

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Extended Study Session

September 9, 2019
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.

The meeting was called to order at 6:02 p.m., with Mayor Chelminiak presiding.

Mr. Chelminiak noted a modification to the agenda to take Oral Communications before the Executive Session.

2. Approval of Agenda

- Deputy Mayor Robinson moved to approve the agenda, amended to move the Executive Session to follow Oral Communications. Councilmember Stokes seconded the motion.
- The motion carried by a vote of 7-0.

3. Oral Communications

- (a) Alex Zimmerman said he has been trespassed by the Seattle City Council and the King County Council numerous times. He spoke in support of American capitalism and free speech.

[Deputy Mayor Robinson left the room and returned following the public comment.]

- (b) Karen Morris expressed concern regarding temporary encampment regulations and the expiration of the related consent decree in January 2020. Noting that the men's homeless shelter will begin operating year-round in the near future, she questioned the need for tent cities. She expressed concern that there will not be sufficient time for a meaningful public process by the end of the year. Ms. Morris submitted her comments in writing.

- (c) Angela Jernejck, a resident of the Crossroads area, expressed concerns regarding temporary encampments. She said the City should address both the impacts on individuals experiencing homelessness as well as the overall health and safety of the community. She encouraged involving hosts, operators, and residents in discussing the issues.

- (a) National Drive Electric Week Proclamation

Mayor Chelminiak read the proclamation recognizing September 14-22, 2019, as National Drive Electric Week in Bellevue. The City will host an event on September 10 at the Downtown Park for the public to learn about the benefits of driving electric vehicles.

Chad Schwitters, representing Plug In America, noted the availability of charging stations at City Hall and said that Bellevue is a leader in the usage of electric cars. He urged everyone to attend the National Drive Electric Week event at the Downtown Park.

Mr. Chelminiak paused the meeting to take photos with the guests before the Executive Session.

1. Executive Session

At 6:23 p.m., Mayor Chelminiak declared recess to Executive Session for approximately 20 minutes to discuss one item of pending litigation.

The meeting resumed at 6:48 p.m.

4. Study Session Items

- (a) Temporary Encampment Land Use Code Amendment (LUCA) - Bellevue Land Use Code Chapter 20.30U

City Manager Brad Miyake introduced discussion about whether to initiate a temporary encampment Land Use Code Amendment (LUCA) to update LUC Chapter 20.30U, which applies to the permitting of temporary encampments hosted by religious organizations on their property.

Mike Brennan, Director of the Development Services Department (DSD), said staff is seeking Council direction regarding the proposal to move forward with a LUCA to reflect changes to the temporary encampment regulations. Staff recommends that the Council retain the LUCA process and that it hold a public hearing due to the involvement of a consent decree in the existing regulations.

Cindy Lin, Assistant City Attorney, recalled that in 2004, there were a number of temporary encampments (tent cities) in the region hosted by religious organizations as an expression of their faith. She noted the need to update the City's regulations to better reflect state and federal laws. The City is allowed to regulate religious exercise as long as doing so does not impose a substantial burden on that religious exercise, unless the regulations further a compelling government interest and are the least restrictive means to further that interest. In 2005, the City

enacted LUC Chapter 20.30U to establish permitting requirements and regulations related to temporary encampments.

In 2005, the first applicant for a temporary encampment permit was Share/Wheel for a tent city at Temple B’Nai Torah. The permit was issued with a number of conditions, and the applicant subsequently filed a lawsuit alleging that some of the conditions (e.g., a requirement regarding the number of sinks and shower heads) were unconstitutional because they posed a substantial burden. The litigation resulted in the establishment of a consent decree in 2006 to outline how temporary encampments in Bellevue will be permitted and administered under LUC 20.30U.

Ms. Lin said the consent decree has been extended twice since 2006 and is set to expire on January 27, 2020. She noted that LUC 20.30U does not regulate unlawful camping on public property, parking or sleeping overnight in vehicles, or temporary or permanent shelters for persons experiencing homelessness.

Toni Pratt, Senior Land Use Planner, said that she processed all 11 temporary encampment permit applications received since 2005. She noted the four churches that have hosted tent cities (St. Luke’s Lutheran Church, First United Methodist Church, The Episcopal Church of the Resurrection, and Temple B’Nai Torah) and said there has been no new host since 2016. Imagine Housing recently opened a housing complex at St. Luke’s Lutheran Church.

Following staff’s review of LUC 20.30U, they engaged the original signatories to the consent decree and a neighborhood focus group to discuss the regulations for temporary encampments. The encampment hosts provided input indicating that tent cities are necessary and have a right to exist, and that the consent decree and LUC 20.30U are outdated. They are interested in a simplified permitting process for religious institutions who have previously hosted, and they advocate for the consistent management of tent cities throughout the region.

Responding to Mayor Chelminiak, Ms. Pratt said the signatories to the consent decree are religious institutions (Temple B’Nai Torah, St. Luke’s Lutheran Church, The Episcopal Church of the Resurrection, and the Church Council of Greater Seattle), Share/Wheel, and Tent City 4. Tent City 4 and Share/Wheel are a joint signatory, and the Church Council of Greater Seattle represented the religious institutions that have hosted camps at locations other than Temple B’Nai Torah.

Ms. Pratt said the neighborhood focus group was created by identifying interested parties since 2005. The group recommended increasing the accountability of encampment hosts and operators, seeking alignment between the consent decree and LUC 20.30U, and incorporating the best practices learned from previous hostings. Residents expressed an interest in maintaining ongoing contact with the operators to address problems or issues. Ms. Pratt said a representative of the First United Methodist Church stated that they listened to their neighbors and responded positively to their requests, which included increasing the fence height to eight feet and establishing a neighborhood watch group. Participants in the focus group encouraged Bellevue-based solutions as well as flexibility for hosts who are committed to working with the adjacent neighborhood.

Ms. Lin said that staff reviewed the public input and looked for areas of alignment within the context of the applicable legal framework and the obligation that cities allow the free exercise of religion. In 2010, the state legislature approved legislation dictating how local governments regulate temporary encampments. That law also reflects the obligation that the regulations imposed by cities address health and safety, and that they do not create a substantial burden to religious exercise.

Ms. Lin said staff recommends a streamlined permitting process for religious organizations that have hosted encampments in the past, revisions regarding neighborhood engagement, modifications to the frequency and duration of a temporary encampment at a specific location, and alignment with the health standards reflected in the consent decree.

Ms. Pratt said that a Process IV Land Use Code Amendment (LUCA) requires a public hearing before the Council, and a courtesy hearing will be held with the East Bellevue Community Council as well. Staff will establish a web presence under Hot Topics, provide updates on the status of the LUCA process, and create an inbox for public comments. Staff anticipates that Council study sessions on the topic will be held through early November. The courtesy hearing before the East Bellevue Community Council is tentatively scheduled for November 5, and the City Council public hearing will be held on November 18. Final City Council action will be requested in December, followed by the East Bellevue Community Council's action in January. Ms. Pratt said the consent decree expires on January 27, 2020, and the LUCA will become effective after that date.

Mr. Brennan requested Council direction regarding whether to proceed with the LUCA and whether the Council should retain the oversight of the process.

Responding to Mayor Chelminiak, Ms. Lin said that when the possibility of extending the consent decree was discussed, the temporary encampment host indicated that it would not agree to extending the current consent decree.

Councilmember Robertson spoke in favor of moving forward with the LUCA process. For future discussion, she would like the following information: 1) comparison of the terms of LUC 20.30U with the terms that were changed by the consent decree, 2) new case law and/or state laws adopted since the 2005 consent decree that impact LUC 20.30U, and 3) a comparison of major policy issues for Bellevue and other cities, with particular attention to how they differ in outreach and in effective mitigation. Ms. Robertson suggested a link on the City's website for individuals to sign up to receive email updates.

Councilmember Stokes concurred with the need to review the consent decree and to update regulations. He said it will be helpful to better understand the role of temporary encampments within the longer term context of addressing homelessness.

Councilmember Zahn expressed support for moving forward with the LUCA process.

Councilmember Lee thanked the encampment hosts and adjacent neighbors for working together. He expressed support for staff's recommendations and encouraged public outreach and the streamlining of the permitting process to the extent possible.

Councilmember Nieuwenhuis spoke in support of moving forward with processing the LUCA. He concurred with Councilmember Robertson's suggestion to review any relevant case law and the experiences of other temporary encampments. Mr. Nieuwenhuis said he supports working only with encampment operators who have a consistent track record of working well within the community. Mr. Nieuwenhuis encouraged a robust public engagement process involving potential direct mailings and outreach to the areas impacted by temporary encampments.

Deputy Mayor Robinson said she was skeptical about whether temporary encampments are better than other year-round programs for individuals experiencing homelessness. She would like to have encampment hosts work with the City and with Congregations for the Homeless to coordinate services, including counseling and employment assistance.

Ms. Lin said the federal and state constitutions prohibit the City from substantially burdening the exercise of religion. She said that certain faith-based organizations have indicated that their religious exercise includes the spirit of public service, which may include hosting individuals experiencing homelessness whether through a temporary encampment or other type of service.

Responding to Deputy Mayor Robinson, Ms. Lin confirmed the possibility of a lawsuit if the City does not move forward with a LUCA. Ms. Robinson indicated that the City wants regulations that are best for the community.

Responding to Ms. Robinson, Mayor Chelminiak said the East Bellevue Community Council voted to not apply the City's new shelter services ordinance within its area. As a result, the requirement for the conditional use permit (CUP) process still applies to property within their boundaries.

Responding to Mayor Chelminiak, Ms. Lin said that temporary encampments are permitted by local governments, while camps along freeways and in other public areas are unlawful and have no regulations over health and safety standards.

In further response to Mr. Chelminiak, Ms. Pratt said that the difference between Tent City 4 and Camp Unity is the level of warrant checks. In 2012, when the First United Methodist Church hosted Camp Unity, the operator committed to weekly warrant checks. At Tent City 4, residents are screened only during the initial intake process. Ms. Pratt said that Tent City 4 and Camp Unity have started allowing social services providers to work with the residents.

Mayor Chelminiak recalled the past litigation that led to the consent decree. He said that some individuals have indicated that the City sued religious organizations. However, the religious organizations sued the City. He observed that there is becoming less interest by faith-based organizations in hosting tent cities.

Mr. Chelminiak noted that the Temple B'Nai Torah has hosted five temporary encampments, which he considers a burden on one neighborhood. He noted the City's concern in the past that the ongoing hosting of a temporary camp essentially becomes a permanent use. He encouraged a

focus on allowing religious exercise while ensuring that the hosts, residents, and neighbors are safe. He is not in favor of tent cities. However, the City must allow the free exercise of religion.

- Councilmember Robertson moved to initiate the Land Use Code Amendment related to temporary encampments, and for the Council to retain the process, including holding the public hearing. Councilmember Stokes seconded the motion.
- The motion carried by a vote of 7-0.

(b) Economic Development Second Quarter Update

Jesse Canedo, Chief Economic Development Officer, introduced Philly Marsh, the City's new Economic Development Manager.

Mr. Canedo said that City staff met with 24 firms this year that are interested in opening offices or investing in Bellevue. He noted staff's attendance at the annual Select USA Investment Summit in June and staff's participation with the Washington State Department of Commerce's CHOOSE Washington program. Staff met with 10 major retail property owners and developers at the International Council of Shopping Centers' annual trade show in May, and the City continues to work with the Greater Seattle Partners to recruit businesses.

In the area of business retention and expansion, Ms. Marsh said staff will present the results of the third biennial business survey to the Council on September 23. Mr. Canedo noted that staff held meetings with TerraClear, an agriculture technology company; Donn Bennett Drum Studios in the BelRed area; and Arable Capital, an agriculture investment firm headquartered in Bellevue.

In the area of small businesses, staff conducted visits to several creative businesses located in Bellevue including Unique Art Glass and the Eastside Arts Collaborative. This spring, the City participated in the Startup 425 Foundations workshop series, which attracted more than 900 participants across the five member cities. Mr. Canedo said that approximately one-third of the attendees indicated that they work in Bellevue. More than half of them identified as female and half identified as persons of color. He noted that a new small business advisor was hired in the second quarter. A client of the Small Business Development Center was able to secure \$1.4 million in capital and will bring eight new employees to Bellevue.

Mr. Canedo said the Port of Seattle continues to fund major Bellevue projects including the Bellwether annual arts festival, Grand Connection activation, and efforts through Select USA and the Innovation Triangle. The City and its partners have applied to the State for an innovation partnership zone (IPZ) designation that will help secure Bellevue as a hub for 5G-enabled technologies.

Ms. Marsh highlighted the next steps to finalize the business survey report, continue to work on the update of the Economic Development Plan, provide a report on the Bellevue Downtown Association's work on the Grand Connection, work with the 5G IPZ partners, and to prepare recommendations related to the Startup 425 program.

Councilmember Zahn expressed support for staff's work. She questioned whether there is a way to calculate the revenue impact of the City's costs. She asked whether the City is tracking the impacts of construction on businesses currently located in the BelRed area. Mr. Canedo said staff will explore options for calculating revenue impacts. He noted that small businesses in the BelRed area are referred to the small business advisor and to Sound Transit to work through concerns and adverse impacts. He said Sound Transit is managing communications and signage related to the light rail construction in the BelRed area.

Councilmember Nieuwenhuis said he would like to know more about the City's strategy and goals when staff attends events, and about the key lessons and ideas from those events and conferences. Responding to Mr. Nieuwenhuis, Mr. Canedo said the Startup 425 program tracks the number of participants who continue to work with an advisor or mentor to help implement their business plan. Staff also follows up with the participants to survey whether they have filed for a business license and began operations. Mr. Canedo confirmed that staff is interested in tracking outcomes. Mr. Nieuwenhuis expressed support for moving forward as quickly as possible to enable the implementation of 5G technology.

Councilmember Stokes observed that the 2014 Economic Development Plan has worked well, and he looks forward to the update. He noted that economic development goes beyond business activity to include neighborhood character, arts and culture, high-quality infrastructure, and other community assets.

Deputy Mayor Robinson welcomed Ms. Marsh and thanked Mr. Canedo for the focus on small businesses, business retention, and communication with businesses through the light rail construction in the BelRed area.

Mayor Chelminiak thanked staff for the presentation and requested a future update on the status of light rail construction and related road closures.

5. Council Discussion of Upcoming Items: None.

6. Continued Oral Communications: None.

At 8:05 p.m., Mayor Chelminiak declared the meeting adjourned.

Karin Roberts, CMC
Deputy City Clerk

/kaw