

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Extended Study Session

April 10, 2017
6:00 p.m.

Conference Room 1E-113
Bellevue, Washington

PRESENT: Mayor Stokes, Deputy Mayor Chelminiak, and Councilmembers Lee, Robinson, and Simas

ABSENT: Councilmembers Robertson and Wallace

1. Executive Session

Deputy Mayor Chelminiak opened the meeting at 6:02 p.m., and declared recess to Executive Session for approximately 30 minutes to discuss one item of potential litigation.

The meeting resumed at 6:30 p.m., with Mayor Stokes presiding.

2. Approval of Agenda

→ Deputy Mayor Chelminiak moved to approve the agenda, and Councilmember Robinson seconded the motion.

→ The motion to approve the agenda carried by a vote of 5-0.

3. Oral Communications

- (a) Norm Hansen expressed concerns regarding the Land Use Code Amendment (LUCA) to eliminate quasi-judicial appeals to the City Council, especially as it potentially applies to the Energize Eastside project. He said the Coalition of Eastside Neighborhoods for Sensible Energy (CENSE) requests that the Council retain the current Land Use Code quasi-judicial process. He said it is important that the Council make a decision following the recommendation of the Hearing Examiner. To do otherwise would mean that the Hearing Examiner and Superior Court judge would decide the future vision and direction for Bellevue citizens. He said that removing the Council from the decision process is counter to the democratic process of elected representation. It would cause an undue and unjust burden on citizens. He said there is a perception in the community that the City is allowing Puget Sound Energy to lead the Energize Eastside project process.

- (b) Sue Johnson, a resident of the Robinswood neighborhood, said she has an advanced degree in clinical psychology and has been a case manager and supervisor at an involuntary treatment center. She said every facility treated all genders and never rejected anyone, particularly not for behavioral issues. She said most people were there for behavioral issues. She said the Eastgate site is a bad location for the proposed men's homeless shelter and supportive housing. She said there is a reason that low-barrier shelters are located in light industrial areas. She said the Eastgate site is so challenging that even professionally run facilities would not be able to be successful. She said her first knowledge of Congregations for the Homeless came from a homeless man in Robinswood Park. He and others sleeping in the park were spillovers from the shelter next door. Ms. Johnson said she is confused about how CFH defines low barrier. Last week she heard it meant that a low-barrier shelter is easy to get into but it can be difficult to stay if there are behavioral issues. When rejected from the shelters, the individuals often stay in the area. She said there is no indication of how CFH documents its activities. She feels there is a need for oversight. She said she would email her comments to the Council as well.
- (c) Arthur Lee said he works for a law enforcement agency and has learned the importance of good judgement. He is opposed to the Eastgate shelter location, which will open its door to anyone, including drug users, criminals, sex offenders, and potential terrorists. He is concerned that individuals will sleep and congregate in the adjacent wooded area. He said that, on March 2, 2016, Bellevue Police held a meeting regarding the current winter shelter and the proposed Eastgate site. He said the police officer said crime has increased around the current shelter. He said the officer expressed concern about the Eastgate location and that the homeless problem will likely increase in scope as there are currently inadequate solutions to deal with the number of service-resistant individuals. Mr. Lee expressed concern that the proposed location lacks a buffer zone between the shelter and the college and surrounding residences. He said he hears comments that there will be resistance wherever the shelter is placed so the City should just move forward. He said that indicates the City knows it has selected the wrong location. He reiterated his concern about the location and the low-barrier model.
- (d) Linda Nohavec noted that she distributed information earlier to the Council and the City Clerk. She said she was speaking on behalf of the Eastgate Residents Committee and noted that they stepped back the last couple of weeks to allow others in the community to speak regarding the Eastside shelter and affordable housing project. She said the City's process on this issue has been a failure. It excluded the majority of residents and the community. She expressed concern that City staff eliminated the Planning Commission's participation in this issue. Ms. Nohavec said the residents' goal is to reestablish trust between the community, Council, and City staff. She said a new creative direction was proposed by Jared Nieuwenhuis the previous week, which is to consider surplus parcels in the BelRed corridor related to Sound Transit's light rail project. She said the parcels fall under transit-oriented development (TOD) zoning, and affordable housing is to be 80 percent of the total Sound Transit surplus sites. The 120th Avenue NE node is under construction and is an optimal location for the shelter. She said King County Councilmember Claudia Balducci serves on the Sound Transit Board of Directors, as does King County Executive Dow Constantine. She opined that they were aware of

development agreements established in 2013. However, the issue was not publicly discussed. Ms. Nohavec said there is a process to acquire the parcels, and citizens are waiting for information from Sound Transit regarding the acquisitions. She asked the Council to research additional sites for the Eastside men's homeless shelter and housing, including the Lincoln Center site. She said eliminating King County from the process would allow the City to implement the project in the Bellevue way.

- (e) Chuck Kimbraugh expressed support for the proposed Eastgate shelter and housing project. He moved to Bellevue in 1959 as a college freshman. He served on the Parks and Community Services Board and the Planning Commission in the 1970s and 1980s. He was involved in developing the Downtown Plan, which was contentious with proponents and opponents to the plan. He sees a number of complaints about the shelter generated by fear, misinformation, and residents who do not want the project near their neighborhood. He has not heard anyone opposed to a project who offered to pay to place a project elsewhere. He said this is an opportunity for the Council that requires vision and good judgment. He said the City could have acquired Meydenbauer Bay property in the 1970s for \$3 million. However, the City Council rejected the purchase. He said the Council's support of acquiring land for the Downtown Park was controversial as well and resulted in a 4-3 vote in favor of the acquisition. He said the Eastgate shelter is needed in Bellevue and meets the project criteria.
- (f) Don Griffin, a client of Congregations for the Homeless, said he moved from the winter shelter to the church system, which rotates on a monthly basis. He is now living at the Sunrise House, which is a type of group home. He said a counselor/mentor has helped him move toward permanent housing. The winter shelter provided a place to sleep and eat. Mr. Griffin said he retired during his period of homelessness and his case worker is helping him with that transition. He hopes to stay where he is until August, which is the goal for him to move out on his own. He said CFH looks for the good in people and helps them to progress in their lives.
- (g) David Bowling, Congregations for the Homeless, said he lives near the proposed Eastgate shelter site. He thanked the Council for listening to so many people and reading all of the input. He knows the Council cares about the community and that this is not an easy decision. He said the rotating shelter has a six- to eight-week waiting list, which can make a big difference in the ability to recover from homelessness. He said homeless individuals become disconnected from society, exhausted, and potentially depressed. He said 67 percent of the people who used the winter shelter over the past three years were there for one month or less, and 80 percent who left never showed up again in the County's homeless tracking system. Mr. Bowling said that the longer someone lives on the street, the longer it takes to get out of the situation. He said the shelter's programs do not impact only the men, and many are able to reunite with their families.

4. Study Session

- (a) Council Business and New Initiatives

Deputy Mayor Chelminiak said he served over the past two years as the liaison to the stakeholders group for Sound Transit's light rail Operations and Maintenance Facility East (OMFE). He said the requests for proposals (RFP) were issued for the development of both the maintenance facility and the adjacent properties to be rehabilitated. He said the parcels are essentially building pads. An analysis focused on the goal of preparing the parcels for the market. However, it was determined that the investments needed would be fairly significant.

Mr. Chelminiak said the idea was to regain approximately 600,000 square feet to 1 million square feet of development potential lost by the siting of the OMFE in the BelRed corridor. He said Bellevue did not originally anticipate the OMFE facility. However, Sound Transit modified its plan as part of its Phase 2 projects. Mr. Chelminiak said Sound Transit staff is negotiating with one of the three developers that submitted a proposal. The selected contractor will then identify others who might want to develop on those parcels.

Mr. Chelminiak said state legislation requires offering up to 80 percent of the land for affordable housing, but it does not require 80-percent affordable housing. He said TOD funding is under consideration as part of the future redevelopment of three parcels at the 130th Avenue station. Those parcels were received in negotiations with Sound Transit.

Mr. Chelminiak said the OMFE project is progressing. Bellevue staff were involved in negotiating the agreement with Sound Transit regarding the facility. He suggested it would not be a good site for the Eastside homeless shelter. He said the Sound Transit Board is anticipated to take action during its May meeting to ratify the contractor for the property. The City is watching that closely due to its interest in regaining square footage that will generate tax revenue for the City. Mr. Chelminiak said the activities comply with state law and with the City's agreements with Sound Transit.

(b) Report on development of the 2017-2018 Human Services Needs Update

City Manager Brad Miyake introduced staff's presentation regarding the 2017-2018 Human Services Needs Update. He introduced Carla Villar, Chair of the Human Services Commission, and noted Jim McEachran and Ann Oxreider, members of the Commission, in the audience.

Patrick Foran, Director of the Department of Parks and Community Services, said this is an early launch of the Human Services Needs Update. He said the update is conducted every two years, and it is an important resource for the Council in making its final decisions for allocations to human services organizations and providers. The information is also used by human services providers in planning their services.

Alex O'Reilly, Human Services Planning Coordinator, said the Human Services Needs Update report has been produced since 1998. It is a compilation of quantitative and qualitative data, an analysis of health and human services trends and issues, and a forecast to prepare for needs. The purpose of the update is to guide the recommendations for the allocation of 2019-2020 Human Services Fund and Community Development Block Grant (CDBG) funding. The report directs the work of Human Services Division staff and provides helpful information for other departments, community groups, agencies, and regional planning efforts.

Ms. O'Reilly said staff provides the report prior to every two-year funding cycle. The update is developed using information gained through phone and online surveys, consumer survey, provider survey, community conversations, key informant interviews, a survey on Nextdoor.com, conversations with City employees, discussions with the faith community, and a review of other information including U.S. Census data. The phone and online surveys, which had more than 400 respondents, were completed two weeks ago and staff is waiting for the results.

Ms. O'Reilly highlighted the process timeline. Data collection will continue this summer and the Human Services Commission will begin reviewing the Human Services Needs Update report in November. The Commission's findings will be presented to the Council in January 2018, and the final report will be distributed to human services providers in February 2018 to guide them in preparing their funding applications.

Carla Villar, Chair of the Human Services Commission, said a primary goal of the update is to identify emerging issues and needs. Some of those include the opioid epidemic, mental health treatment needs, the effect of changes in the Affordable Care Act on residents, and the effects of changes in federal immigration policy in terms of individuals' willingness to reach out for services. Ms. Villar invited input from the Council regarding emerging issues and needs they would like the Commission to research.

Councilmember Robinson thanked the Human Services Commission and staff for their work. She said the Human Services Needs Update allows Bellevue to tailor its support to the community's needs, including affordable housing. Noting that stress affects early learning for children, she expressed an interest in more information on the number of homeless students in the Bellevue School District.

Mayor Stokes said more information, beyond a count of students, would be helpful as well, if available. Mr. Foran said the school district currently reports approximately 220 homeless students. Councilmember Robinson said she would like to be able to correlate the learning milestones with that population. She observed that there are discrepancies in what defines a "homeless child."

Councilmember Lee thanked staff and the Commission for their important work. Responding to Mr. Lee, Human Services Manager Emily Leslie said the City anticipates receiving its 2017 Community Development Block Grant funds, which are directed primarily toward capital uses. She noted that 2018 funding is unknown. Ms. Leslie said the majority of CDBG funding to Bellevue is used for the major and minor home repair programs. The loss of that funding would affect older and disabled residents.

Responding to Deputy Mayor Chelminiak, Ms. Leslie said that, in response to the previous Human Services Needs Update, the Council directed additional funding toward programs serving homeless individuals including shelters for men and women and a new day center for homeless families. The City also contributed to two drop-in centers, one for men and one for women; homeless outreach programs; Imagine Housing residents services; and a housing stability program through LifeWire, which helps victims of domestic violence.

Mr. Chelminiak said the Human Services Needs Update can reveal unexpected needs. For example, the previous update indicated that the cost and availability of transportation was a primary challenge for survey respondents.

Mr. Chelminiak noted that Emily Leslie would be retiring soon, and he thanked her for her many years of hard work.

Councilmember Simas noted the challenge of reaching out to people in need of services to find out what they need and to overcome potential cultural barriers in seeking help. Commissioner Villar said the Commission realizes that the phone and online surveys are not necessarily reaching all types of individuals. She said the cultural conversations and other community group meetings attempt to reach out to a broader range of individuals to identify needs.

Ms. O'Reilly said the City builds relationships with the community and service providers throughout the year. As an example, City staff and the Human Services Commission have been working with The Bellevue Network on Aging to expand outreach to senior adults. She said a large group of older adults primarily from the Indian community hold a lunch and other activities every Thursday at the North Bellevue Community Center. Community conversations and activities are planned with members of the Latino community, and the City is working with the faith community as well to reach out to residents.

Chair Villar said Bellevue's Human Services Commission works with Human Services Boards and Commissions on the Eastside to share information and outreach. She said the Commission is proactive in letting human services providers know about the grant application process. The India Association of Western Washington applied for a grant last year for the first time after it learned about the application process.

Councilmember Lee commended staff for their work. He said he is pleased with the increased participation in City programs by a broader range of residents in recent years. He encouraged staff to work with Councilmembers as well in their outreach work.

Mayor Stokes said a consistent theme for many years is the challenge of effective communication with the community. He said it is important to continue working on improving outreach and communications with the public.

Noting the value of the Human Services Needs Update, Mr. Stokes observed that Eastside Pathways was established to meet needs identified in the updates and through working with the Bellevue School District.

Mayor Stokes said he participated in a mayors meeting with the Sound Cities Association (SCA) regarding the opioid epidemic. He said it is important to raise awareness of the need to address the impacts of addiction on individuals and the community.

Mr. Stokes thanked staff and the Commission for their work and encouraged them to continue to think of ways that the Human Services Needs Update can be used for the benefit of the community.

Mayor Stokes said he will miss Emily Leslie and he wished her well.

- (c) Transportation Commission recommendation for Downtown Subarea Plan Policy Amendments to support and implement the Downtown Transportation Plan

City Manager Miyake recalled that the Transportation Commission initially presented its recommendations regarding the Downtown Transportation Plan to the Council in October 2013. The work was then put on hold to allow for the completion of the Downtown Livability Initiative process for the Downtown Subarea Plan. Mr. Miyake said staff is seeking Council direction on April 17 to initiate the 2017 Comprehensive Plan Amendments to incorporate the recommended Downtown Subarea Plan transportation policies.

Kevin McDonald, Senior Planner, said the Downtown Transportation Plan reflects a multimodal mobility strategy to support jobs, population growth, economic development, and livability. In early 2014, the Commission provided transportation policy recommendations to update the 2004 Downtown Subarea Plan. The Transportation Commission's policy recommendations were reviewed and revised in 2017 to reflect changed circumstances, including CPA updates since 2014, and to incorporate the input of new commissioners. He said staff is seeking Council direction on April 17 to proceed with initiating the 2017 Comprehensive Plan Amendments.

Mr. McDonald noted that Councilmember Simas was involved in developing the 2014 transportation policy recommendations for the Downtown Subarea Plan when he served on the Transportation Commission.

Janice Zahn, Transportation Commission Chair, highlighted the transportation policy amendments recommended for updating the 2004 Downtown Subarea Plan. The amendments: 1) articulate a more comprehensive multimodal strategy to provide mobility for a growing Downtown; 2) introduce the concept of Pedestrian Priority and Transit Priority streets; 3) support technology to improve traffic operations; 4) manage curbside uses (e.g., parking, load zones, taxi stands, electric vehicle charging stations); 5) describe intersection and mid-block improvements; 6) provide specific locations for pedestrian bridges; 7) extend the Pedestrian Corridor designation from 110th Avenue NE to 112th Avenue NE; and 8) communicate that Downtown streets are public spaces that support livability.

Mr. McDonald said the Transportation Commission and staff are ready to advance the Downtown Subarea Plan policies to the Comprehensive Plan Amendment process. The Transportation Commission, Planning Commission, and staff will meet to review the recommendations, and the Planning Commission will prepare its recommendations. Staff anticipates Council review and approval of the CPAs this fall.

Councilmember Simas thanked the Transportation Commission and staff for their work. He expressed support for the flexibility reflected in the plan, including the importance of addressing mobility as well as parking and curbside uses. He observed that there is plenty of parking in the Downtown that could be used more effectively. He expressed support for pedestrian corridors and mid-block crossings. He said the City might want to consider one-way streets, which can

increase safety. He noted that, even with improved transit services, there will continue to be a significant use of single-occupancy vehicles. Mr. Simas encouraged reviewing and updating the plan, as appropriate, on an ongoing basis.

Ms. Zahn said the Transportation Commission discussed specific elements (e.g., pedestrian bridges) while trying to reflect shared uses of transportation modes and to retain flexibility for the implementation of the plan.

Councilmember Robinson questioned whether the Commission discussed parking apps that provide real-time information on parking availability. Ms. Zahn suggested that references to technology would allow the City to consider apps and other tools. Responding to Ms. Robinson, Ms. Zahn said there are ways to conduct an inventory of parking garages and lots in Downtown Bellevue.

Councilmember Simas concurred with Ms. Robinson's suggestion. He observed that someone needs to be the active instigator of a robust conversation with property owners regarding parking. Ms. Zahn suggested that perhaps the new transportation technology position will be able to address this type of issue. Mr. Simas noted his support of the plan and said he does not have any concerns.

Deputy Mayor Chelminiak suggested placing the item separately from the consent calendar on the April 17 Regular Session agenda.

Mayor Stokes noted Council direction to staff to bring back the issue of initiating the related CPAs on April 17.

(d) Initiate Land Use Code Amendments (LUCAs) to Eliminate Quasi-Judicial Appeals to the City Council

City Manager Brad Miyake recalled the Council's interest in considering potential Land Use Code Amendments that eliminate appeals to the City Council for Process I and Process III land use matters. Staff is seeking direction about: 1) whether to move forward with amendments related to the Council's quasi-judicial role in certain land use matters, and 2) whether the Council would like to retain public hearing authority on the LUCAs or to grant that authority to the Planning Commission.

Matt McFarland, Assistant City Attorney, introduced discussion regarding the process to amend Land Use Code section 20.35 to eliminate quasi-judicial appeals to the City Council following Process I decisions and Process III recommendations by the Hearing Examiner. Staff is seeking Council direction regarding whether to move forward with the Land Use Code amendments and whether the Council would retain public hearing authority for the draft amendments.

Mr. McFarland said the draft LUCA affects Process I appeals of the Hearing Examiner's decisions to the City Council and Process III appeals of the Hearing Examiner's recommendations to the City Council.

Process I land use matters include conditional use permits (CUPs), shoreline CUPs, preliminary subdivision approvals/plats, and planned unit developments (PUDs). Under the current Land Use Code for Process I matters, the Director issues a recommendation. The Hearing Examiner then holds a public hearing and issues his or her decision. Currently, the Hearing Examiner decision is appealable to the City Council. Under the proposed Process I amendments, the appeal of the Hearing Examiner's decision to the Council would be eliminated. However, the Hearing Examiner's decision would be appealable directly to the Superior Court or State Shorelines Hearings Board.

Mr. McFarland said Process III land use matters involve all rezones as well as CUPs, shoreline CUPs, preliminary subdivision approvals, and PUDs within the East Bellevue Community Council jurisdiction. The Council currently issues decisions on Process III applications, and would continue to do so. However, the timing of that decision is changed with the amendment. The Council currently issues its decision following an appeal of the Hearing Examiner's recommendation to the Council. Under the proposed amendments, the Council would make its decision directly following the Hearing Examiner's recommendation and would not handle any appeals. The Council's decision would be appealable to the Superior Court or the State Shorelines Hearings Board.

For Process III matters, the East Bellevue Community Council would continue to take action on the City Council's decisions. A decision by the East Bellevue Community Council is appealable to Superior Court.

Carol Helland, Land Use Director, noted Attachment A in the meeting packet, which outlines the existing and proposed Land Use Code provisions for both Process I and Process III matters.

Mr. McFarland said the amendments will not change public participation in the two processes. For Process I matters, the Land Use Code allows public participation and citizen engagement from the outset. Following the receipt of an application, a public meeting is held before the Director makes a recommendation. The Hearing Examiner then holds a public hearing before making his or her decision. Mr. McFarland reiterated that, under the proposed LUCA, the Hearing Examiner's decision would no longer be appealable to the City Council. Instead, the Hearing Examiner's decision is appealable to Superior Court or to the State Shorelines Hearings Board.

Process III matters have a similar public engagement framework. However, a decision by the East Bellevue Community Council within 60 days of the Council's decision is involved in the process.

Mr. McFarland recapped that the steps for Process III matters, now and under the amendment, are a public meeting, Director's recommendation, Hearing Examiner's public hearing, and the transmittal of the Hearing Examiner's recommendation to the City Council. Under the proposed amendment, the step of appealing the Hearing Examiner's recommendation to the City Council is removed. Instead, the Council makes a decision based on the recommendation, and that decision is appealable to Superior Court or to the State Shorelines Hearings Board. The East Bellevue Community Council's decision is appealable to Superior Court.

Mr. McFarland said the City Council makes the final decision, before consideration by the East Bellevue Community Council, under both the current and proposed Process III framework. Now the Council makes its decision following an appeal of the Hearing Examiner's recommendation. Under the amendment, the Council makes its decision immediately following the Hearing Examiner's recommendation.

Mr. McFarland said one benefit of the proposed Land Use Code amendments relates to the separation of powers. Under the current code, the Council is both a legislator and a judge. The Council's responsibilities are different for the two roles, and there is an inherent conflict in performing both roles.

Mr. McFarland noted that the Council must currently follow strict rules about communications with its constituents. If Councilmembers do communicate with certain parties, those ex parte communications must be disclosed during a public meeting as part of the appeal process. The process potentially raises issues regarding the appearance of fairness and questions of bias. By eliminating the quasi-judicial role, the Council may act strictly within its legislative role.

Mr. McFarland said that quasi-judicial matters, while infrequent, are time consuming for the Council and require that Councilmembers not discuss the matters with the public.

Mr. McFarland said staff's recommendation is to move forward with the proposed Land Use Code amendments and to retain Council authority to conduct the public hearing on the matter.

Deputy Mayor Chelminiak said a number of Councilmembers have been interested in eliminating the Council's quasi-judicial role, particularly since the heliport matter several years ago. He spoke in favor of moving the issue forward for continued discussion. He would like the Council to retain the authority to hold the public hearing on the proposed Land Use Code amendments.

Responding to Mr. Chelminiak, Ms. Helland said the Council would still make the final decision for Process III matters based on the Hearing Examiner's recommendation. However, the decision would occur following the recommendation, rather than following an appeal of the Hearing Examiner's recommendation. Instead of the Council being involved in the appeal process, an appeal would go to the Superior Court or to the State Shorelines Hearings Board.

In further response to Mr. Chelminiak, Ms. Helland said that, under the proposed Process III amendments, the Council would retain the options of approving the Hearing Examiner's recommendation or approving it with modifications.

Responding to Mayor Stokes, Ms. Helland said the Council's decision on Process III matters, now and under the proposed amendment, would be limited to the Hearing Examiner's record.

Deputy Mayor Chelminiak noted that the proposed process eliminates the step of the Council holding an appeal hearing, which is essentially duplicative of the Hearing Examiner's hearing.

Responding to Mr. Chelminiak, Ms. Helland said Councilmembers would still not be able to talk to the parties involved in Process III land use matters.

Responding to Mayor Stokes, Mr. McFarland said the Council makes the final decision but does not act as a judicial body. Under the proposed Process III amendments, the Council will not do what the Hearing Examiner does, which is hearing testimony and evidence, making findings of fact, and issuing conclusions of law based on a legal analysis. Instead, the Council's legislative decision is based on multiple sources of information, including the Hearing Examiner's recommendation, public comment in the closed record, and the EBCC's comments and input. The Council is not balancing legal arguments and making a legal analysis to formulate its decision.

Councilmember Robinson said she is inclined to not support the proposed amendments, especially for any applications submitted before January 2018. However, she would like further discussion to understand the issues more fully. She questioned whether Councils of other cities of comparable size perform the quasi-judicial role.

Mr. McFarland said that, since the late 1970s, there has been a move toward eliminating the dual role. He said the purpose of having Hearing Examiners is to use experts in the field with the legal knowledge of the rules of evidentiary procedure to conduct the hearings. He said the cities of Covington, Kirkland, Mercer Island, Shoreline, and Edmonds have eliminated the quasi-judicial role for their City Councils. He said the City of Seattle retains the quasi-judicial role for rezones. However, he could get back to the Council with additional information.

Mayor Stokes said he was under the impression that eliminating the quasi-judicial role would provide better opportunity for Councilmembers to act in their legislative roles and to have communications with their constituents. He said he was unclear about whether that issue changes with the proposed amendments.

Ms. Helland said that, with the amendments to Process I, the Council is removed from the process and would no longer be constrained in talking with constituents. She said Process III applies to rezones citywide and to CUPs, plats, and PUDs within the East Bellevue Community Council jurisdiction. She observed that the proposed amendment of Process III encourages the public to engage earlier in the Hearing Examiner process instead of waiting to file an appeal. She said individuals have a better chance of influencing an application through early involvement.

City Manager Miyake reminded the Council of staff's interest in feedback about whether the public hearing on the recommended Land Use Code changes should be held before the Council or the Planning Commission.

Mayor Stokes noted a consensus in favor of retaining the Council's authority for holding the public hearing.

Councilmember Lee observed that decisions are based on both policy and legal aspects. He said the Council is not trained for the legal role, and the dual roles have always been troubling. He believes there is a rationale for considering a change in the Council's quasi-judicial role. He said

some members of the public see the proposed amendment as the Council giving up its rights in representing the public. However, Mr. Lee said the Council best represents the public at the policy and legislative level. Noting that the Council is removed from Process I matters under the proposed amendments, Mr. Lee questioned what the City can do to assure the public that the Council will continue to represent the public's interests. He wants to be sure the Council is not losing any power.

Ms. Helland said that, if the Council chooses to move forward with initiating the Land Use Code amendment, staff will return with the specific language for further Council consideration and discussion. If the Council is ready to proceed at that time, staff will schedule a public hearing.

Ms. Helland said she heard three Councilmembers interested in initiating the proposed amendments.

Councilmember Simas observed that residents outside of the EBCC area might see the change to Process I as losing representation that the EBCC retains. He suggested this should be clearly understood. He said public comments and input will be critical in addressing the proposed amendments. While the proposal makes sense, Mr. Simas said it is important to ensure that the changes are fair and equitable for everyone in Bellevue.

Mayor Stokes said the public discussion must include the whole community.

Deputy Mayor Chelminiak said he hears general Council support to move forward and to retain the public hearing function with the Council. He said the challenge for staff is to describe the proposed amendments in a logical manner for the public. He recalled Councilmember Wallace's past comments in favor of eliminating the Council's quasi-judicial role. Mr. Chelminiak said the argument for the separation of powers makes good sense. He would like to eliminate the quasi-judicial role for the Council.

Mr. Chelminiak expressed support for the goal of encouraging earlier public participation in the Hearing Examiner's process to enable an individual's involvement to be incorporated into the record before it is closed.

Mayor Stokes asked staff, for the public hearing, to clearly outline the differences in the current and proposed Land Use Code language and to address the public benefit of the proposed amendments.

5. Council Discussion of Upcoming Items

- (a) Transportation Infrastructure Finance and Innovation Act (TIFIA) Bond Ordinance and Loan Update

Deputy Mayor Miyake said the Council is aware of staff's efforts to prepare the Transportation Infrastructure Finance and Innovation Act (TIFIA) loan application for projects in the BelRed corridor. He said the TIFIA bond ordinance will be presented for Council action on April 17.

Finance Director Toni Call said the draft bond ordinance is provided in this evening's meeting packet. The ordinance references a loan agreement, which is available in the Council's document library site.

Ms. Call said the bond ordinance delegates the closing of the loan to the City Manager or the Finance Director. The ordinance contains general fiscal terms indicating that the loan is secured by the full faith and credit of the City, the interest rate will be set at the date of closing, and the interest rate is the state and local treasury rate plus one basis point on the date of closing. The loan matures in 2056, or 35 years post substantial completion of the projects. The first payment under the loan will be in 2024, which is one year after the current Capital Investment Program (CIP) Plan. In order to receive that first payment, all of the interest that accrues between now and 2023 will be capitalized into the loan.

Ms. Call said the first disbursement of loan funds will be in 2017, and there will be quarterly draws until 2022. If the Council adopts the bond ordinance on April 17, City staff will complete closing documents and submit them to the U.S. Department of Transportation for consideration. The agency will hold a final internal credit meeting to reach a final determination on the loan.

Responding to Councilmember Lee, Lindsay Sovde, Piper Jaffray, said the interest rate is based on the state and local government securities rate (aka: SLGS rate). The rate is published daily by the U.S. Treasury Department. The loan term is a fixed interest rate.

In further response to Mr. Lee, Ms. Call said the loan maturity date is either 2056 or 35 years following substantial completion of the projects, whichever is earlier. She said this is a reimbursement-based loan. The City will make semi-annual payments beginning in 2024.

Councilmember Lee noted a letter from Mr. Plummer with a number of questions and said he would like staff's answers to the questions before the Council takes action the following week.

6. Continued Oral Communications

- (a) Loretta Lopez, Vice President of the Bridle Trails Community Club, commented on the proposed Land Use Code amendments related to the Council's quasi-judicial role. She suggested that the Council direct staff to prepare examples to clearly outline the changes and impacts for the public. She questioned how the change would affect the decision regarding Puget Sound Energy's Energize Eastside project. She said PSE does not have an application before the City. She questioned whether the changes would affect the decision for siting the homeless shelter. She suggested that staff use those specific examples to help the public understand the potential impacts of the amendments. Ms. Lopez said she is not aware of the City ever being the subject of a lawsuit related to the separation of powers argument. She said the rules have been in place for many years, and City Councilmembers have always conducted themselves appropriately with regard to quasi-judicial matters. Ms. Lopez said that, if the Council is going to consider such radical changes in the process, they should be adopted for the future and not while Councilmembers are serving on the Council.

- (b) Warren Halverson expressed concern that the quasi-judicial Land Use Code amendments are being proposed for the wrong reasons. He said the Council represents its constituents, and the proposed amendments eliminate the Council's role. He posed the following questions: Why are citizens better represented by the change? What is the rationale for the change? What safeguards are included to protect citizens? He noted residents' involvement in the Energize Eastside planning process. He said the Council should not change its quasi-judicial role at this time. He said residents trust the Council to make decisions on their behalf.
- (c) Pamela Johnson said she does not understand the proposed Land Use Code amendment regarding the Council's quasi-judicial role. She questioned how an individual's participation can become part of the official record. She questioned the Hearing Examiner's role. She said the Council's function is to understand policies and their implications for the public.
- (d) Norm Hansen offered suggestions regarding the amendments to the Council's quasi-judicial role. He said one option is to have the Planning Commission discuss the topic and the City Council hold the public hearing. He said another option is to create a citizens advisory committee to address the issues. He said the proposed amendments need to be clearly explained for the public.

At 8:52 p.m., Mayor Stokes declared the meeting adjourned.

Kyle Stannert, CMC
City Clerk

/kaw