

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Extended Study Session

June 25, 2018
6:00 p.m.

Council Chambers
Bellevue, Washington

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

ABSENT: None.

1. Executive Session

The meeting was called to order at 6:05 p.m., with Mayor Chelminiak presiding. There was no Executive Session.

2. Approval of Agenda

- Deputy Mayor Robinson moved to approve the agenda, and Councilmember Stokes seconded the motion.
- The motion carried by a vote of 7-0.

Mayor Chelminiak noted that the Council's formal action on the Homeless Services Uses Land Use Code Amendment (LUCA) is scheduled for July 16.

3. Oral Communications

- (a) Angela Murray, Executive Director of The Sophia Way, spoke in support of the timely passage of the Homeless Services Uses Land Use Code Amendment (LUCA) without unnecessary restrictions that obstruct the siting and operation of shelters. She said Bellevue needs a permanent men's homeless shelter to provide a pathway to housing and stability for individuals currently experiencing homelessness. Ms. Murray is opposed to buffers because it discriminates against people living in shelters, including the poor, racial minorities, and/or disabled individuals. She urged the Council to move forward quickly, and she thanked Councilmembers for their work.

- (b) Deacon Sam Basta, St. Louise Catholic Church, said the church is a longtime member of the Eastside Interfaith Social Concerns Council, which collaborates with the Church Council of Greater Seattle. He noted the latter's work since 1979 to address and end homelessness. The number of individuals experiencing homelessness increased by 16 percent over the past year in Bellevue. He said the Eastside faith community provides 100 homeless shelter beds. Mr. Basta thanked the Council for working to establish a homeless men's shelter in Bellevue. He said shelter funders need certainty.
- (c) Rabbi Aaron Meyer said he hopes the shelter LUCA will be passed by July 16. He noted that this is a moral issue with a political dimension. He said the faith community supports maintaining the development agreement permitting pathway in addition to the conditional use permit (CUP) process. He expressed support for relying on the Bellevue City Code as the basis for a shelter code of conduct, while allowing shelter operators to implement the best practices in their field. He believes that requiring buffers around shelters removes any sense of community and echoes discriminatory practices. Rabbi Meyer expressed concern regarding statements that the faith community's voices should not be heard.
- (d) Tzachi Litov said he was impacted by the presence of faith community leaders during the June 11 public hearing on the homeless shelter LUCA. He opined that it was another opportunity for many residents to be vilified and demeaned. He described a concept of Judaism that prohibits speaking poorly of others. He spoke about loving your neighbor as yourself. Mr. Litov expressed concern regarding the inappropriate presence of Congregations for the Homeless, which he said is the only organization that is being offered free land and money to establish a shelter in Bellevue.
- (e) Kan Qiu spoke about his love for the City of Bellevue and American democracy. He spoke about the Chinese communist government suppressing its own people for its own benefit, and he urged the Council to not be that kind of government. He said the Council should listen to the residents of Bellevue and not to special interest groups or non-residents. He said faith-based groups are special interest groups who do not respect Bellevue residents.
- (f) Cynthia Cole spoke in support of the conditional use permit (CUP) process for homeless services uses. She asked the Council to remove the development agreement permitting option from the LUCA. She expressed concern that the latter process allows the Council to dismiss the concerns of residents.
- (g) Mary Flett said that she and nearly 700 neighbors oppose the Comprehensive Plan Amendment (CPA) proposal related to the Newport Hills Shopping Center rezone. She said Toll Brothers does not have any vested interest in the neighborhood but will make money from the rezone. Her understanding is that the proposed redevelopment will reduce the number of businesses currently in the center. She said the neighborhood has hired Rick Aramburu to represent them. She urged the Council to slow the process until the neighborhood can be fully engaged. She said the shopping center is the heart of the community. She reminded the Council about the City's core values of exceptional public service, stewardship, commitment to employees, integrity, and innovation.

- (h) Jim Grossnickle, representing the Newport Hills Swim and Tennis Club, said he wanted to set the record straight on some of the things that have been said by the Toll Brothers, who plan to redevelop the Newport Hills Shopping Center. He said that neither the club or its members have taken a formal position regarding the proposed CPA and rezone, despite the Toll Brothers' statements to the contrary. He said Toll Brothers has indicated that it engaged in public outreach. He said that is true only if you consider an unsolicited offer to buy property as public engagement. Mr. Grossnickle said that City staff's recommendation to approve the rezone indicates that the Newport Hills Swim and Tennis Club would be the new community gathering place. He clarified that the club is a private club and not a public gathering place.
- (i) Pamela Johnston said she supports Bellevue and keeping the community together. She noted that the homeless shelter LUCA and the future funding of a shelter are separate issues. She acknowledged the community's concerns about security. She said it is important to have effective, enforceable regulations. The future operation of a shelter is a matter between the shelter operator and the neighbors.

4. Study Session

- (a) Council Business and New Initiatives.

There was no discussion.

- (b) Homeless Services Uses Land Use Code Amendment (LUCA)

City Manager Brad Miyake noted that this is the sixth Council discussion regarding the Homeless Services Uses Land Use Code Amendment (LUCA) related to permitting a homeless shelter. He said the goal tonight is to provide direction to staff to finalize the permanent regulations.

Mike Brennan, Director for the Development Services Department (DSD), highlighted the LUCA review schedule involving Council discussions and public outreach since March 5. He noted that 72 individuals spoke during the public hearing on June 11. He recalled the Council Vision priority to work toward an Eastside solution for a permanent location for a men's homeless shelter. The Council's objective is to ensure that homelessness is rare, brief, and one-time, and to regulate homeless services uses without criminalizing homelessness.

Carol Helland, Code and Policy Director, said tonight's discussion would focus on a number of amendments that were presented to the Council on April 23. She clarified that the LUCA provides regulations for permitting a shelter, but does not address a specific shelter or location. The LUCA includes three components: 1) purpose, applicability, and definitions; 2) permit process, submittal requirements, and the required review; and 3) use requirements, development standards, and design guidelines.

Ms. Helland described the packet materials prepared to guide the discussion: 1) Attachment A, Public Hearing Draft LUCA; 2) Attachment B, Good Neighbor Agreement (GNA) Advisory

Committee; 3) Attachment C, buffers and separation requirements; 4) Attachment D, permit process path alternatives; and 5) Attachment E, additional amendment language.

Noting that the Council would not adopt the LUCA tonight, Mayor Chelminiak requested a motion regarding the Public Hearing Draft LUCA.

→ Deputy Mayor Robinson moved to adopt proposed Ordinance No. 6419, and Councilmember Stokes seconded the motion.

Mayor Chelminiak said the Council would work through the amendments proposed by Councilmembers.

Councilmember Zahn noted her discussion with staff regarding whether the LUCA would apply to a small shelter for victims of domestic violence. She expressed concern about releasing the address and other information about the shelter. Ms. Zahn proposed adding the following language regarding the permitted uses that do not fall under the Homeless Services Uses LUCA: Unrelated individuals living together as a “Family” pursuant to the definition contained in LUC 20.50.020.

→ Councilmember Zahn moved to adopt Amendment E-1, and Deputy Mayor Robinson seconded the motion.

Responding to Councilmember Robertson, Ms. Helland confirmed that the LUCA would not apply to group homes. Ms. Helland said the definition of “Family” limits a household to a maximum of four unrelated adults. However, if they can demonstrate that they are living as a household unit based on specific criteria, there may be more than four unrelated individuals living together.

Ms. Robertson expressed concern that a household with many members, such as a fraternity, would be unregulated. Ms. Helland said the definition of “Family” is meant to apply to households that are largely in single-family neighborhoods. She said the definition was adopted in the development of regulations applicable to single family room rentals, and it would not cover shelter or similar facilities.

Councilmember Zahn said the definition of “Family” in the single family room rental ordinance specifically excludes fraternities, sororities, organizations, and other large groups.

→ The motion to adopt Amendment E-1 carried by a vote of 7-0.

Councilmember Nieuwenhuis said proposed Amendment E-2 adds language indicating that mailed notices will be sent to property owners and to the physical addresses of properties that are not owner-occupied. The intent is that tenants would receive the project notices.

→ Councilmember Nieuwenhuis moved to adopt Amendment E-2, and Councilmember Robertson seconded the motion.

Responding to Mayor Chelminiak, Ms. Helland said it is likely that mail would be returned to the City if the property owner or tenant has their mail forwarded to a post office box or other address.

→ The motion to adopt Amendment E-2 carried by a vote of 7-0.

Deputy Mayor Robinson withdrew her proposed Amendment E-3.

Ms. Robinson said her proposed Amendment E-4 is intended to provide the opportunity for a facility to create a community service model to involve the residents in potentially gaining work experience and to give the residents a sense of responsibility and pride in their work. She proposes the concept as a recommendation, but not a requirement, to shelter operators.

→ Deputy Mayor Robinson moved to adopt Attachment E-4, and Mayor Chelminiak seconded the motion.

Ms. Robinson said she proposed including the language in the submittal requirements section. However, she is open to including it in the Good Neighbor Agreement section if preferred by the Council.

Councilmember Zahn spoke in support of including the language in the Good Neighbor Agreement section.

Councilmember Robertson expressed support for the concept. However, she opined that the language implies that the provision is a requirement. She suggested adding: “where appropriate and feasible to the population being served.”

Ms. Helland noted that the language refers to the homeless population and it allows the shelter operator to decide whether to implement a community service model.

→ Councilmember Robertson moved an amendment to add: "where appropriate and feasible." Mayor Chelminiak seconded the motion.

Councilmember Stokes concurred with Councilmember Zahn’s suggestion to place the language in the Good Neighbor Agreement section. He does not want to stigmatize individuals by implying that they must earn their right to receive assistance in a shelter.

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

→ Councilmember Stokes moved an amendment to place the language in the Good Neighbor Agreement section of the LUCA. Mayor Chelminiak seconded the motion.

Deputy Mayor Robinson said she spoke with representatives of Congregations for the Homeless who liked the idea of community service, and other agencies have taken a similar approach. She

said there is a coffee shop in Seattle that provides training for individuals experiencing homelessness.

Councilmember Robertson spoke in support of the value of a community service or training program to provide the opportunity for individuals to participate and feel good about themselves. She supports keeping the language in the Submittal Requirements section as proposed by Deputy Mayor Robinson.

→ The motion to amend failed by a vote of 1-6, with Councilmember Stokes in favor.

→ The motion to adopt Amendment E-4, as amended, carried by a vote of 7-0.

Deputy Mayor Robinson said her purpose for Amendment E-5 is to improve the coordination between law enforcement and shelter operators.

→ Deputy Mayor Robinson moved to adopt Amendment E-5, and Councilmember Robertson seconded the motion.

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

Councilmember Robertson said her proposal in Attachment E-6 refers to developing a specific communication plan to ensure that any individuals on probation or under community custody or parole can receive services from the shelter without running afoul of any community requirements upon their release from custody after a criminal proceeding. She noted that the language was drafted with assistance from the City Attorney's Office.

→ Councilmember Robertson moved to adopt Amendment E-6, and Councilmember Nieuwenhuis seconded the motion.

Responding to the Mayor, Councilmember Robertson acknowledged that the amendment is focused in part on sex offenders, as well as on individuals who might have a restriction regarding access to certain locations.

Matt McFarland, Assistant City Attorney, said there could be residency restrictions that would prevent an individual serving parole from living in a specific location. The purpose of the revision is to reflect that those restrictions would be enforced. Responding to Mayor Chelminiak, Mr. McFarland acknowledged that the provision would rely on the resident to disclose that information. Mr. McFarland said Councilmember Robertson's proposal would require a plan between the operator and law enforcement to ensure that any conditions of parole are not violated by the person staying in the shelter.

Deputy Mayor Robinson questioned the need for the language "applicable to a registered sex offender."

- Deputy Mayor Robinson moved to strike the following language: "applicable to a registered sex offender." Councilmember Stokes seconded the motion.
- The amendment carried by a vote of 7-0.
- The motion to adopt Amendment E-6, as amended, carried by a vote of 7-0.

Councilmember Zahn suggested the following revision to the provisions related to the Safety and Security Plan under the Submittal Requirements section: Implementation of ~~outstanding~~ registered sex offender background checks and compliance with applicable registration and notification requirements.

Ms. Helland clarified that the language was an artifact from a provision in the temporary encampment ordinance that applied to warrants.

- Councilmember Zahn moved to adopt Amendment E-7, and Councilmember Lee seconded the motion.
- The motion carried by a vote of 7-0.

Councilmember Zahn said Amendment E-8 is intended to clarify the reference to Special and Overlay District Requirements in Chapter 20.25 of the Land Use Code.

- Councilmember Zahn moved to adopt Amendment E-8, and Councilmember Robertson seconded the motion.
- The motion carried by a vote of 7-0.

Councilmember Robertson recalled that the Public Hearing Draft LUCA included language in the Support Services section regarding the City's prohibition of safe injection sites. She suggested moving the language to the Development Standards Use Requirements section. She noted the emerging use of mobile and temporary safe injection sites and said she wants to ensure that they are prohibited under the LUCA.

- Councilmember Robertson moved to adopt Amendment E-9, and Councilmember Nieuwenhuis seconded the motion.

Deputy Mayor Robinson said she will support the amendment because medically supervised consumption centers, whether stationary or mobile, are not best practices, especially for this community. Councilmember Zahn concurred.

Responding to Mayor Chelminiak, Ms. Helland said the language applies only to the Homeless Services Uses LUCA and also prohibits camping on the sites. She said it applies to properties approved for the location of a shelter under LUC 20.20.455. It does not amend the prior prohibition on safe injection sites adopted by the Council.

Responding to Councilmember Robertson, Ms. Helland confirmed that the prohibition of safe injection sites previously adopted by the Council applies to mobile and temporary sites.

- The motion to adopt Amendment E-9 carried by a vote of 7-0.
- Councilmember Zahn moved to adopt Amendment E-10, and Deputy Mayor Robinson seconded the motion.

Councilmember Zahn said Amendment E-10 requires, under the Pre-Application Process section, that the shelter operator submit a statement reflecting their experience with a shelter that is similar to the one being proposed.

Responding to Mayor Chelminiak, Ms. Zahn said the intent is not necessarily to remove a shelter operator from consideration but to obtain a statement regarding their experience serving the relevant population.

Councilmember Stokes said the revision could be interpreted to exclude certain operators; for example, a provider wanting to operate a women's shelter without having prior experience specifically with a women's shelter.

Councilmember Robertson expressed support for Amendment E-10 because she believes a more specific statement will be useful for potential funders and the Good Neighbor Agreement. She suggested a revision to add "or any other relevant experience."

- Councilmember Robertson moved to amend to add: "or any other relevant experience." Councilmember Stokes seconded the motion.
- The motion carried by a vote of 7-0.
- The motion to adopt Amendment E-10, as amended, carried by a vote of 7-0.

Councilmember Zahn noted that she would like to revise her proposal reflected in Amendment E-11.

- Councilmember Zahn moved to adopt Amendment E-11 regarding the Code of Conduct, and Deputy Mayor Robinson seconded the motion.
- Councilmember Zahn moved to amend her proposal with the following revisions: Smoking in designated areas of the site only; and: Maintain the site aesthetics. Deputy Mayor Robinson seconded the motion.

Responding to Ms. Zahn, Ms. Helland confirmed that the City has a regulation prohibiting littering.

Responding to Councilmember Robertson, Ms. Helland said littering applies to private property if it is in public view.

Councilmember Stokes opined that provisions regarding smoking should be established by the shelter operator. He expressed concern regarding the ability to interpret “site aesthetics.” However, it could be a topic within the Good Neighbor Agreement.

- The motion to amend E-11 carried by a vote of 5-2, with Mayor Chelminiak and Councilmember Stokes opposed.

Referring to the Code of Conduct, Councilmember Robertson said that the problem she is trying to solve is to ensure that a homeless shelter provides a good environment for those being served and for those living and working in the area. She said the Code of Conduct is meant to ensure that the shelter is a good neighbor. She said it is not illegal to knock on someone’s door and ask them for something. However, trespassing on private property can create a problem in the neighborhood, based on the experience of other shelters. She noted that excessive smoking at the shelter site can create a fire risk or litter, and can bother other shelter residents. She said that groups of individuals lounging and panhandling in the right-of-way in front of the shelter, while not illegal, creates impacts for the site as well.

Ms. Robertson suggested that those topics should be addressed in the Code of Conduct. She said it is necessary to have provisions regarding entry to and through private properties. She would like to restore language in Amendment E-11 regarding loitering, panhandling, and entry onto private property.

Mayor Chelminiak referred to the Eastside Men’s Shelter Supportive Housing Project due diligence report and suggested that the Code of Conduct in the LUCA does not address the extent to which a shelter operator can be held responsible for illegal or legal behavior by shelter residents. At the time of that report, there was a recommendation to include the following language in the Code of Conduct: Establish a perimeter around the shelter where shelter residents and day center users will be held accountable to uphold the shelter and day center Code of Conduct.

Councilmember Robertson said that language was consistent with her intent.

Mayor Chelminiak said he would like language in the final document that makes it clear that the Code of Conduct does not apply to shelter residents throughout the community but to activity within a specific perimeter around the shelter site.

Deputy Mayor Robinson suggested revisiting this topic as well. She would like to review the due diligence report for consistency.

Councilmember Lee said he wants to ensure that the Code of Conduct provides a good environment for shelter residents and for nearby businesses and residents.

Councilmember Stokes concurred with Mr. Lee. Mr. Stokes said it is important to not impose different standards for shelter residents and to avoid treating them as second-class citizens. He suggested additional review of best practices and the due diligence report on the topic.

Councilmember Zahn said she proposed removing many of the behaviors listed (i.e., loitering, panhandling, littering, etc.) because everyone in the community should be treated the same in terms of complying with laws. If the LUCA is going to go above and beyond existing laws, Ms. Zahn said she would want to see evidence and data supporting additional restrictions.

Mayor Chelminiak expressed support for language referring to the “immediate vicinity” and to “respecting the private property rights of individuals.” He supports the language to: Limit travel paths to public rights-of-way. He would not be opposed to language addressing loitering. He noted that smoking in public is regulated under state law.

- Councilmember Robertson proposed that staff draft a revised Code of Conduct, based on the Council’s discussion, for inclusion in the July 9 meeting packet.
- The motion carried by a vote of 7-0.

Mayor Chelminiak noted a Council consensus to continue the consideration of Amendment E-11 and the Code of Conduct to the next discussion before taking a vote.

At 8:10 p.m., Mayor Chelminiak declared a short break. The meeting resumed at 8:20 p.m.

Councilmember Nieuwenhuis noted the proposed revisions described in Attachment C-1, which defines small and large overnight shelters, requires buffers between shelters and certain sensitive land uses, and requires that shelters with more than 50 beds shall be located within one mile of a public transit stop.

- Councilmember Nieuwenhuis moved to adopt proposed Amendment C-1, and Councilmember Robertson seconded the motion.

Councilmember Nieuwenhuis said that allowing shelters up to one mile, instead of one-half mile, from transit stops will potentially provide more options for siting shelters. He said that four of the seven sites studied in the due diligence report would still be viable options with the buffer requirements. He said the separation distance is consistent with the due diligence report, which noted that shelters are more successful when sited away from residential areas. The separation from public schools means that a sex offender subject to a minimum distance requirement from schools will be more likely to utilize the shelter because the location will not cause a conflict with the restrictions on that individual. Mr. Nieuwenhuis said the proposed buffers are not intended to marginalize individuals experiencing homelessness, but they are a way to mitigate the potential impact of a shelter on a neighborhood.

Councilmember Robertson said a Land Use Code determines the appropriate zone for a land use and provides any conditions required for the use. The typical approach is to identify impacts and to work to mitigate, minimize, or eliminate the impacts. She said the due diligence report states that shelters work best for the clients and for those living and working around the shelter when they are not in residential areas. She noted that three of the seven sites studied in the due diligence report are located within 300 feet of single-family residential development, which she feels is not appropriate.

Councilmember Robertson said a buffer requirement would make a shelter more acceptable to neighboring residents and businesses, and the requirement does not eliminate locations for siting a shelter. She noted that the Council is committed to protecting neighborhoods, and she suggested that the buffer requirement is one way to ensure that a shelter fits well within a neighborhood. Ms. Robertson said that comments equating buffers to redlining are offensive and distract from the City's obligation to establish good land use policy.

Responding to Mayor Chelminiak, Councilmember Robertson said three potential sites that would be ruled out under the buffer requirement are Fire Station 3 (near residential development and a middle school), Richards Road (across the street from residential development), and the King County Public Health site (next to R-5 zoned property). The other four sites in the due diligence report, as well as sites that have not been studied, remain as options for a shelter.

Councilmember Lee expressed support for the proposed amendment, which provides more opportunities for shelter locations. He believes the provisions will result in a better relationship between the shelter operator and residents and the neighborhood businesses and residents as well.

Deputy Mayor Robinson expressed concern about creating buffers between different types of residents. She said the crime statistics do not demonstrate that shelter residents are inherently more dangerous than people already living in our community. She said the proposed buffer requirement will make it harder to site a shelter, which could result in an increase in the number of shelters in churches. Churches are located in single-family neighborhoods and are not subject to establishing a safety plan, Good Neighborhood Agreement, and other provisions in the shelter LUCA.

Councilmember Zahn said she keeps thinking about the overall goals of the LUCA. She said there is value in making sure that a shelter is located for the most successful outcomes. She questioned whether there is evidence demonstrating that a buffer to schools and other sensitive uses is warranted.

Ms. Helland said the information in the due diligence report acknowledges that siting a shelter in a residential area is not a good idea. However, it does not state that creating a buffer is necessary or recommended.

In further response to Ms. Zahn, Ms. Helland said the zones that prohibit homeless services uses are listed toward the end of the Public Hearing Draft LUCA as follows: all residential districts, commercial districts that buffer residential districts, Neighborhood Business (NB), Neighborhood Mixed Use (NMU), office, light industrial, and the BelRed office/residential transition zone. Ms. Helland said that light industrial districts are not considered suitable due to the lack of transit services.

Ms. Zahn questioned whether there is data demonstrating that additional buffer separation is needed. Ms. Helland said the due diligence report does not provide evidence to support the need.

Responding to Councilmember Zahn, Assistant City Attorney Matt McFarland said there is a state law that addresses drug-free zones around schools and imposes additional penalties for possessing, manufacturing or distributing drugs within a sensitive use area.

Ms. Zahn said she was trying to determine whether there is information to indicate that a buffer requirement would be more effective than a shelter operator working with the community to establish the appropriate conditions and expectations for success.

Councilmember Stokes said he opposed the proposed 1,000-foot buffer requirement. He said there is a difference between locating a land use within versus near a residential area. He said the proposed buffer is an artificial construct that he feels is designed to eliminate a specific potential shelter site. He said there is no evidence to support the need for or benefit from buffers. Mr. Stokes said he was disappointed with the focus on buffers. He said crime can happen anywhere. He recalled two high-profile incidents in Woodridge in which family members were murdered by other family members and/or teens living in the neighborhood. There was also a marijuana grow operation down the street.

Mayor Chelminiak noted his research into separation distances using the King County iMap. He questioned how staff measured the proposed distances. Nancy LaCombe, Assistant Director for the City Manager's Office, said she used the City's Land Use Code map and measured the distance from the edge of the property line. Mr. Chelminiak said he measured from the southeast corner of the Factoria transfer station to a single-family neighborhood, and the closest residence was across the freeway at a distance of 786 feet.

Ms. Helland said the mapping system measures from the border of a land use district to identify a specific buffer distance. Property within or touching the designated buffer distance was considered to be eliminated from consideration.

Mr. Chelminiak said that property within residential districts is typically private property. In mixed use districts, however, publicly accessible property such as a plaza is generally provided on the site. He said that if a person lives in a 75-unit secure apartment building, there are 74 occupants of the other units who could allow someone to enter the building. He noted that is not the case with single-family homes.

With regard to the intensity of the development, Mayor Chelminiak said a 100-bed shelter is one of the least intense development types in a major mixed use area. He noted that more people come and go from restaurants, coffee shops, offices, and gas stations. He said a Councilmember has suggested in the past that the best use of property near the Factoria transfer station would be a Costco store, which would be a more intense use that would generate significant traffic.

Mayor Chelminiak said he does not like the idea of keeping anyone at arm's length and he will not support the motion. He noted that the due diligence report does not advise against siting shelters in residential neighborhoods. However, he said a different report obtained through a public records request recommended against shelters in, but not near, residential neighborhoods.

Councilmember Robertson noted that she would like to discuss separately the proposed requirement regarding the distance of a shelter to transit service.

Councilmember Robertson said the Council's role is to represent the community, and the City has received a great deal of public comment in support of a buffer requirement. She said the proposed 1,000-foot buffer was modeled after the same buffer around marijuana retail stores. However, she opined that a shelter is more likely to have impacts than a marijuana shop.

Councilmember Nieuwenhuis said a shelter is a unique use and circumstance that should be treated as such. He expressed concern that Councilmembers are not listening to residents. He acknowledged that a 1,000-foot buffer will not guarantee that there will not be issues. However, he noted the problems that have occurred in Seattle. He said the City should take measurable ways to mitigate the shelter impact. He does not think anyone is trying to eliminate the Eastgate site, but they are trying to find the best solution for Bellevue.

Councilmember Lee said he appreciated everyone's comments and perspectives. He said the community wants to help individuals experiencing homelessness, and it is important to do it right. He said the City and the community will find the best solution by working together.

Councilmember Zahn said she read every email and communication from the public. She said Councilmembers are listening to residents. However, that does not mean that agreement will be reached on every issue. She said the purpose of the Good Neighbor Agreement is to provide a mechanism for the shelter operator and neighboring residents and businesses to work through the impacts and concerns. Ms. Zahn said Bellevue is a smart community that will develop the strongest solution. She said it is difficult to support the proposed buffers given the lack of data on their use.

Deputy Mayor Robinson said she respects everyone's opinions and input. She has not seen scientific data to support the argument for buffers between different types of people in a community. She noted that four experts on homelessness attended a meeting organized by residents, and none of them said a shelter should not be located near a single-family neighborhood.

Responding to Ms. Robinson, Councilmember Robertson said the suggestion to change the requirement that shelters be located within one-half mile of a public transit stop to one mile within transit is intended to enable more sites to qualify as suitable locations.

Councilmember Stokes expressed frustration with the time and energy spent on discussing buffers. He said the community and the City need to work together to ensure the shelter is safe and appropriate for its location.

Mayor Chelminiak said the Council's vision identifies the objective of providing an Eastside men's homeless shelter. He said the community and the City will move forward with a shelter in the Bellevue way and not as shelters have been handled in other jurisdictions in the region. He said our neighborhoods are defined by the people who live in them, and everyone wants housing for all people in Bellevue. He said that 90 percent of the individuals experiencing homelessness who are being served around King County did not come from other places but became homeless within this state. Mr. Chelminiak reiterated that there is no evidence to suggest that buffers are

warranted or provide any benefit. He said the Good Neighbor Agreement (GNA) process will address impacts and focus on ensuring a successful shelter.

- The motion failed by a vote of 3-4, with Councilmembers Lee, Nieuwenhuis and Robertson in favor.
- Councilmember Robertson moved to approve staff's original language reflected in Attachment C-1, revised to change the requirement that shelters be located within one-half mile of a public transit stop to one mile within a transit stop. Councilmember Stokes seconded the motion.

Responding to Deputy Mayor Robinson, Ms. Helland said one-half mile is the traditional walk shed when planning transit services. Ms. Helland said a shelter would most likely be located within one-half mile of transit regardless of the requirement.

- Councilmember Stokes moved an amendment to replace "shall" be located within one mile of transit to "should," and to revise the language to state that a shelter "shall" be located greater than one-half mile from any other Homeless Services Use. Deputy Mayor Robinson seconded the motion.
- The amendment carried by a vote of 7-0.
- The motion to adopt staff's Attachment C-1, as amended above, carried by a vote of 7-0.

Moving on, Mayor Chelminiak invited discussion regarding the proposals provided in Attachment D related to the permit processes to be allowed in the LUCA.

Ms. Helland said the Council may choose to move forward with providing only the conditional use permit (CUP) process in the LUCA or with the additional alternative of the development agreement (DA) process. The Council would have the opportunity to decide whether to allow the development agreement process for specific proposals.

Ms. Helland noted there are the same public review components in both the CUP and DA processes including a pre-application community meeting, public notice, and a public meeting following the submittal of the permit application. They both require the development of a Good Neighbor Agreement (GNA) with the involvement of an advisory committee. The committee's recommendation is forwarded to the Director, who makes a recommendation under both processes.

In the DA process, the Director's recommendation is presented to the Council for a public hearing and decision. In the CUP process, the Director's recommendation is forwarded to the Hearing Examiner for a hearing and decision, which may be appealed to the Council. Ms. Helland said the Hearing Examiner is the primary decision maker in the CUP process, and the Council is the primary decision maker in the DA process. The appeal to the Council in the CUP process does not make the Council the final decision maker because the Council is confined to considering the record established by the Hearing Examiner. The Council may change the

Hearing Examiner's decision only if the Council finds that a mistake has been made. In both the DA and CUP processes, the matter may be appealed to the Superior Court.

Responding to Councilmember Zahn, Ms. Helland said the decision maker is required to compile all of the conditions and findings of facts for the permit in a written report. If a permit decision is appealed, the Hearing Examiner's proceedings are transcribed. In further response, Ms. Helland said the decision criteria for both permit paths are listed in Attachment A, page 11.

Deputy Mayor Robinson questioned the benefit of providing two alternatives. Ms. Helland said the CUP process becomes quasi-judicial and Councilmembers are not allowed to discuss the shelter project with their constituents. She said that Congregations for the Homeless and other parties have suggested that the CUP process is very prescribed, while there is greater latitude to impose additional requirements related to operations under the DA approach.

→ Councilmember Robertson moved to extend the meeting to 10:30 p.m., and Councilmember Lee seconded the motion.

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

Councilmember Stokes said he understood the public's concern that the permit path be transparent and objective. He said there are potential benefits to the DA approach, which would be evaluated for individual projects. Ms. Helland said development agreements must comply with the Comprehensive Plan and development standards. She said the DA permit application could potentially be processed quicker than the CUP permit.

Councilmember Lee noted the importance of transparency, accountability, and public engagement. He questioned whether either permit path offers greater flexibility and the opportunity to meet those three criteria. Ms. Helland reiterated that there is potentially a better opportunity to expedite the DA process. The public engagement process is the same for both the CUP and DA paths. With regard to transparency, Ms. Helland noted that every Council decision occurs in public meetings. She said the issue of accountability differs in terms of the decision maker in the two processes.

Responding to Councilmember Robertson, Ms. Helland confirmed that none of the cities used for comparison purposes used the DA approach for permitting shelters. Ms. Robertson said the last time the City adopted a development agreement was related to the Sound Transit overlay, which states that a party may use the DA method if it uses the route identified by the Council. Under that overlay, there was only one potential applicant for the development agreement.

Ms. Robertson said one difference between the two processes is that the Hearing Examiner swears in, under oath, everyone that testifies. However, that does not occur in the DA process. When the development agreement was established in the Sound Transit matter, Councilmembers had small meetings with staff to ensure that the development agreement was understood. Those meetings complied with the Open Public Meetings Act.

Responding to Councilmember Robertson, Ms. Helland said the Hearing Examiner, in the CUP process, would not be allowed to meet with City staff regarding a permit application. Ms. Robertson said the Hearing Examiner's hearing in the CUP path is a quasi-judicial hearing, and the Hearing Examiner is bound by the Appearance of Fairness Doctrine, which states that the individual must be unbiased and fair but that the process also needs to appear to be fair. However, the DA approach is not a quasi-judicial process. Ms. Helland said she would defer to legal staff. However, her understanding is that there is case law regarding project-specific development agreements that treat them more like rezones, which requires the Council to be unbiased.

Assistant City Attorney Matt McFarland confirmed Ms. Robertson's understanding, including that the Hearing Examiner operates within a quasi-judicial setting. With respect to a development agreement, it would depend on the specific situation and would not always apply. Ms. Robertson said there is case law regarding legislative policymaking that determined that, not only are Councilmembers not required to be unbiased, but it is expected that they bring their opinions and biases to the legislative process. Mr. McFarland concurred with that understanding.

Councilmember Zahn asked why the DA process could potentially be quicker than the CUP approach. Ms. Helland said the CUP path is lengthy under the code and typically takes six months to 12 months. The time required to process a CUP is affected by a number of factors including the completeness of the application, the volume of public comment to which staff responds, and the Hearing Examiner's process.

Mr. Brennan noted that the Council has control over its calendar and agendas. The CUP process is subject to the Hearing Examiner's schedule. Also, under the CUP process, an appeal would be handled by the Council before it moved to the Superior Court, which would add time to the permit processing schedule.

In further response, Ms. Helland said City staff works hard with the applicant to produce an approved application, which adds time due to the complexity of the process and inevitable revision cycles.

Mayor Chelminiak noted that the Council has no involvement in the administrative path of the CUP process. He said Councilmembers are prohibited from participating in DA decisions if there are conflicts of interest related to the parties involved.

Responding to Councilmember Stokes, Ms. Helland confirmed that the Council is not involved in the Hearing Examiner's process unless an appeal is later filed with the Council.

Ms. Zahn said the Council has received numerous emails from the public stating that the CUP process is more transparent and that it reduces the opportunity for Councilmembers to unduly influence the outcome compared to the DA process. She questioned whether some hybrid of the CUP and DA processes could be developed that would expedite the permit process. Ms. Helland said City staff work with the applicant according to their requested timeline.

Mr. Brennan noted that the Good Neighbor Agreement coordination will add time to both processes. However, staff will provide the resources necessary to achieve the Council's priorities and timeline.

In further response to Councilmember Zahn, Ms. Helland said development agreements are required to demonstrate the public benefit. One rationale for using development agreements is that the City may not be able to envision all of the ramifications of public value. The agreement provides the opportunity for a substantive outcome that might not have been achievable under the CUP approach.

- Deputy Mayor Robinson moved to extend the meeting to 10:45 p.m., and Councilmember Zahn seconded the motion.
- The motion carried by a vote of 5-2, with Councilmembers Nieuwenhuis and Robertson dissenting.

Responding to Ms. Zahn, Ms. Helland said the LUCA includes language regarding a public meeting for the Council to determine whether to enter into a development agreement for a specific shelter project. The criteria for that determination are provided in the LUCA as well.

Mayor Chelminiak said he wants to ensure that the permit processes include a pre-application public meeting.

Deputy Mayor Robinson expressed concern about a potential shelter operator's ability to go through the CUP process and to meet key milestones to ensure funding from multiple sources. Responding to Ms. Robinson, Ms. Helland said the applicant, not the Council, has the ability to request the DA approach for a specific project.

Mr. Chelminiak said he would like Deputy Mayor Robinson and Councilmember Lee to discuss the makeup of the Good Neighbor Agreement (GNA) Advisory Committee and to develop options for the Council's consideration.

Councilmember Zahn said she has changed her perspective, in part due to public input, regarding her previous support for an at-large community member on the committee. She said that having nearby residents and businesses on the committee is more consistent with the intent of the GNA to focus on the relationship between the shelter and the adjacent neighborhood.

Councilmember Robertson said she is agreeable to the Deputy Mayor and Councilmember Lee creating options for the GNA Advisory Committee. However, given the public comments about transparency, she noted that some residents might not be comfortable with two Councilmembers working together separate from a public meeting. She suggested that the resulting proposal should be available to the public and Council well in advance of the Council discussion.

Deputy Mayor Robinson noted that Councilmembers Nieuwenhuis and Robertson developed proposals together, which is acceptable and legal. Ms. Robertson said her concern is that the resulting proposal be released sufficiently in advance for review by the Council and the public.

Mayor Chelminiak said the Council will discuss the GNA Advisory Committee during the July 2 meeting.

- Deputy Mayor Robinson moved to continue the consideration of Ordinance No. 6419, approving the Homeless Services Uses Land Use Code Amendment (LUCA), to July 2. Councilmember Stokes seconded the motion.
- The motion carried by a vote of 7-0.

5. Continued Oral Communications: None.

At 10:40 p.m., Mayor Chelminiak declared the meeting adjourned.

Kyle Stannert, CMC
City Clerk

/kaw