

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Extended Study Session

May 22, 2017
6:00 p.m.

Conference Room 1E-113
Bellevue, Washington

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

ABSENT: None.

1. Executive Session

The meeting was called to order at 6:09 p.m., with Mayor Stokes presiding. There was no Executive Session.

2. Approval of Agenda

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

→ The motion to approve the agenda carried by a vote of 7-0.

3. Oral Communications

(a) Don Marsh spoke in opposition to the proposed quasi-judicial Land Use Code Amendment (LUCA). He expressed concern about eliminating the Council's role in the appeal of certain quasi-judicial matters. He said residents are discussing an acronym on www.Nextdoor.com: TEAM (Transparency, Engagement and Accountability Movement). He asked the Council to reject the amendment if it does not reflect the TEAM concepts.

(b) Linda Nohavec expressed concern that removing the Council from its role in quasi-judicial appeals is exclusionary because many citizens would not be able to appeal to the courts. She would like controversial decisions to be handled by local government, and she believes the Planning Commission should be engaged. She asked the Council to delay the decision until the public can be adequately notified of the proposed change.

- (c) David Hoffman, representing the Master Builders Association of King and Snohomish Counties, expressed support for Puget Sound Energy's Energize Eastside project, which will provide needed reliable power for the Eastside. He expressed concern regarding the project timeline and the potential for rolling blackouts if the infrastructure is not in place in a timely manner. He said the no action alternative would have adverse impacts on land use matters and the economy.
- (d) Gloria Northcroft spoke in support of PSE's Energize Eastside project. She said Bellevue has grown significantly, and the electrical infrastructure has not kept pace with the growth. She said rolling blackouts would be devastating for the community and the economy. She thanked Councilmembers for their public service.
- (e) Kara Durbin, Puget Sound Energy, noted a recent news story about the Bonneville Power Administration's decision to cancel its I-5 corridor transmission project. She said that does not affect PSE's decision regarding the need for the Energize Eastside project. She said the two agencies' projects are different in size and scope. She said the BPA acknowledges that more regional transmission lines will be needed in the future to enhance capacity. PSE's project will use its existing utility corridor to upgrade the electrical system needed to support the Eastside's ongoing growth.
- (f) Lara Litov said Eastgate residents recently received data regarding permanent supportive housing and other strategies. She asked the Council to take a look at the data and to pause the Eastgate men's homeless shelter project to consider the community's needs and to consider providers other than Imagine Housing and Congregations for the Homeless (CFH). She said the two organizations do not meet minimal requirements to operate the shelter and housing. She said it is important to do this right and to review the relevant data. She asked the City to complete improvements to the current interim shelter and to work toward a better plan to address homelessness.
- (g) Barbara Braun spoke in opposition to the proposed quasi-judicial LUCA. She opined that there is too much power in the hands of City administrators and not enough power in the hands of the Council and the public. She said there is not adequate representation of citizens by local elected officials. She encouraged moving toward a Seattle model with an elected mayor and Councilmembers elected for specific districts.
- (h) Tzachi Litov spoke against the proposed Eastgate men's homeless shelter. He said the onus of providing relevant data should not be on the community. He encouraged the Council to take more time to review the data and to study other options. He suggested that the project partners are not the best providers for the shelter and housing.
- (i) Loretta Lopez, Vice President of the Bridle Trails Community Club, said the draft Environmental Impact Statement (DEIS) for PSE's Energize Eastside project was recently released for public comment. She said a hearing on the project would be held at Bellevue City Hall on May 25. She encouraged Councilmembers to attend to hear the public comment. She said it is unreasonable to expect that Bellevue citizens are able to evaluate a 900-page document that has been presented and prepared by experts. However,

residents will assess the EIS and ongoing information. Ms. Lopez said she hopes the final decision is based on facts and not opinions.

4. Study Session

(a) Council Business and New Initiatives

[No discussion.]

(b) Asian Pacific American Heritage Month Proclamation

Mayor Stokes read the proclamation recognizing May 2017 as the 39th anniversary of the annual celebration of Asian Pacific American Heritage Month, and encouraged all citizens to celebrate the rich diversity of this community.

(c) Affordable Housing Strategy – Revised Final Report and Recommendations

City Manager Brad Miyake recalled Council discussion the previous week regarding the Affordable Housing Strategy. He said staff is seeking direction to place a resolution on a Consent Calendar in June to approve the report and recommendations.

Dan Stroh, Planning Division Director, said the Affordable Housing Strategy reflects input and previous direction from the Council.

Michael Kattermann, Senior Planner, highlighted the substantive changes to the report based on Council input. He noted strategy C-4 addressing inclusionary zoning and recalled the Council's preference for a voluntary, incentive-based program. He said the goal is to develop a market-based strategy to achieve affordable housing for households earning 80 percent of the area median income (AMI). The incentives are focused on the following five growth areas: BelRed, Downtown, East Main, Eastgate, and Wilburton. Council action is pending for the Eastgate Land Use Code Amendment (LUCA). Comprehensive Plan and code amendments will be studied by the Planning Commission to support the East Main plan previously approved by the Council. A citizen advisory committee (CAC) is currently working to update the Wilburton Plan. He said the BelRed Plan provides a model for addressing those other areas and generating more affordable housing.

Mr. Kattermann recalled previous discussion with the Council regarding local funding sources. At that time, the Council directed staff to consider a range of \$1.5 million, the current funding level, to \$4.5 million per year. Current funding reflects the City's annual contribution of \$412,000 from the General Fund, proceeds from the repayment of loans to the City, and other sources. The \$1.5 million includes the addition of \$500,000 annually in the current seven-year Capital Investment Program (CIP) Plan.

Mr. Kattermann said funding options include adding \$2 million to \$3 million annually. Allocating \$3.5 million annually is anticipated to generate 78 affordable housing units per year compared to 54 units per year under the current funding level. Increasing to \$4.5 million

annually generates approximately 100 affordable housing units per year. Mr. Kattermann acknowledged that increased funding would be addressed during the next broader budget process.

Mr. Kattermann said each action in the report lists next steps that will be used in developing the detailed work program. Certain items will be presented as budget proposals and code amendments for Council action. For example, one idea from the Council is to implement a pilot program to test related code changes.

Janet Lewine, Associate Planner, said that actions identified in the Affordable Housing Strategy have corresponding implementation steps and estimated timelines, and identify the City departments to be involved in each action. Staff anticipates preparing and presenting a more detailed implementation plan this summer. The plan will include continued public outreach, code and policy amendments, budget proposals, partnerships (e.g., faith-based organizations, King County Housing Authority, nonprofit providers, employers), and performance monitoring. She noted the City's partnership with A Regional Coalition for Housing (ARCH) as well.

Councilmember Wallace said he would like to see ARCH (A Regional Coalition for Housing) receive increased funding from member cities. Mr. Stroh said the ARCH Executive Board has discussed updating the parity formula and increasing the overall amount of contributions. He noted that Councilmember Robinson has been involved in related discussions with elected officials.

Mr. Wallace said he does not want the City's increased affordable housing funding to come from the General Fund. He would like to see higher contributions from other ARCH cities and/or potentially a levy measure. He expressed concern about committing to specific funding levels in the Affordable Housing Strategy report.

Mr. Kattermann said the Affordable Housing Strategy report addresses options for additional funding, including a property tax through a voter-approved levy or an increase in the B&O (Business & Occupation) tax. He said the timing and funding sources will be decided by the Council. He said ARCH funding will continue, and other potential sources include King County.

Councilmember Robertson concurred with Councilmember Wallace that she does not want the Council's approval of the Affordable Housing Strategy report to be seen as a commitment to a specific funding level or to changes in the Comprehensive Plan or Land Use Code.

Ms. Robertson said the issue of detached accessory dwelling units (ADUs) will be addressed on a neighborhood basis. She said the next steps to initiate policies regarding ADUs would be a review by the Planning Commission, a public involvement process, and Council discussion and action. She said Council approval of the report indicates an interest in studying and considering options, but it does not adopt specific policies or regulations.

Ms. Robertson expressed support for a near-term review of the multifamily tax exemption (MFTE) as a mechanism for supporting affordable housing. She noted that, even if the Council's quasi-judicial role is modified, rezones always go to the Council for decisions under state law. Ms. Robertson said the Downtown Livability plan addresses incentives to provide affordable

housing. Mr. Kattermann said that work is underway and is a good candidate for near-term implementation.

Councilmember Robinson thanked Ms. Robertson for clarifying the decision authority for rezones. Ms. Robinson concurred with Mr. Wallace's suggestion to enhance the equity of contributions from ARCH member cities. She would like to see increased ARCH funding before the City increases its affordable housing funding. She asked for clarity regarding ARCH-related items in the City's Affordable Housing Strategy. She expressed support for incentives to achieve housing at the 80-percent AMI level. However, there is a critical need to focus on the 60-percent AMI level and below, and contributions to ARCH will not meet that need or solve the City's affordable housing needs.

Mr. Stroh said the Affordable Housing Strategy considers a full suite of tools to preserve and create affordable housing. He said ARCH is a regional agency created by Eastside cities 25 years ago to collectively address affordable housing. The Council decides which projects to fund through ARCH or through the City's process and budget. Mr. Stroh said ARCH member cities are currently contributing within the parity and fair share range. However, he acknowledged the need to update the amounts based on annexations, growth, and other factors.

Councilmember Lee expressed his support for addressing affordable housing. However, he is concerned that it is a big, complex issue. He does not want the Affordable Housing Strategy to become the course of action to solve the problem without involving Bellevue residents. He is ready to support approval of the strategy as a first step. However, he is not ready to commit to a long-term timeframe or significant funding increases until the City learns more about the effectiveness of different mechanisms and projects.

Councilmember Simas expressed support for Councilmember Wallace's interest in continuing to leverage funding through ARCH. Mr. Simas said Bellevue cannot solve the problem alone, and neighboring cities should be encouraged to contribute their fair share. He supports offering options and incentives as well as starting with pilot programs (e.g., micro apartments). Mr. Simas observed that the market will ultimately drive the creation of affordable housing. He noted the importance of providing appropriate infrastructure to support housing growth to manage traffic impacts. He likes that the Affordable Housing Strategy offers a range of options and solutions.

Deputy Mayor Chelminiak said that addressing affordable housing needs involves looking at how we allocate the City's Capital Investment Program (CIP) dollars. He said affordable housing and transportation are equally important priorities. He suggested that, rather than first looking at dollar levels, the City should analyze affordable housing needs at a policy level. He said the dollar figure of more money coming into the CIP is approximately \$25 million annually. As development continues, that amount will increase. Mr. Chelminiak said a reasonable policy to consider would be to use a portion or all of that excess toward affordable housing. He said Mayor Stokes and Councilmember Robinson have taken the lead in this area. He noted that ARCH is an important, but not the only, element of the City's Affordable Housing Strategy.

Mayor Stokes said the City has been working on affordable housing over the past 20 years. He encouraged an action plan to move things forward. He said there will be ongoing public

engagement in considering the options reflected in the Affordable Housing Strategy plan. Mayor Stokes said the City will try items incrementally and will draw on experiences in other cities and regions. He noted a Council consensus in support of approving the plan.

(d) Update of the City's Procedure for Releasing Easements

City Manager Miyake introduced discussion of the City's procedure for releasing easements. He said the topic was raised during a recent utilities easement process, and the Council requested information about the process and related compensation issues.

Nora Johnson, Director of Civic Services, recalled discussion during the December 7, 2015, Council meeting, at which time the Council requested that staff create an administrative process and address compensation methods for releasing easements. Staff is seeking Council direction regarding whether to charge compensation for releasing easements. She noted that the City has mechanisms for recovering the City's administrative costs.

Ms. Johnson said Civic Services and legal staff researched the applicable code and laws, contacted other agencies regarding their easement practices, and drafted procedures that have been thoroughly vetted by City departments.

Ira McDaniel, Real Property Manager, said City-owned easements are permanent real estate rights that allow the City to make public use of private property for specific purposes, including utilities, sidewalks and trails. In some cases, easements are purchased from property owners for capital projects. In other instances, obtaining easements is a condition of land use approvals (e.g., plats, short plats) or utilities service. An easement is typically permanent on the property's title report, even if the public facilities are removed. A formal release of the easement is required by the City. Requests to release easements typically occur when a property is being developed or redeveloped. Mr. McDaniel briefly described an example of an easement release request related to Sunset Elementary School.

Mr. McDaniel described the draft administrative process: 1) property owner applies for a release, 2) interdepartmental review and consultation, 3) Council action, including a public hearing for Utilities easements, and 4) execute and record the release of the easement, if approved by the Council.

Mr. McDaniel said one of the questions raised by the Council was whether the City should require compensation from property owners for the value of the easement when it is released. If the City needs to retain an easement in a different location on the property, the owner would provide a replacement easement as a condition of the release of the original easement. If the City no longer needs an easement, three options to consider are: 1) no requirement for compensation related to the release of easements, 2) require compensation for all releases, or 3) require compensation only if the easement was initially acquired using City funds.

Mr. McDaniel described examples of a relocated easement, replacement easement, dedicated easement (no future need for the City), and purchased easement (no future need for the City).

Mr. McDaniel said staff recommends, for a current or future need, facility relocation with a replacement easement. If an easement is no longer needed, staff recommends requiring compensation only if the easement was originally acquired using City funds.

Responding to Councilmember Robertson, Ms. Johnson said a code revision is not needed to implement the administrative process. The sale of City property is covered in Section 4.32 of the Bellevue City Code.

Councilmember Robertson requested that the procedure for releasing easements be made available for the public, including online, whether or not the procedure changes.

Ms. Robertson expressed support for the procedure recommended by staff. However, with regard to cost recovery, there should be an application fee for a request to vacate an easement, even if City funds were not used to originally acquire the easement. Ms. Robertson said there are costs associated with processing the easement, and the City is allowed under state law to recover those costs.

Ms. Johnson said the fee is included in the permit overhead fees charged by the Development Services Department. The City recovers its cost when there is an active development. If the easement release is not associated with development, the City can require a pre-development services permit and fee.

Councilmember Robertson questioned what happens when there is an easement involving two parcels. Mr. McDaniel said the easement could be released for one or both properties, depending on the situation.

Ms. Robertson expressed support for staff's recommended procedure.

Councilmember Simas noted that, even if the City had not purchased an easement in the past, the easement has value. He questioned the rationale for releasing any easement without compensation to the City.

Mr. McDaniel said there might be constraints on requiring compensation for every easement based on the properties' appreciated values. He said staff's recommendation is based on information gathered from other cities regarding how they handle the release of easements.

Mr. Simas said he would be concerned if an easement with a significant value was released to a developer at no cost.

Councilmember Wallace expressed support for staff's recommendation.

Councilmember Lee concurred with Councilmember Simas' concern about relinquishing land that has market value.

Councilmember Robinson suggested waiving easement costs for properties that are providing affordable housing. Mr. McDaniel said the Council may choose that as an option.

Councilmember Robertson noted that property owners pay taxes on their property, including easements. In those cases, if the City did not pay to acquire the easement, she said it would be fair to not require compensation from the property owner.

→ Councilmember Robertson moved to approve staff's recommended procedure for releasing easements. Councilmember Wallace seconded the motion.

Deputy Mayor Chelminiak questioned the criteria for determining compensation if there is an easement across a property that is no longer of value to the City. Mr. McDaniel said staff would research the history of the easement to determine the circumstances of obtaining the original easement. The matter would go before the Council for a decision. Ms. Johnson said staff would identify the range of uses allowed for a specific easement and check the City's long-range plans to determine whether there could be a future need for the easement.

Mr. Chelminiak suggested a situation in which an easement crosses several properties and the owner of the middle parcel is willing to pay to release the easement. He questioned whether that would affect the market value of the easement on the adjacent properties. Ms. Johnson said an appraiser would develop an appraisal of the property before and after the easement to determine the value of the easement.

Responding to Mayor Stokes, Ms. Johnson said that staff, if directed by the Council, will finalize the administrative procedures as recommended tonight and bring individual easement releases to the Council for decision.

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

(e) Quasi-judicial Land Use Code Amendment (LUCA)

City Manager Miyake recalled that the Council initiated a Land Use Code Amendment (LUCA) on April 10 to eliminate quasi-judicial appeals to the City Council for certain matters. The Council raised a number of issues and asked staff to return for further discussion.

Matt McFarland, Assistant City Attorney, presented information regarding the quasi-judicial Land Use Code Amendment (LUCA). The amendment would eliminate quasi-judicial appeals to the Council for Process I Hearing Examiner decisions and Process III Hearing Examiner recommendations. He noted a copy of the draft LUCA as Attachment A in the meeting packet.

Mr. McFarland described the current Process I procedures for planned unit developments (PUDs), conditional use permits (CUPs), and plats outside of the East Bellevue Community Council area. The Hearing Examiner's decision is final if the issue is not appealed to the City Council.

Under the amended procedures, Process I decisions would not be appealed to the Council. The Hearing Examiner's decision could be appealed to the Superior Court or to the Shoreline Hearings Board for shoreline CUPs.

Responding to Councilmember Wallace, Carol Helland, Code and Policy Director, said the Director of the Development Services Department (DSD) makes a recommendation on an application based on its consistency with City codes and regulations, before the Hearing Examiner's legal analysis and public hearing.

Mr. McFarland said Process III land use decisions apply to rezones and to PUDs, CUPs and plats within the Community Council area. Under state law, the City Council makes all decisions on rezones. Under the current process, the City Council makes decisions on PUDs, CUPs and plats before forwarding them to the Community Council for action if located within its boundaries.

Under the amended Process III, the Hearing Examiner's recommendation would no longer be appealable to the Council. The Hearing Examiner would continue to hold a public hearing, prepare the record, and apply the law to issue his or her recommendation. Appeals would be directed to Superior Court instead of to the City Council. If not appealed, the City Council would continue to make its decision on the application and forward that to the East Bellevue Community Council to approve or disapprove. That decision is also appealable directly to the Superior Court.

Responding to Councilmember Robertson, Ms. Helland said staff would continue to present the record to the City Council and prepare an ordinance for final action. The public is not allowed to comment before the City Council because the record is closed.

Ms. Robertson questioned what happens if staff and the Hearing Examiner do not agree on whether to grant or deny the application. Ms. Helland said she was not sure whether that has happened. However, the Hearing Examiner may place conditions on the approval of the application. The City Council's authority to appeal the Hearing Examiner's decision must be based on a mistake by the Hearing Examiner.

Responding to Councilmember Robertson, Ms. Helland confirmed that the City Council has the right to appeal a Hearing Examiner's Process I decision to the Superior Court or to the Shoreline Hearings Board. Mr. McFarland said that, under the current and proposed process, decisions on applications may be appealed to the Superior Court or the Shoreline Hearings Board. Stakeholders do not lose the ability to file an appeal.

Mr. McFarland noted that the Council is not an advocate when it hears quasi-judicial appeals. The decision maker must be fair, unbiased, and impartial. Councilmembers must disclose ex parte communications. Mr. McFarland recalled a previous question from the Council regarding the benefits of the LUCA to the public. Using an unbiased expert, the Hearing Examiner, who has expertise in the quasi-judicial process protects the ultimate decision from judicial attack. He said that benefits Council and the public because it keeps costs lower by having efficient and predictable decision-making and a consistent process for all parties. Mr. McFarland said the Hearing Examiner model avoids the potential for political pressure on elected officials.

Ms. Helland requested Council direction about whether to proceed with an amendment to the Land Use Code to remove quasi-judicial appeals of the Hearing Examiner's decisions and recommendations to the Council, in Process I and Process III land use matters. Next steps would

be public notice and engagement. The public notice effort would be more than what is typically done due to the interest in this topic. Ms. Helland said the noticing process would extend over approximately one month, and staff would return to the Council in July to report the findings of the community involvement. She noted the potential for Council action before the summer recess.

Deputy Mayor Chelminiak questioned whether, if the Council felt there was conflicting or missing information, the matter could be sent back to the Hearing Examiner to reopen the case and provide more information. Ms. Helland said that is allowed. Mr. Chelminiak referred the Council to the May 4, 2015, meeting minutes, which include the quasi-judicial item related to the 148th Avenue power line. He said several Councilmembers had to go on the record to state that they ignored comments from citizens, which is required by law in quasi-judicial matters. He said Don Marsh and Steve O'Donnell were two citizens who contacted Councilmembers, who were unable to talk to them.

Mr. Chelminiak said he has been involved in approximately eight quasi-judicial processes for contentious issues. For the heliport application, the Council sent the matter back to the Hearing Examiner to reopen the record and to pose questions to the parties of record. He recalled another matter in which the Hearing Examiner denied the developer's application. The public had retained a lawyer. Yet, they would not be allowed to participate in the appeal to the Council. In that case, the Council reversed the Hearing Examiner's denial because the Council determined that the decision had been based on evidence that should not have been in the record. He said the developer and citizens eventually were able to settle the matter.

Mr. Chelminiak said the quasi-judicial process is unsatisfying for almost everyone except the developer. He said he understands the current argument from the public. However, he observed it is not based on the reality of the process. He said the Council cannot consider the political ramifications and public input in quasi-judicial matters. He noted that the State Supreme Court decision is pending on the 148th Avenue power line issue. He opined there will be a determination that the appellate court made the right decision, or the Supreme Court could adversely affect the East Bellevue Community Council's decision. He suggested that perhaps the Council should defer a decision on its quasi-judicial role until the 148th transmission line matter is resolved by the court.

Mr. Chelminiak noted that the Hearing Examiner's decisions and recommendations are typically upheld, due to the restrictions on the Council to consider only the evidence and testimony that is already in the record.

Councilmember Robertson said the key to good land use decisions is having clarity and thoroughness in the Land Use Code. She observed that it is better to keep the executive, legislative, and judicial functions separate in government operations. She said it is important to ensure that the Land Use Code will protect and create guidance for development issues. She noted that removing Council from the quasi-judicial process has been on the Council's work plan for years.

If the quasi-judicial amendment moves forward, Ms. Robertson wants to simultaneously bring forward additional codes that might need further refinement and guidance. The Council has

provided direction to staff to address homeless shelter regulations in the Eastgate area, and she would like to address similar regulations citywide.

Councilmember Robertson said there are many drawbacks to the Council's quasi-judicial role. However, one benefit is that the Council's involvement might draw attention to an issue that should be addressed in the Land Use Code, even if the Council cannot influence that specific quasi-judicial matter. The other benefit is that the Council can overturn mistakes of the Hearing Examiner. The Council would not lose that benefit because it could appeal the Hearing Examiner's decision on its own.

Ms. Robertson suggested the creation of a process to ensure that staff keeps the Council apprised of Hearing Examiner matters, which will alert the Council to the potential need for policy changes or to the possibility of a Council appeal of the Hearing Examiner's decision. She would like to see a proposal from staff regarding codes that might need to be amended for clarity for future projects.

Ms. Helland acknowledged that the City has not had the deliberative approach suggested by Ms. Robertson. However, the City did address Land Use Code amendments to better address wireless facilities and certain school-related projects based on past quasi-judicial matters.

With regard to the issue of Council occasionally overturning the Hearing Examiner's decision, Ms. Robertson recalled that the neighborhoods who were upset about the PUD case would have had a better outcome had the Council not functioned in its quasi-judicial role. The Hearing Examiner decision that denied the PUD could have been taken directly to Superior Court for appeal.

Councilmember Wallace concurred with Deputy Mayor Chelminiak's comments.

Councilmember Robinson observed that the Council's quasi-judicial is limited. The Council may alter the Hearing Examiner's decision only if it finds that the decision did not meet the established criteria. Responding to Ms. Robinson, Ms. Helland said the criteria are in the Land Use Code and are adopted legislatively. She said the Council can add decision criteria or make substantive requirements in the code to address needed changes identified by the Council.

Ms. Robinson said there is a major utility project underway. She hopes that, if the Council adopts the proposed LUCA, it will not become effective until Puget Sound Energy's Energize Eastside project is completed. Ms. Helland said the Council will choose the effective date of the amendment.

Councilmember Lee noted the difficulty of serving in the role of a judge. He observed that staff's proposal is the right direction. He suggested better education for the public to understand the issue, including the Council's limited ability to alter the Hearing Examiner's decisions. He acknowledged the community's current concerns regarding the Energize Eastside project and the Eastside homeless shelter project.

Mr. Lee concurred with Deputy Mayor Chelminiak that eliminating the Council's quasi-judicial role is generally better for the public. Mr. Lee said the Council cannot consider new information outside of the Hearing Examiner's record. However, the Council may appeal to Superior Court if it believes that is warranted. He noted the importance of the separation between the three branches of government. He is interested in a process that best represents the public. He wants to know whether there will be an ability to rectify any mistakes and take legislative action.

Deputy Mayor Chelminiak said the Council will make the final decision and pass an ordinance on the Energize Eastside project, which is a Process III matter. He would like to have further public involvement before the Council takes action on the quasi-judicial LUCA. He questioned whether a party of record to the Hearing Examiner's process is allowed to brief or comment to the Council, as long as the information is contained within that record. For the Energize Eastside project, Mr. Chelminiak observed that Puget Sound Energy, the Coalition of Eastside Neighborhoods for Sensible Energy (CENSE), and others will be parties of record. How would the Council be legally able to obtain information (i.e., judicial brief) from the parties of record?

Ms. Helland stated her understanding that Mr. Chelminiak is asking whether there is a way for the public to opine on whether the Hearing Examiner correctly applied the law. Mr. Chelminiak said the LUCA does not completely remove the Council from making decisions. He asked staff to give some thought to what information gets to the Council, whether it should continue to be limited to information contained in the Hearing Examiner's record or to some other process.

Mayor Stokes said the Council represents the entire city and the amendment needs to serve everyone in Bellevue. He believes the quasi-judicial LUCA will allow the Council more time to work on other issues. He opined that the amendment is in the best interest of the public. He suggested the Council move forward without further delay. He said the Council is interested in sound policies that benefit the public.

→ Councilmember Robertson moved to direct staff to proceed with the Land Use Code Amendment to the quasi-judicial permit process as summarized in the code amendment approach provided in the agenda memo, and to come back with a process recommendation for how the Council will remain informed about future land use procedures, as well as proposed Land Use Code amendments to fill any current gaps that may exist in the Utilities Code, the homeless shelter siting, or other areas. Councilmember Wallace seconded the motion.

Councilmember Lee said he can support the amendment only if his concerns and questions are addressed.

Mayor Stokes said it would be helpful to provide the response in writing to the Council. Mr. McFarland said he believed staff has sufficient information to address Mr. Lee's concerns.

Responding to Deputy Mayor Chelminiak, Ms. Helland said the Hearing Examiner's procedures and the Council's procedures are adopted separately by ordinance. They would both need to be revised.

Councilmember Robertson noted that this is the beginning of the process, and she anticipates that all Councilmembers' questions will be addressed.

Deputy Mayor Chelminiak clarified that the motion enables a public process regarding the proposed LUCA. Ms. Robertson said there will be a public hearing before the Council.

→ The motion carried by a vote of 6-1, with Councilmember Robinson dissenting.

(f) Regional Issues

(1) SR 520 Program

Joyce Nichols, Director of Intergovernmental Relations, introduced the update by Washington State Department of Transportation (WSDOT) staff on the SR 520 bridge program.

Denise Cieri, SR 520 Deputy Program Administrator, provided an overview of the SR 520 program. The west approach bridge north segment will open this summer. The remaining west side corridor is fully funded and construction will begin in 2018. The SR 520 program is improving safety by replacing the aging structure, adding full outside shoulders, adding safer merges and sightlines, and improving bicycle and pedestrian connectivity. The bridge enhances mobility by adding new transit/HOV lanes, a bike and pedestrian path, new median transit stops, and direct access ramps. Ms. Cieri presented historic photos of the SR 520 bridge and of the newly completed bridge and approach on the east side of the lake, which opened in April 2016.

Ms. Cieri described the west approach bridge north project. The westbound off-ramp lanes, HOV lanes, and general purpose lanes will open to traffic this summer. The bicycle and pedestrian path along the west approach bridge north section will open this fall.

Ms. Cieri described the "rest of the west" project elements. Construction of the Montlake phase will begin in 2018. The Portage Bay phase will begin construction in approximately 2020-2022, and the Montlake Cut Crossing phase will begin construction as early as 2024.

Mayor Stokes thanked staff for the presentation.

(2) Other Regional Issues

Councilmember Robinson requested periodic King County-Cities Climate Collaboration (K4C) updates.

Responding to Councilmember Wallace regarding the state legislative session, Ms. Nichols said the first special session will end this week. The governor is allowed to call a second 30-day special session if needed to adopt the budget by July 1.

5. Council Discussion of Upcoming Items: None.

6. Continued Oral Communications

- (a) Loretta Lopez noted that checks and balances are important in the handling of quasi-judicial matters, and the Council's current process has functioned well since approximately 1997. She opined that the City has not articulated the specific necessity for making the proposed change. She noted that while the current Energize Eastside project is a Process III matter, it will become a Process I matter if Puget Sound Energy changes the route. Land Use Code section 20.35.150 describes the appeal process and notes that no new evidence is allowed during appeals to the City Council. Ms. Lopez said the purpose of an appeal is to determine how the evidence in the record was applied. She suggested that the Council send the proposed LUCA to the Planning Commission for review. She asked the Council to wait to initiate the LUCA process in September.
- (b) Pamela Johnston asked the City to draft a better method of public notification in the code. She requested more detailed flow charts of the current and proposed quasi-judicial processes, including the identification of opportunities for citizen involvement. She expressed concern that City staff both write and interpret the code. She encouraged sending this matter to the Planning Commission for review before further consideration by the Council.
- (c) Warren Halverson questioned how the Council will engage the public in the consideration of the quasi-judicial Land Use Code Amendment. He questioned whether the proposed changes will better represent the public. He suggested that the Council think this through more thoroughly. He noted the current public comment period on Puget Sound Energy's Energize Eastside project environmental impact statement (EIS) and suggested that initiating the quasi-judicial LUCA at this time does not allow for meaningful public review and involvement.

At 9:18 p.m., Mayor Stokes declared the meeting adjourned.

Charmaine Arredondo, CMC
Assistant Director, City Clerk's Office

/kaw