/or other Councilmembers.

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

6. Report of the City Manager

- (a) Rock 'n' Roll Half-Marathon

Mayor Robinson noted that Councilmember Zahn participated in the Rock 'n' Roll half-marathon over the weekend.

City Manager Brad Miyake asked staff to provide an update on the weekend event.

Jesse Canedo, Chief Economic Development Officer, said the half-marathon was a huge success for the City, the 6,000 runners and the broader community. He said this was the first time that Bellevue hosted the St. Jude Rock ‘n’ Roll half-marathon and 5K run after its three-year hiatus in Washington state. He said the event was a One City effort with more than eight departments contributing to the organization, coordination and collaborative partnership. He thanked the Special Events Committee and Bellevue Police Department for ensuring safety along the course.

Mr. Canedo said the economic impact of the weekend activities is approximately \$3.1 million in direct spending by the participants (i.e., lodging, transportation, food and beverage and space rentals). There were more than 4,500 overnight visitors in Bellevue hotels. He noted that staff is documenting feedback regarding the event as well as lessons learned for future reference and planning.

(b) 2022 Neighborhood Walks

City Manager Miyake introduced staff’s update regarding the 2022 neighborhood walks.

Mark Heilman, Neighborhood Outreach Manager, said the City began hosting neighborhood walks approximately six years ago to enable informal conversations between staff and the community. He said the program tries to provide accessibility for everyone by designating time for discussion and by publishing the walking routes for individuals wanting to join only part of the walk. He thanked neighborhood associations for helping to coordinate the walks. Recent walks included the Eastgate, Wilburton, Bridle Trails and Lake Hills neighborhoods.

Mr. Heilman said residents expressed gratitude for this community and for their relationships in their neighborhoods. He said staff enjoyed meeting with residents in person.

(c) Consent Calendar Item

Mr. Miyake highlighted Agenda Item 8(c), Resolution No. 10130 authorizing a grant agreement and the acceptance of federal funding of \$915,000 to support a Community Crisis Assistance Team (CCAT).

7. Council Business and New Initiatives: None.

8. Consent Calendar

→ Councilmember Stokes moved to approve the Consent Calendar, and Councilmember Robertson seconded the motion.

→ The motion to approve the Consent Calendar carried by a vote of 6-0, and the following items were approved:

(a) Council Minutes

Minutes of July 25, 2022 Regular Meeting

Minutes of August 1, 2022 Regular Meeting

- (b) Motion to approve payment of claims and payroll for the period July 1, 2022 - July 31, 2022.
- (c) Resolution No. 10130 authorizing execution of the Office of Justice Programs (OJP) Byrne Discretionary Community Project Funding/Byrne Discretionary Grants Program grant agreement and acceptance of federal funding in the amount of \$915,000 to support a Community Crisis Assistance Team (CCAT).
- (d) Resolution No. 10131 authorizing the execution of a contract with Landscape Structures Inc., in an amount not to exceed \$215,263.04 plus applicable taxes, for the demolition of existing playground equipment and the purchase and installation of new playground equipment at Eastgate Park at South Bellevue Community Center.
- (e) Resolution No. 10132 authorizing execution of a Forensic Pipe Excavation Contract with Road Construction Northwest, Inc., to assist the City Attorney's Office in its investigation of the events of the January 17, 2022 landslide which occurred in the Somerset neighborhood, in an amount not to exceed \$160,000, exclusive of any applicable taxes.

9. Public Hearing

- (a) Public Hearing and action on Resolution No. 10133 of the City Council of the City of Bellevue, Washington, approving with conditions the application for Public Benefit Rating System Open Space Classification of the Timiri and Ostergaard property located at 4277 137th Ave. NE, Bellevue, Washington (King County Parcel No. 8669400210).

City Manager Miyake introduced the public hearing regarding Resolution No. 10133 approving the application of the King County Public Benefit Rating System (PBRs) Open Space Classification for the Timiri and Ostergaard property located at 4277 137<sup>th</sup> Avenue NE, Bellevue.

Trisna Tanus, Consulting Attorney, Development Services Department, asked the Council to consider, upon the conclusion of the public hearing, approval of the PBRs application subject to the conditions listed in the King County staff report.

The PBRs program was enacted in 1970 following adoption of the State's Open Space Taxation Act [RCW 84.34]. King County is the administrator of the program supporting voluntary resource conservation on private property. The purpose of the program is to preserve, protect and/or restore open space resources (e.g., stream and wetlands buffers, groundwater, wildlife habitat, etc.) on private property in exchange for a tax incentive. The PBRs program uses a point system to rate how a property's features and improvements meet the program criteria. Based on the point system, the approved classification would allow land to be assessed at its current use (in this case, open space) rather than valued at its highest and best use.

Ms. Tanus said this is the first time the City has received a PBRs application. She noted a few existing properties that enrolled in the program before the area's annexation into Bellevue. She said King County and the City are the granting authorities for the application, which can be approved, approved with conditions, or denied. If the application is approved, the tax benefit starts the following year. If the application is denied by the Council, the denial must be in writing and must include the reason for rejecting the application and why it is not supported by the record. Decisions may be appealed to the King County Superior Court.

Nick Whipple, Planning Manager, DSD, said the Timiri and Ostergaard PBRs application was submitted in December 2021 and requests the open space classification for a portion of the property. City and County staff visited the site and began working to analyze the application in March. The King County Council held a public hearing on June 21. Mr. Whipple said that if the Council approves the PBRs application with King County's conditions, an open space taxation agreement will be drafted this fall for the tax reduction to go into effect in 2023.

Mr. Whipple described the layout of the site located in the Bridle Trails neighborhood along the 100-foot Puget Sound Energy (PSE) transmission line corridor. The property is within the Trail's End subdivision, which established a 30-foot Bridle Trail easement. The trail is accessible from the public right-of-way and, according to King County staff, was well used at the time of their visit. The property is east of Bridle Trails State Park and includes a patchwork of trails and public rights-of-way leading to the state park. The Olympic Pipeline is located within the corridor as well.

Mr. Whipple said the property is located in a single-family residential (R-1) land use district and contains a home constructed in 1966. King County approved the PBRs open space designation for 0.23 acres of the 1.38-acre site. The County indicated that two other portions of the property might qualify for other PBRs designations. The maximum land area eligible for enrollment in the PBRs program is 1.1 acres. The portion of the property with a house is not eligible for the program.

On June 21, the King County Council approved the application to enroll the eligible parcel into the PBRs program as open space. The County found that enrollment was warranted given the open spaces resources associated with the property (e.g., public recreation area and unlimited public access). A public recreation area is land devoted to providing active or passive recreation use. The property evaluation received 10 points, which allows a 50-percent tax reduction for the eligible 0.23 acres. The annual property tax reduction is \$278, which includes a \$28 reduction in revenue for the City. Mr. Whipple said that properties enrolled in the PBRs program must remain undeveloped and classified as open space.

Mr. Whipple said King County indicated conditional approval for different PBRs designations for two other sections of the site. County staff determined that the property could obtain 10 additional points by meeting requirements of the resource restoration and/or urban open space categories. Resource restoration means an area must be restored to native vegetation. The planting plan must be agreed upon by the property owners/easement owners and approved by both the City and King County. The property owner must provide annual monitoring of the

landscaping for at least five years. The urban open space category refers to property within a city with primarily native vegetation. Mr. Whipple said that if 10 points were added, for a total of 20 points, the tax reduction would be 70 percent for the two parcels. That equates to an annual property tax reduction of \$4,298 (including a reduction of \$443 to the City).

Mr. Whipple highlighted the evaluation criteria applied to the application. The Council may consider the resulting revenue loss or tax shift caused by the proposal as well as a number of considerations including conserving or enhancing natural and cultural resources, protecting streams and other bodies of water, promoting conservation principles by example, enhancing the value of adjacent open space or park property, enhancing recreation opportunities, and preserving historic sites and other factors.

Mr. Whipple said staff is requesting Council action to approve the application with the conditions provided by King County: 1) 50 percent tax reduction for the 0.23-acre portion (City revenue impact of \$28.67), and 2) conditional approval of 70 percent tax reduction for the other two parcels (City revenue impact of \$443.21). If the Council proposes additional conditions, they would be discussed with the King County Council for action. He noted that City and King County staff conducted a joint site visit and worked together to evaluate the application.

→ Councilmember Lee moved to open the public hearing, and Councilmember Stokes seconded the motion.

→ The motion carried by a vote of 6-0.

City Clerk Arredondo noted that one written comment was received and it is included in the Council's desk packet.

Heidi Dean said she was interested in learning more about the PBRs program and suggested additional discussion and deliberation. She said it appears that public access to the trail and open space would require passing through neighbors' private property. She asked the Council to allow more time for the public to learn about the proposal and to provide feedback.

Pamela Johnston said she was unable to find information about the PBRs program or tonight's public hearing. She said the size of the lot is questionable and she expressed concern that the buildable footprint was not considered as part of the evaluation. She asked about the ongoing maintenance of the open space and expressed concern about the potential unintended consequences of granting the PBRs open space classification for private property. She would like to know more about the program.

→ Councilmember Lee moved to close the public hearing, and Councilmember Stokes seconded the motion.

→ The motion carried by a vote of 6-0.

Councilmember Robertson asked about the scope of the Council's role and authority in this matter. She noted that staff indicated the Council cannot be arbitrary or capricious. She said the

City has never handled an application for the PBRs program. She asked about the Council's level of discretion in its decision.

Ms. Tanus said this is a legislative process and not a quasi-judicial matter. She referred to the evaluation criteria on page 11 of the slide presentation, which address the public benefits of open space.

Ms. Robertson asked whether the precedent-setting nature of the request can be considered as part of the evaluation. Ms. Tanus said that is a legitimate consideration in terms of the overall fiscal impact.

Ms. Robertson asked whether the property would be open to the public 24 hours per day. Mr. Whipple clarified that the 1.1 acres includes the 0.23-acre portion. For the larger two parcels, the potential classification of urban open space does not have an easement requirement. In further response to Ms. Robertson, Mr. Whipple confirmed that the property owner could restore native vegetation and qualify for the tax reduction without ensuring public access. He said if the land area is eligible for more intense development or use but the property owner is instead setting it aside as open space, the tax reduction is permitted.

Councilmember Lee said he would need more information before taking action, including a better understanding of the merits and conditions related to the application. He questioned the fiscal impact if multiple properties apply for the program in the future. He said he is hesitant to set a precedent without more information about the program and the public benefits of the proposal.

Mr. Lee noted that the public hearing notice was published in The Seattle Times on August 22, two weeks before tonight's public hearing.

Responding to Mr. Lee, Ms. Tanus said staff identified 259 similar properties in Bellevue that could be eligible for the PBRs program, depending on existing development and other factors for each property. Ms. Tanus said the Open Space Taxation Act was enacted in 1970 and five properties enrolled in the program before they were annexed to the City of Bellevue.

Mayor Robinson concurred with Councilmember Lee's interest in the public benefit of the proposed action. Ms. Robinson said she does not see a meaningful public benefit given there is no public access to the property. Noting that the 0.23-acre portion is unbuildable due to the power lines, Ms. Robinson asked whether the property owner receives any sort of compensation from Puget Sound Energy (PSE). Ms. Tanus said she did not know.

Ms. Robinson said she would be inclined to approve the PBRs designation for the 0.23 acres but disinclined to offer conditional approval for the other two sections.

Responding to Councilmember Zahn, Megan Kim of the King County Department of Natural Resources and Parks said there is an extensive easement throughout the surrounding properties that was established in the 1950s. She said the property is not landlocked and the trail is used by neighbors. Ms. Kim said she walked through the area and there were no barriers.



Ms. Zahn commented regarding the cost for the City to purchase open space. She noted City regulations related to streams, stream corridors and wetlands and asked whether trees fall into those provisions. Noting the lost revenue to the City of \$28.67 annually for the 0.23-acre portion, Ms. Zahn observed that is a good deal in exchange for preserving trees and open space.

Responding to Ms. Zahn, Ms. Kim said the PBRS program addresses the public benefits from private landowners who preserve and conserve natural resources. Ms. Kim said there are 19 PBRS categories and many do not require public access. In further response, Ms. Kim said the program is administered by the King County Department of Assessments.

Councilmember Zahn said she is inclined to approve the application for the eligible 0.23-acre portion of the site.

Councilmember Stokes said he is open to delaying the decision. He said the PBRS program is an innovative way to encourage private property owners to preserve natural environments. He said there is a similar program in rural areas in which property owners receive a tax rebate for certain vegetation enhancements and preservation. He observed that the tax reduction for the City reflects a good value for the preservation of open space. He concurred with his colleagues that perhaps more information and time is needed before making a decision.

Responding to Mr. Stokes, Ms. Kim confirmed that the purpose of the program is to provide an incentive for property owners to preserve and conserve natural resources. Ms. Kim said King County's database indicates that the PBRS program currently covers 14,200 acres (i.e., 2,220 parcels and 1,667 property owners) across the county.

Councilmember Barksdale expressed support for staff's recommendation regarding the 0.23-acre eligible parcel and the two conditionally eligible parcels. He said the proposal is consistent with the Council's discussions about environmental stewardship and tree preservation. He supports moving forward.

Councilmember Robertson said she agreed with Mayor Robinson that the 0.23-acre portion of the site is probably the most appropriate for the PBRS program. Ms. Robertson asked whether the presence of the PSE power lines and the Olympic Pipeline reduce the assessed valuation (AV) for the property. Ms. Kim said there likely is some type of percentage reduction for properties with power line or other types of easements. However, landowners can work with power line companies to restore easements to native vegetation.

Ms. Robertson said that enrolling in the PBRS program reduces the property owner's ability to develop the property. She said this site is located in R-1 zoning (one unit per acre) and the property owner would invest financially in restoring the property to native vegetation. Responding to Ms. Robertson, Ms. Kim said public access to the trail will continue if the PBRS classification is approved.

Councilmember Robertson reiterated that the 0.23-acre portion might be appropriate for the program. However, the other two parcels are not open to the public. Ms. Robertson expressed

concern about the long-term impacts if additional property owners apply for the program and about the potential for eliminating opportunities to provide more housing in Bellevue.

Councilmember Lee concurred with Mayor Robinson and Councilmember Robertson about approving the 0.23-acre portion but not the other two parcels. Mr. Lee said it is important for him to understand how approval of the application fits into the overall work of the Council and City. He acknowledged it is important to provide both open space and land for housing in the community. He encouraged an intentional plan and more information regarding potential impacts.

Mayor Robinson reiterated that she is comfortable with approving the 0.23-acre eligible parcel but she is not convinced regarding the two parcels with conditional approval by King County.

Councilmember Zahn noted the benefits of open space preservation and the willingness of private property owners to participate in the PBRs program. Responding to Ms. Zahn, Ms. Tanus said the two parcels with conditional approval by King County will require restoration and native vegetation. Responding to Ms. Zahn, Ms. Kim confirmed that property owners must comply with the vegetation requirements to receive the PBRs classification.

Councilmember Zahn said she is inclined to approve staff's recommendation regarding the 0.23-acre eligible parcel and the other two parcels with conditional approval by King County.

Councilmember Stokes said the property owners receive a small tax reduction for investing in restoration. He said the program is consistent with the Council's environmental goals and he is ready to move forward with staff's recommendation, noting that the two larger parcels must comply with vegetation requirements to achieve the PBRs classification.

Responding to Mayor Robinson, Ms. Kim said PBRs staff monitors properties in the program every seven years through aerial photography and/or site visits. She said the County provides an online landowner-monitoring report for landowners to self-monitor.

Mayor Robinson asked about what happens if a property is sold. Ms. Kim said the PBRs program processes approximately 100 sales per year. She said the future development under a new property owner would be subject to the City's regulations. If the property owner wanted to remove open space to build a larger house, they would be required to pay the compensating taxes. If the property is sold within 10 years, the repayment would be based on the most recent seven years and include interest and a 20 percent penalty. If the property is sold more than 10 years later and it remains in compliance with PBRs requirements, the owner would repay interest but the penalty would be waived.

Councilmember Barksdale reiterated his support for staff's recommendation.

Responding to Councilmember Robertson, Ms. Kim said the trail is located in the eligible 0.23-acre portion of the site. Ms. Kim said there is an easement that was documented in the 1950s. However, that easement does not meet current requirements for trails. Mayor Robinson said the trail is used as an equestrian trail.

Ms. Robertson said that if the City approves the application for the 0.23-acre eligible parcel, it should be conditioned on granting a new easement to allow trail access into the future. She suggested voting separately on the eligible parcel and the other two parcels.

Responding to Councilmember Lee, Mr. Whipple said that if the City wanted to place additional conditions on the approval of the application, those conditions would go back to King County for consideration. Ms. Kim said the property owner can withdraw their application at any point if they disagree with any conditions.

Councilmember Lee said he needs more information before taking action on staff's recommendation.

Mayor Robinson concurred with Councilmember Robertson's suggestion to require permanent public trail access in the eligible portion.

Responding to Councilmember Stokes, Ms. Kim said members of the public use the small parcel as a trail. Ms. Kim said King County is not looking at this as a trail because the trail easement currently in place does not meet current standards. She said if the Council was interested in a condition that the property owner bring the trail up to 2022 standards, King County would evaluate whether the property would qualify for one of the PBRS trail classifications, which could result in a 90 percent tax reduction.

Councilmember Zahn expressed support for staff's recommendation.

Mayor Robinson suggested deferring Council action and reaching out to the Bridle Trails community to discuss the proposal.

Councilmember Robertson said she would like more information on the trail and the long-term impact on the Bellevue tax base before taking action.

→ Councilmember Barksdale moved to approve Resolution No. 10133, and Councilmember Stokes seconded the motion.

Councilmember Robertson expressed concern about setting a precedent. She said it will allow people with large properties to enhance their vegetation in exchange for a tax break. However, she does not see a significant public benefit. Ms. Robertson said she would like more information about public trail access. She said she will not support the motion.

Councilmember Lee concurred with Councilmember Robertson about delaying Council action until more information is available.

Mayor Robinson noted that this action would preclude the potential development of an accessory dwelling unit (ADU) or detached ADU on the property.

Councilmember Barksdale noted that this is not a new program for King County and it aligns with Bellevue's environmental stewardship goals. He expressed support for the motion.

Responding to Mayor Robinson, Ms. Kim said the PBRS program does not benefit property owners who might only want to enhance their vegetation. She said the application must meet the classification criteria and there is a \$620 application fee. In further response, Ms. Kim said there would be financial repercussions as well if the property owner decided to modify the open space.

Councilmember Stokes said a number of cities have participated in the PBRS program.

- The motion failed by a vote of 3-3, with Mayor Robinson, Councilmember Lee and Councilmember Robertson opposed.
- Councilmember Robertson moved to direct staff to return for further discussion with answers to the Council's questions and to conduct public outreach to Bridle Trails residents. Councilmember Lee seconded the motion.
- The motion carried by a vote of 6-0.

At 8:15 p.m., Mayor Robinson declared a break. The meeting resumed at 8:30 p.m. Mayor Robinson noted that Councilmember Lee left the meeting.

#### 10. Study Session

- (a) Proposed Land Use Code Amendment (LUCA) to provide additional extension periods for Temporary Public Safety Facilities

City Manager Miyake introduced staff's update regarding the proposed Land Use Code Amendment (LUCA) applicable to Temporary Public Safety Facilities.

Nick Whipple, Planning Manager, said staff is asking the Council to enter a finding of necessity to process the LUCA and to direct staff to schedule a public hearing.

Mathieu Menard, Senior Planner, said a temporary public safety facility is intended to provide services during a declared natural disaster or other unforeseen emergency circumstance. The men's shelter at Lincoln Center is a temporary public safety facility pending the opening of the new men's shelter in the Eastgate area. Under the current code, the initial permit approval covers 24 months and it can be extended for an additional 12 months. Mr. Menard said the facilities are exempt from discretionary land use approvals.

Mr. Menard said the objective of the LUCA is administrative only and ensures the continuity of services through the current emergency circumstance. The LUCA will allow the Lincoln Center men's shelter managed by Congregations for the Homeless to continue operating until the new Eastside Men's Shelter is completed in early 2023. The LUCA allows multiple 12-month extensions where appropriate and where supported by ongoing emergency circumstances. The

LUCA is a Process IV action and a public hearing will be held if the Council chooses to move forward with the LUCA.

Councilmember Robertson spoke in favor of making a finding of necessity to enable staff to process the LUCA. She said it is important to ensure continuity for the men living in the shelter. However, she was unsure about allowing unlimited multiple extensions. She suggested a maximum period of five years for a temporary facility.

Mayor Robinson concurred about the importance of ensuring continuity for the men in the shelter.

→ Councilmember Robertson moved to enter a finding of necessity to process the LUCA and to direct staff to prepare the proposed LUCA for a public hearing and final action at a future meeting. Councilmember Stokes seconded the motion.

→ The motion carried by a vote of 5-0.

- (b) Land Use Code Amendment (LUCA) to conform provisions related to the maximum number of children and correct outdated references for Family Child Care Homes in the Land Use Code (LUC) in response to recent amendments to Chapter 43.216 RCW

City Manager Miyake introduced discussion regarding a proposed LUCA in response to recent amendments in state law [RCW 43.216].

Mr. Whipple said staff is asking the Council to enter a finding of necessity to process the LUCA and to direct staff to schedule the public hearing.

Caleb Miller, Senior Planner, said the LUCA applies to family child care homes as defined in LUC 20.50.020. Under the current code, a maximum of 12 children are allowed. In 2021, the state legislature adopted Senate Bill 5237, which contains provisions related to child care and early learning. As directed by the law, the Department of Children, Youth and Families (DCYF) established a waiver program to allow more than 12 children in home-based child care businesses based on certain criteria (e.g., floor area, staff-to-child ratio, licensing experience, etc.).

Mr. Miller said the LUCA amends LUC 20.50.020 to update the definition of a family child care home, insert a reference to the waiver program that allows more than 12 children, and to remove the 24-hour restriction on home-based child care. LUC 20.20.170.C is amended to update references to state agencies/laws and to other Bellevue codes.

Mr. Miller said the LUCA follows Process IV requirements for notice of the application and holding a public hearing. He said the City's web site includes staff contacts and the LUCA schedule and updates as well as instructions for providing public comment.

Councilmember Robertson asked whether the City has a role in the decision to grant a waiver to allow more than 12 children, for example, due to neighborhood traffic impacts caused by the family child care home. Mr. Miller said he does not believe the City is involved in the waiver decisions. However, he will confirm that understanding. Ms. Robertson expressed concern about the potential neighborhood impacts associated with a home child care business. She expressed support for moving forward to process the LUCA.

Councilmember Barksdale said it is more convenient for many families to have child care available closer to their homes. He expressed support for moving forward.

Mayor Robinson said there is a shortage of child care facilities in Bellevue. She supports moving the LUCA forward.

Responding to Councilmember Zahn, Mr. Miller said the State will continue to process the licenses. The LUCA is necessary to document the family child care homes that receive a waiver to allow more than 12 children.

→ Councilmember Stokes moved to enter a finding of necessity to process the LUCA and to direct staff to prepare the proposed LUCA for a public hearing and final action at a future meeting. Councilmember Robertson seconded the motion.

→ The motion carried by a vote of 5-0.

11. Land Use: None.

12. Other Ordinances, Resolutions, and Motions

- (a) Ordinance No. 6674 adding a new section to chapter 3.34 of the Bellevue City Code prohibiting police assistance with interstate abortion-related investigations.

City Manager Miyake introduced discussion regarding proposed Ordinance No. 6674.

City Attorney Kathy Gerla recalled that on August 1, the Council voted to approve Councilmember Robertson's request to have the City Attorney's Office conduct research to determine whether there are options available to prevent the use of Bellevue Police Department resources to cooperate with out-of-state investigations involving abortion-related health care.

Melissa Chin, Assistant City Attorney, recalled that on June 24, 2022, the U.S. Supreme Court issued a decision in *Dobbs v. Jackson Women's Health Organization* overruling the federal constitutional right to an abortion established by *Roe v. Wade* in 1973. States now have the ability to establish their own abortion rights and restrictions. Several states have restricted or banned reproductive health services, such as abortions, at different stages during pregnancy and made certain actions related to abortion-related care punishable by criminal penalties.

In Washington state, abortion is lawful if performed by certain health care practitioners prior to the viability of the fetus or to protect the mother's life or health. The Washington State

Legislature previously established a statutory fundamental right to privacy with respect to personal reproductive choices.

Ms. Chin said the Bellevue Police Department could be asked to cooperate in abortion-related investigations by law enforcement in other states. She said the Council has the power to adopt and enforce all ordinances related to and regulating its municipal affairs. Ordinance No. 6674 prohibits police assistance with interstate abortion-related investigations. Assistance could include cooperating with a subpoena or search warrant from an out-of-state police agency, arresting or detaining a person without a Washington State court-ordered warrant, or providing information or initiating an inquiry into City or law enforcement databases at the request of an out-of-state police agency.

Ms. Chin said several jurisdictions have taken a similar approach to restrict their law enforcement agencies from cooperating with out-of-state investigators, including the Washington State Patrol, King County Sheriff's Office, Seattle Police Department and Port of Seattle police.

Councilmember Robertson thanked staff for their work and thanked her colleagues for their unanimous support of her initiative to explore potential options. She said the ordinance provides clear direction to law enforcement officers and limits the use of City resources to enforce laws that are contrary to Washington state law. Ms. Robertson said the ordinance ensures that the City is not using resources for something she believes is a violation of the rights of pregnant individuals and of the doctor-patient relationship. She opposes criminalizing a woman's right to control her own body.

Councilmember Zahn thanked staff for their quick response to the Council's request for more information. She expressed support for the ordinance and the right to choose.

Mayor Robinson concurred with her colleagues.

Councilmember Stokes thanked Councilmember Robertson and staff for the proposal. He expressed support for the ordinance.

→ Councilmember Robertson moved to adopt Ordinance No. 6674, and Councilmember Stokes seconded the motion.

→ The motion carried by a vote of 5-0.

13. Unfinished Business: None.

14. New Business: None.

15. Executive Session: None.

16. Adjournment

At 9:04 p.m., Mayor Robinson declared the meeting adjourned.

Charmaine Arredondo, CMC  
City Clerk

/kaw