

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Study Session

January 16, 2018
6:00 p.m.

Council Conference Room
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 6:02 p.m., with Mayor Chelminiak presiding. He noted that Councilmembers Lee and Robertson would be joining the meeting shortly.

2. Study Session

- (a) Discussion of Proposed Amendments to the local Fire Code and the local Electrical Code

City Manager Brad Miyake introduced discussion regarding the proposed updates to the local fire and electrical codes. He said staff is seeking direction to bring the amendments back for formal Council action during a future meeting.

Mike Brennan, Director of the Development Services Department (DSD), said staff recommends adoption of the updated National Electrical Code to maintain consistency with the State's requirements. Changes to the fire code include requirements addressing qualified building representatives, the addition of firefighter air systems to high-rise buildings, clarification for fire alarm panel replacements, penalties for the illegal possession or discharge of fireworks, and clarification regarding the appeal process related to decisions made by the Fire Marshal. Staff is seeking Council direction to advance the proposed amendments for future adoption.

Mr. Brennan said the electrical code is being updated to meet requirements in state law. He said the review of the updates involved outreach to staff and customers. He recalled that the construction codes were updated in mid-2016 and, since that time, staff identified errors and clarified certain items.

Gregg Schrader, Building Official, said national construction codes are updated every three years. The State adopts and amends those codes, and requires that cities comply with the codes. However, cities may adopt stricter codes if desired. Cities worked together through the eCityGov Alliance and other avenues to develop the amendments and to maintain consistency between cities.

Ken Carlson, Fire Marshal, said staff recommends that owners or managers of high-rise buildings identify one or more qualified building representatives, who would be contacted if an emergency occurs in a high-rise building. The representative will be asked to respond via telephone within 10 minutes and to be on site within one hour. The intent is to collaborate with their knowledge of the buildings to mitigate the impacts to their building and to reduce the out-of-service time for firefighters at the scene. Mr. Carlson said the term and concept emerged through work with the Building Owners and Management Association (BOMA).

Mr. Carlson described the proposed adoption of a firefighter air system, which is an air standpipe in the building. Rather than carry air bottles in and out of a building, the system allows firefighters to resupply their air bottles within the building.

Mr. Carlson described the proposed amendment governing the appeal of fire code interpretations. Appeals are currently allowed for the denial of operational permits, the denial of construction permits, and the determination of preventable fire alarms. The proposed change allows appeals to be made for any fire code interpretation. Mr. Brennan said the amendment is consistent with the appeal process for general construction codes.

Mr. Carlson described an amendment regarding fire alarm panel replacement. The replacement of a fire alarm panel generally requires bringing the existing system up to the standards of the current code. He noted that older systems typically lack strobe lights.

Mr. Carlson described a proposed amendment to clarify that the possession and sale of fireworks is illegal, and to increase penalties from \$100 to a maximum of \$1,000. Appeals would be handled by the Hearing Examiner.

Councilmember Robertson thanked staff for working with BOMA representatives to ensure a broad range of stakeholder involvement. She questioned the cost of replacing a fire alarm panel as well as the time period that strobe lights have been required. Fire Marshal Carlson said the lights have been required for at least nine years. He said the cost of replacing fire alarm panels can be significant. In those cases, the Fire Department will work to establish a reasonable timeframe for replacing the panels. He said panel replacements typically occur because a panel has exceeded its life cycle and manufacturers no longer support the replacement of panel components. He said an agreement was reached with Meydenbauer Convention Center granting them five years to budget and replace their fire alarm panel.

Ms. Robertson expressed support for the proposed change to the appeal process and for the identification of a qualified building representative. She questioned the consequences if no one is available during a regional emergency. Mr. Carlson said that any violation of the fire code has the potential for a financial penalty. However, the Fire Department would pursue a penalty only

if it was obvious that a building owner was purposely not attempting to comply with the code. He said the purpose is to form a partnership with building owners. Councilmember Robertson expressed concern about possible consequences if a qualified building representative was not able to reach the fire.

Councilmember Robertson expressed support for increasing the penalty for fireworks violations. She questioned whether the penalty would apply to a teenage who purchased fireworks on a Native American reservation and used them. Fire Marshal Carlson said the Hearing Examiner would determine the dollar amount of the fine. He said Fire Department personnel's recommendation would consider the specific situation, including whether an adult was present.

Responding to Ms. Robertson, Mr. Carlson said BOMA representatives indicated to the City that 80 jurisdictions in the United States currently have the proposed firefighter air system. He said he was aware of two cities in Washington: Renton and Tukwila. He said there is a new 12-story Hyatt Hotel in Renton, and the first high-rise building in Tukwila is currently under construction. In further response, Mr. Carlson said the proposed system is a pressurized steel pipe designed to prevent contaminants from entering the system. An alternative system is also pressurized. He said the recommended system is relatively straightforward and uses universal fittings. It is monitored by the fire alarm system, which will initiate an alert if there is low air. In further response to Ms. Robertson, Mr. Carlson said the installation cost for the system ranges from 22 cents per square foot to 79 cents per square foot.

Councilmember Zahn questioned how long a firefighter can typically be in a building without the firefighter air system. Mr. Carlson said the bottles currently used by the Fire Department have roughly 45 minutes of air. However, the duration of the air flow depends on how hard the firefighter is working. In further response, Mr. Carlson said inspections would involve an evaluation of the firefighter air systems in buildings.

Ms. Zahn questioned the frequency of violations for the illegal use of fireworks. Mr. Carlson said citations have been relatively uncommon. However, the Fire Department and Police Department have enhanced their enforcement activities over the past five years to be able to respond more quickly. He said a number of written warnings and citations have been issued over the past few years. Mr. Carlson said there have been instances of citations to repeat offenders, and the \$100 fine is less expensive than pursuing a legal permit for using fireworks. He said the City typically permits five fireworks displays in Bellevue.

Councilmember Lee questioned whether there is a cost associated with the qualified building representatives. Fire Marshal Carlson said the intent is that the representatives would already be employed by the building owners or managers. He said the Fire Department would work with building representatives to articulate expectations. Mr. Lee noted that the practice would benefit both the City and building owners. Mr. Carlson said staff had several meetings with BOMA representatives, and the proposal arose out of those discussions.

Responding to Mr. Lee, Mr. Carlson said two situations could necessitate the replacement of a fire alarm panel: 1) manufacturer of the panel no longer supports the panel and/or supplies replacement parts, and 2) the new panel provides benefits not included in the existing panel. Mr.

Carlson said the Fire Department will work with building owners to establish a time period for the replacement of their systems, as referenced above with regard to Meydenbauer Convention Center. Councilmember Lee expressed concern that the replacement of fire alarm panels will be discouraged by the cost.

Deputy Mayor Robinson questioned the definition of a high-rise building. Fire Marshal Carlson said a high-rise building is defined as one in which there is more than 75 feet from the lowest point of Fire Department access to the highest occupied floor. He said that is typically seven stories. Responding to Ms. Robinson, Mr. Carlson said that Fire Department staffing does not necessarily grow at the same rate of development within Bellevue. He said that sprinkler systems, smoke alarms, fire alarms, and the proposed air standpipe systems must optimize the available firefighter capacity. The air standpipe system allows firefighters to remain in the building fighting the fire as opposed to the more labor-intensive practice of carrying air canisters in and out of the building.

Responding to Councilmember Nieuwenhuis, Fire Marshal Carlson confirmed that the ban on fireworks applies year-round except for permitted displays. In further response, Mr. Carlson said the City uses a number of channels to alert the public regarding fireworks regulations (e.g., banners at all fire stations, partnering with the Bellevue School District to install signs, social media, Nextdoor.com, the publication of articles in the newspaper, and the use of electronic message boards). He believes that public education regarding the potential for a \$1,000 fine will have an impact on the community.

Responding to Councilmember Stokes, Mr. Carlson said the replacement of the fire alarm panel involves the entire fire alarm system throughout the building. In further response, Mr. Carlson confirmed that the newer panels increase building safety. He acknowledged that allowing a building owner to implement a new panel over several years is a calculated risk. Mr. Stokes said the proposed change sounds reasonable, as does the proposed change implementing firefighter air systems.

Mayor Chelminiak questioned the difference in the impact of the codes on high-rise buildings versus other commercial buildings. Mr. Carlson said the qualified building representative proposal applies to all high-rise buildings, new and existing. The firefighter air system proposal applies only to new high-rise buildings. The fire alarm panel replacement applies to all buildings that currently have a fire alarm system that is being replaced, whether residential or commercial.

In further response, Mr. Carlson said the call to the qualified building representative is triggered by the incident commander at the scene who determines there is a need to contact someone. He said more details will be developed to implement the program. In further response to Mr. Chelminiak, Mr. Carlson said the dollar amount of the penalty for violating the fireworks regulations is determined by the Hearing Examiner.

Mayor Chelminiak noted that the safest way to hold a fireworks display is to obtain a permit. He expressed support for the overall fire code amendments.

Councilmember Robertson referenced International Fire Code section 907.2, which reflects the requirements for replacing a fire alarm panel. She said it addresses items such as battery rooms, smoke detection systems, public address systems, illumination, and prerecorded messages available throughout the building. She questioned how many of those items are new, noting that the code appears to apply to more than just strobe lights.

Fire Marshal Carlson said the list of items is not applicable to every building. For example, all of the items apply to Meydenbauer Convention Center, and all are in place except for the visible notification device. The Fire Department's view is that the replacement of the panel is an investment in the building.

Councilmember Robertson said it would be interesting to know how often a significant change to a fire alarm panel would be required in Bellevue. If the number of buildings is significant, she suggested considering language in the code that the City will work with building owners to create a schedule for complying with regulations. Mr. Carlson said the Fire Department would reflect the current practice in the ordinance adopted by the Council. He said the proposed amendment is intended to clarify and be consistent with the Fire Department's ongoing practice. He said one reason for expanding the list of items that can be appealed is to provide an avenue for building owners to appeal a decision related to the replacement of a fire alarm panel.

Responding to Mayor Chelminiak, Councilmember Robertson clarified that her question is: How frequently, when a panel is replaced, would the retrofit of bringing the whole building up to the current code be required? Ms. Robertson read from the code: "When an existing fire alarm control unit is replaced in existing structures, the entire fire alarm system shall comply with the requirements of Section 907.2." She said that section lists a number of different systems for fire detection, including lights and audio alerts. She reiterated her interest in knowing how long the requirement has been in the code. Ms. Robertson expressed concern that a building owner who updates a system under the 2015 code would be required to make additional changes based on the 2018 code update. She would like to have an idea of the magnitude of the specific impacts of codifying this practice. Also, it might be useful to have language in the code that addresses allowing building owners to work out a schedule for replacing their panels.

Mr. Chelminiak said there is a vast array of building types in Bellevue, and most of the community's development dates from the 1940s to the present. He questioned whether staff could review a dozen structures, typical and atypical, to determine whether the fire alarm panel replacement requirement would apply. He opined that there are few 1960s Bellevue ramblers with fire panels. However, there might be homes built since the 1990s with fire panels. He questioned whether the regulation would apply to churches built in the 1960s, as an example. Mr. Chelminiak questioned whether staff could complete a review taking into consideration the building type and occupancy type to provide examples.

Mr. Carlson said he could review a specific number of fire alarm panel replacements and reach out to those building owners to obtain information regarding the cost of their upgrades. Councilmember Robertson said that information would be helpful. Also, she questioned how many of the 2015 requirements for new fire detection systems are new regulations. She does not want to require a great deal of retrofitting on new buildings.

Councilmember Lee concurred with Councilmember Robertson's suggestion to add language to the code regarding the reasonable consideration of the costs of upgrading the whole fire alarm system. He expressed concern that it could be prohibitively expensive. Mr. Lee said it could be very expensive for the many multifamily buildings built in the 1970s and 1980s.

Councilmember Zahn requested clarification regarding the fireworks regulations. She said Section 14 indicates that there is already a code section that addresses repeat violations, which does not sound completely consistent with Mr. Carlson's explanation tonight. Mr. Carlson said he spoke with the Hearing Examiner on that issue. Mr. Carlson said the code does not currently address the situation in which a repeat violation occurred one year later (e.g., on or around the 4th of July), for example. Ms. Zahn said the proposed language indicates a penalty of \$1,000 versus "up to" \$1,000. Mr. Carlson said the City Attorney's Office advised that the language allows latitude for the Hearing Examiner.

Mayor Chelminiak said he hears general support from the Council to move forward with the proposed code amendments. He noted an interest in adding language indicating that the City will work with building owners to allow a specific timeframe for replacing the fire alarm panel. He suggested scheduling this item on a future agenda after staff has the time to research and respond to the Council's questions.

On another topic, Mr. Chelminiak noted that the Council will have a briefing on the Environmental Stewardship Initiative this spring. He would like that discussion to include information on the progress of the State's building energy code.

(b) Draft 2018 State Legislative Agenda

City Manager Miyake said staff is seeking Council feedback and direction regarding the draft 2018 State Legislative Agenda. Staff will return with the final document for future Council action.

Joyce Nichols, Director of Intergovernmental Relations, provided an update on the draft 2018 State Legislative Agenda. She said the agenda and its priorities are similar to the 2017 State Legislative Agenda. She noted that transportation priorities top the list, and the City will be working in Olympia to accelerate funding for the I-405 projects, including express toll lanes between Bellevue and Renton. Improvements will also facilitate investments in bus rapid transit on I-405 in the future.

Ms. Nichols recalled that the Council adopted the Affordable Housing Strategy identifying the City's priorities and potential actions. The City is interested in gaining commitments from the state legislature regarding tools that can be used by local jurisdictions to help them provide affordable housing in their communities, preferably near transit and employment centers.

Ms. Nichols said the legislative agenda advocates for changes to laws to enable cities to implement transportation technology alternatives. She anticipated that Bellevue representatives will make presentations during some of the committee hearings because the City is a leader in

certain technologies. She said the state legislature is more likely to invest in effective programs that are already underway.

Ms. Nichols recalled that the state legislature did not pass a capital budget last year, which leaves many projects without funding. Cities will not be eligible for federal tax credits if the state legislature does not finalize a capital budget and make funding projects a priority. She said the tax credit is a primary mechanism for funding affordable housing in Washington state.

Ms. Nichols said the City's priorities include addressing the Housing Trust Fund and the City's support of Congregations for the Homeless to be able to apply for funding after a site is chosen for the men's homeless shelter. The organization was granted approval in 2016 to receive funds. However, state capital funding is not released until a project site is chosen and other funding is provided. Ms. Nichols noted placeholder language in the legislative agenda to indicate that, if a site is chosen for the shelter, the City supports the ability for Congregations for the Homeless to receive funding.

Ms. Nichols noted that staff continues to update the Council throughout the legislative session.

Deputy Mayor Robinson thanked staff for the draft legislative agenda and expressed support for the priorities.

Responding to Councilmember Lee regarding potential shelter funding, Ms. Nichols said the City constantly reminds state and federal legislators about the City's priorities and requests, in this case until the City identifies the appropriate site for the shelter and it is eligible for federal funding. Mr. Lee suggested including that language in the legislative agenda. Ms. Nichols said staff will review the draft language.

Mr. Lee said the language regarding small cell wireless facilities siting sounds somewhat negative, although the intentions are good. He suggested language stating Bellevue's work in this area. Ms. Nichols concurred with Mr. Lee's observation that the draft language sounds negative. She said the entire telecommunications industry is seeking unfettered access to City rights-of-way and to public and private utility poles. She noted that control of the right-of-way is a key public safety obligation. She said the City's intent is to let the telecommunications industry know that Bellevue is interested in 5G technology, consistent with the Smart City initiative. Ms. Nichols said one issue is how much cities may charge a company for the use of the right-of-way. The City's rights-of-way are assets, and the City wants to be able to receive a fair price for the use of the right-of-way for any purpose.

Councilmember Zahn expressed support for the draft legislative agenda and noted bills that have already dropped, including those related to housing affordability. She encouraged a strong emphasis on transportation mobility and technology, including incentives to accelerate the use of electric vehicles and other technologies, and on clean energy tools. Ms. Nichols acknowledged that the draft legislative agenda does not go into significant detail regarding transportation and environmental issues. However, staff has completed significant work in support of those legislative priorities.

Councilmember Stokes expressed support for the draft legislative agenda and highlighted the priorities regarding water resources and potential funding for the men's homeless shelter. With regard to the section on small cell wireless facilities, Mr. Stokes said that while the language is somewhat strong, there are times when it is necessary to express what the City does not like. He expressed support for the sections on transportation technology and infrastructure. He concurred with Councilmember Zahn's suggestion to continue to push for progress on transportation issues and funding.

Councilmember Robertson expressed support for the legislative agenda, noting the priorities related to affordable housing and the condominium issue. She concurred with the importance of keeping language regarding the men's homeless shelter and Congregations for the Homeless in the ongoing agenda. With regard to small cell wireless facilities, she expressed concern that proposed legislation regarding the use of the right-of-way will allow telecommunications companies to take public property for a profit use.

Responding to Ms. Robertson, Ms. Nichols said the B&O file local issue has not moved forward. Ms. Robertson suggested adding that to the legislative agenda. Ms. Nichols said staff did not focus on it this year because last year's legislature created a task force to review aspects of business licensing and the payment of taxes. A key issue is how to apportion the local B&O tax. Ms. Nichols said the task force will report to the legislature later this year, and City staff continues to monitor the work of the task force.

Ms. Robertson referred to House Bill 1987, which undermines home rule for cities to set their own zoning for church properties with regard to affordable housing. She wants to ensure that the City does not lose its control over local zoning. Ms. Nichols said the City has successfully opposed the bill in the past. She said Representative Joan McBride indicated that she is interested in working with cities to ensure that any form of the bill going forward does not conflict with local zoning authority. Ms. Nichols confirmed that there is no reason a city would want to lose the ability to zone within its boundaries. Councilmember Robertson wants the City to continue its strong opposition to the bill.

Ms. Robertson noted the memo regarding the carbon tax and expressed concern that natural gas prices could increase by 10 percent and gasoline prices could increase by 6 percent to 8 percent. In contrast to the regular gas tax, revenues would not be dedicated to transportation projects. She said the legislative agenda does not address this issue. Ms. Nichols said it was excluded due to the many bills proposing how to approach carbon emissions and fuels. City staff determined it would be better to wait to see what moves forward and to then ask the Council to provide feedback. Ms. Nichols acknowledged that the Council supports efforts for cleaner fuel and noted that certain sections in the legislative agenda address related items.

Councilmember Robertson noted the editorial column in *The Seattle Times* on Thursday morning regarding vehicle miles traveled and the Puget Sound Regional Council (PSRC) Transportation Policy Board's draft vision, which she read immediately before attending the Board's meeting. She said the vehicle miles traveled initiative is currently a pilot program, and no companion privacy policies have been generated. She suggested it is premature for the Council to take a position on the topic. However, she would like to ensure that the Council has the opportunity to

provide input to the state legislature and/or to the Transportation Policy Board and to develop a Council position on the issue. Councilmember Robertson said she is concerned about privacy issues, the lack of a requirement that revenues are spent for highway purposes, and pricing middle class individuals out of the region. Ms. Nichols said staff will provide a briefing on the issue.

Councilmember Nieuwenhuis concurred with Councilmember Lee's comment that the language regarding small cell wireless facilities sounds negative. Mr. Nieuwenhuis said he supports opposing any legislation that impedes upon the City's rights as the property owner of rights-of-way. However, he noted the importance of keeping pace with technology to serve residents and businesses.

Responding to Mr. Nieuwenhuis regarding potential capital funding to Congregations for the Homeless, Ms. Nichols said the Housing Trust Fund will be alerted when a shelter site is selected and CFH is lining up its other funding sources. She said the City will want to be vigilant in working with the state legislature and advocating for its interests.

Mayor Chelminiak suggested that the Council have a policy discussion regarding the vehicle miles traveled issue. He acknowledged concerns regarding privacy issues.

Mr. Chelminiak said it is important to retain the language about future funding to Congregations for the Homeless for the men's homeless shelter. He stated his understanding that funding would not be provided through the state legislature until, at the earliest, a building permit is issued for the project. He noted that the City is sometimes placed on the defensive regarding issues related to homelessness, and it is important to show how the City is advancing in this area.

Mr. Chelminiak expressed support for the statement on clean energy tools, including the type of infrastructure that supports renewable power and the storage of power.

Mr. Chelminiak said he supports the language regarding transportation priorities. He suggested it is time to start bringing the state legislature into the discussion regarding the Grand Connection and how it ties into transportation, great communities, smart communities, and other objectives.

Councilmember Lee said he liked the language on clean energy tools as a longer term priority for the City. He suggested that the City develop a strategic way to look at alternatives including energy storage and battery power. Mr. Lee expressed support for the requested \$2 million for the homeless shelter and said the Council is committed to providing a shelter.

Mayor Chelminiak suggested beginning the section on small cell wireless facilities with "Bellevue supports the deployment of wireless..." to provide a positive opening statement. Ms. Nichols concurred, noting that staff communicates Bellevue's support of wireless technology on an ongoing basis.

Responding to Mayor Chelminiak, Ms. Nichols said staff will place approval of the 2018 State Legislative Agenda on the following week's Council meeting agenda.

Councilmember Stokes said it is important to keep the issue of funding for the men's homeless shelter in the legislative agenda, even though a project site and design has not yet been identified. He suggested the words "continue to support" and the Council concurred.

Mayor Chelminiak noted the City Action Days sponsored by the Association of Washington Cities (AWC) in Olympia on January 24-25. He wants to be sure there is Council representation at the dinner with the legislators. He questioned whether it is possible for Bellevue to gain a seat on the AWC legislative steering committee and, if so, whether a Councilmember would be able to serve on that committee. Ms. Nichols noted that much of the committee's work is conducted through teleconference, and the meetings are often held at SeaTac Airport.

3. Council Discussion of Upcoming Items

(a) Update on Schedule for Interim and Permanent Shelter Permitting Amendments to the Land Use Code

Carol Helland, Code and Policy Director, provided an update on code amendment work related to managing the effects of homelessness in Bellevue. Several code amendments have been processed during the past several months, which are described in more detail in the meeting packet. She recalled that Ordinance No. 6368, adopted on August 7, 2017, provided the interim official control related to the permit process for homeless shelters. The Council held the required public hearing in September, and the interim official control is scheduled to expire on February 6, 2018. It can be extended for an additional six months, provided that the Council holds another public hearing, which is scheduled for January 22. Ms. Helland said staff will seek Council direction to extend the interim official control following the public hearing. The extension will provide more time for the City to develop permanent regulations. Ms. Helland said staff anticipates presenting proposals to the Council beginning in February and holding the public hearing on permanent regulations in May or June.

Councilmember Robertson recalled that Deputy City Manager Kate Berens provided a memo last July reflecting Ms. Robertson's suggested process for updating the Land Use Code. Ms. Robertson suggested discussing that information in February when the Council sets the scope of work.

(b) Report on concerns raised during recent Oral Communications *[Regular Session Agenda Item 6, Report of the City Manager]*

Nathan McCommon, Deputy City Manager, noted a public comment to the Council on January 2 expressing concern regarding American flags on display at night without illumination. He said the City follows the U.S. Code for the display of the American flag, which dictates that the flag should be lowered at dusk or properly illuminated overnight. Mr. McCommon said the lights on the flag at City Hall were recently relocated due to the Sound Transit light rail construction. Staff is temporarily lowering the flag at dusk until proper lighting is provided.

Responding to Councilmember Lee, Mr. McCommon said the individual who raised the issue will be contacted regarding the City's actions to remedy the situation. Responding to Mayor

Chelminiak, Mr. McCommon said he would confirm whether the gentleman also mentioned other flags on City buildings.

Ms. Nichols recalled that an individual spoke to the Council on December 11 expressing concern regarding off-leash dogs at Weowna Park. Staff checked the City's and King County's records and did not find any complaints about off-leash dogs. Parks Department staff visited the trails several times in December and early January, checked the park signage, and spoke with approximately 40 park users. They identified five parties who did not have their dogs on a leash and spoke to them about the importance of leashing their dogs, in part for public safety. Staff spoke with the person who raised the issue with the Council and encouraged him to call King County Animal Control and/or the City if the problem continues.

At 7:40 p.m., Mayor Chelminiak declared recess to the Regular Session.

Kyle Stannert, CMC
City Clerk

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