

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Regular Meeting

June 15, 2020
6:00 p.m.

Virtual Meeting
Bellevue, Washington

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

ABSENT: None.

1. Call to Order

The meeting was called to order at 6:00 p.m., with Mayor Robinson presiding.

2. Roll Call

City Clerk Charmaine Arredondo called the roll. All Councilmembers were present and participating remotely.

(a) Temporary Suspension of Council Rules

Mayor Robinson said the Council has been following a temporary process to allow for public communications during virtual meetings. She suggested that the Council suspend the normal rules for public comment.

→ Deputy Mayor Nieuwenhuis moved to suspend until such time that the Council is no longer holding its meetings remotely, the provisions of Section 8.D.2 of Resolution No. 8928 concerning oral communications from the public, to allow public comment to be provided in writing and to be read or summarized during the Council meeting. Councilmember Stokes seconded the motion.

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

(b) World Elder Abuse Awareness Day Proclamation

Mayor Robinson said it was unfortunate that members of The Bellevue Network on Aging were not able to attend an in-person Council meeting to receive the proclamation due to the COVID-19 pandemic. She thanked them for their work and activism in the community.

Councilmember Robertson read the proclamation recognizing June 15, 2020 as World Elder Abuse Awareness Day and urged everyone to commit to building safer communities for our aging residents.

(c) Juneteenth Proclamation

Councilmember Barksdale read the proclamation declaring June 19, 2020 as Juneteenth Day in Bellevue. The Juneteenth holiday recognizes that many slave owners continued to hold their slaves captive for two and a half years following the Emancipation Proclamation until Texas slaves became aware that they had been freed.

Mayor Robinson encouraged everyone to join the Council in listening, reflecting, and acting to finally achieve racial justice for all.

3. Approval of Agenda

→ Deputy Mayor Nieuwenhuis moved to approve the agenda, and Councilmember Stokes seconded the motion.

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

4. Written Communications

City Clerk Charmaine Arredondo read a communication from Tuli Davenport regarding a peaceful protest organized by Educators for Justice on June 5, 2020. Ms. Davenport expressed concern regarding photos on the City's website that depict a protest sign with the statement "Defund Police." She thanked the City for supporting peaceful protests in Bellevue. She does not support defunding the Bellevue Police Department or removing School Resource Officers from schools.

5. Reports of Community Councils, Boards, and Commissions: None.

6. Report of the City Manager

City Manager Brad Miyake provided an overview regarding a pledge signed by the mayor on behalf of the Council the previous week. The pledge relates to the Bellevue Police Department's use of force policy as well as next steps in community engagement. The pledge commits the City to: 1) reviewing the police use of force policies, 2) engaging the community and sharing individual stories, 3) reporting findings and seeking feedback, and 4) implementing reforms, if necessary, to use of force policies. Mr. Miyake said he will be working with staff to establish an action plan to respond to each area. Staff will continue to provide updates to the Council as the effort moves forward.

Mr. Miyake noted the current national focus on law enforcement practices. He said Bellevue is committed to working across the organization to seek feedback and make changes as appropriate.

Mr. Miyake said systemic racism persists because it is intertwined in many of our everyday processes and practices. He said it is important to also review systemic racism beyond law enforcement, including in the areas of housing, education, and other services.

Mr. Miyake recalled that the Diversity Advantage Plan adopted by the Council in 2014 includes a section on public safety. He thanked the Bellevue Police Department for their hard work and commitment to serving the community. He thanked Police Chief Steve Mylett for five years of building connections and relationships within the community. Mr. Miyake said City staff is actively involved in discussions with residents and community groups to listen to their experiences and interests. He said the City was approached by and has been working with several leaders within the black community in Bellevue to ensure that all voices are heard. The City is committed to taking meaningful actions to acknowledge and address historical wrongs in our country and to strengthen the important diversity work with the community.

7. Council Business and New Initiatives: No discussion.

8. Consent Calendar

→ Deputy Mayor Nieuwenhuis moved to approve the Consent Calendar, and Councilmember Robertson seconded the motion.

→ The motion to approve the Consent Calendar carried by a vote of 7-0, and the following items were approved:

(a) Council Minutes

Minutes of May 18, 2020 Special Meeting

Minutes of June 1, 2020 Special Meeting

Minutes of June 4, 2020 Special Meeting

(b) Resolution No. 9767 authorizing the execution of documents necessary to convey limited access rights adjacent to I-90 within the Eastgate area of Bellevue to the Washington State Department of Transportation.

(c) Resolution No. 9768 determining that a portion of an existing water easement located at 13804 NE 20th Street is surplus to the City's needs and is no longer required for providing continued public utility service; and setting a time and place for a public hearing to consider the partial release of this easement.

(d) Motion to award Bid No. 20040, 2020 Rockery Replacement Project (CIP Plan No. PW-M-19) to Accord Contractors, as the lowest responsible and responsive bidder, in the amount of \$998,119.08, plus all applicable taxes.

(e) Resolution No. 9769 approving the Safe Systems approach and strategies to move Bellevue towards Vision Zero and directing the Transportation Commission to review the Comprehensive Plan to determine if any updates, revisions, or additional policies are warranted to support the Safe Systems approach.

- (f) Ordinance No. 6517: 1) authorizing execution of an Interagency Agreement with King County Wastewater Treatment Division for acceptance of \$150,000 for design and construction of a Trail Detour Project in Coal Creek Natural Area Park; 2) amending the 2019-2020 Operating Grants, Donations and Special Reserves Fund to increase the appropriation by \$150,000 in the King County Well-KEPT Project; and, 3) authorizing expenditures of said funds.
- (g) Motion to approve payment of claims and payroll for the period May 1, 2020-May 31, 2020.
- (h) Resolution No. 9770 approving Professional Services Agreement with KPFF for 130th Ave NE Station Area Park and Ride.
- (i) Resolution No. 9771 determining that a portion of an existing water line easement located at 12863 Northup Way is surplus to the City's needs and is no longer required for providing continued public utility service; and setting a time and place for a public hearing to consider the partial release of this easement.
- (j) Resolution No. 9772 authorizing the execution of a three-year Microsoft Enterprise Agreement for required Microsoft licenses and subscriptions, with anticipated annual license adjustments that are necessary for the continued and future use of Microsoft products and services by the City, in an amount not to exceed \$1,939,879, plus all applicable taxes.

9. Study Session Items

- (a) Land Use Code Amendment (LUCA) to conform the frequently flooded areas regulations in the Land Use Code (LUC) Part 20.25H and other related sections to the current federal and state National Flood Insurance Program (NFIP) standards and adopt the Federal Emergency Management Agency's (FEMA) updated countywide Flood Insurance Rate Maps (FIRMs) and Flood Insurance Study (FIS), necessary for continued eligibility in NFIP.

City Manager Miyake introduced discussion regarding a proposed Land Use Code Amendment (LUCA) that is necessary in order to allow residents and businesses to retain their federally backed flood insurance. Staff is seeking Council direction to prepare the LUCA for a public hearing and to approve the Council's handling of the LUCA process itself instead of referring the matter to the Planning Commission.

Mike Brennan, Director of the Development Services Department (DSD), said staff is asking the Council to initiate updates to the floodplain regulations in the Land Use Code. In February, the Federal Emergency Management Agency (FEMA) notified cities about recently updated floodplain and national flood insurance regulations. Cities and counties that participate in the National Flood Insurance Program (NFIP) are required to update their local regulations by August 19 to maintain eligibility for national flood insurance. Due to the short timeline, staff

requests that the Council handle the processing of the Land Use Code Amendment (LUCA) instead of referring it to the Planning Commission.

Trisna Tanus, Consulting Attorney, said the LUCA is a conformance update to the City's floodplain regulations. Under the Land Use Code, a frequently flooded area is defined as land that is subject to a 100-year flood, and the areas are identified on the Flood Insurance Rate Maps (FIRMs) in the Flood Insurance Study (FIS). Ms. Tanus noted that the FIRMS were last updated by FEMA in 1995. The purpose of floodplain regulations is to delineate flood-prone areas, preserve and promote healthy floodplains and biological processes, and to avoid and minimize damage to life, property, and the environment.

Ms. Tanus highlighted a map of frequently flooded areas in Bellevue, including Lake Bellevue, Larsen Lake, Phantom Lake, Lake Sammamish, and most streams. She said the City has participated in the NFIP since December 1, 1978. The City's Class 5 rating by FEMA provides a 25-percent discount on NFIP policies in Bellevue. As of April 17, 2020, the NFIP has paid 65 flood-related claims to Bellevue residents and businesses for a total amount of \$906,231. However, due to Bellevue's effective floodplain management, there have been only five substantial claims since 1978.

Ms. Tanus noted that FEMA transmitted the FIS and the new FIRMs to the City on February 19. The proposed LUCA adopts the updated FIS and FIRMs, and conforms the Land Use Code to state and federal standards. The City is required to adopt the LUCA by August 19 to continue eligibility in the NFIP for residents and businesses. If the City does not meet the deadline, residents and businesses will immediately lose their NFIP-backed insurance.

Nick Whipple, Senior Planner, said the City's floodplain management regulations were last updated in 2011 and are found in the Critical Areas Code. He said the Washington State Department of Ecology (DOE), in partnership with FEMA, recently published a statewide model ordinance incorporating minimum floodplain management regulations and the newly updated FIRMs. Staff has worked closely with the DOE and FEMA to ensure that the provisions in the proposed LUCA comply with the minimum standards of the model ordinance.

Mr. Whipple said the LUCA includes amendments to: 1) definitions, 2) performance and development standards, 3) the variance process, and 4) procedures. Amendments to the variance process include new decision criteria for consistency with federal standards. Amendments to procedures provide consistency with federal standards and add a subsection to clarify the administration and enforcement of floodplain regulations. Mr. Whipple said a new subsection addresses the required submittal documents, as determined necessary by the Director for reviewing proposed development in a frequently flooded area. Many of the items included in the list are required by FEMA and have already been implemented through the City's procedures. However, the practices have not previously been codified. Mr. Whipple said that Council approval of the LUCA will maintain the City's membership in the NFIP, which will continue to allow residents and businesses to purchase flood insurance.

Mr. Whipple said the City's public engagement process will inform the public about the new FIRMs going into effect on August 19 and about the proposed amendments to the Land Use

Code. Public outreach will follow Process IV (City Council legislative action) requirements for public noticing and the public hearing and will include direct mailings to property owners as well as a new web presence regarding the federal regulations and the City's proposed LUCA. Mr. Whipple said a courtesy letter was recently sent to the affected property owners.

Staff will present the proposed LUCA to the East Bellevue Community Council on June 30. Staff anticipates a public hearing and final action by the City Council in July. The East Bellevue Community Council will hold a public hearing and take action on August 4 in order to meet the August 19 deadline.

Mr. Brennan said staff is seeking Council direction to prepare the recommended LUCA for public hearing and final action in July, and to enter a finding of necessity for the Council to retain the processing of the LUCA.

Councilmember Stokes thanked staff for the presentation and observed that conforming with the changes in federal regulations benefits Bellevue residents and businesses.

Councilmember Robertson said she has worked on flood regulations twice, once while serving on the Planning Commission and once with the City Council. Noting the potential for significant impacts, she expressed concern that the federal government is rushing cities to adopt the new regulations.

Ms. Robertson suggested establishing a web site with a map of Bellevue's floodplain, FEMA's floodplain study, the FIRMs, and draft LUCA provisions. She wondered whether the maps have been revised to add new properties to the floodplain. Ms. Robertson asked how many property owners in Bellevue are enrolled in the NFIP. She would like an understanding of whether the Lake Sammamish floodplain is raised based on the County's failure to manage the outflow. She would like to know whether any property owners will lose portions of their property as a result of the new floodplain map. She said it would be helpful to understand whether the regulations would be needed if the County was properly managing the natural areas. She wants to understand how this impacts land use and redevelopment for property owners and how it impacts property values.

Councilmember Robertson said she wished there was more time to send the matter to the Planning Commission for review. She suggested scheduling a Council Study Session item for continued discussion. She would like to understand whether the City must adopt the regulations or can make any changes.

Responding to Councilmember Robertson, Ms. Tanus said the City has been working closely with the DOE and FEMA, which have indicated that there are no plans to extend the August 19 deadline. In further response to Ms. Robertson, Mr. Brennan said that individual briefings are available for Councilmembers, in addition to a Study Session discussion.

Councilmember Barksdale, Council liaison to the Planning Commission, said he shares an interest in Councilmember Robertson's questions regarding the impacts of the LUCA. He noted

an interest in the Planning Commission's upcoming projects, including in the area of affordable housing, and how they might affect the Council's work program.

Councilmember Zahn thanked staff for establishing a schedule for meeting the August 19 deadline. Responding to Ms. Zahn, Mr. Brennan said staff will follow up regarding the number of property owners in Bellevue that have national flood insurance. In further response, Mr. Brennan said the proposed LUCA provisions are the minimum changes needed to meet the new federal regulations. Councilmember Zahn expressed support for Councilmember Robertson's suggestion to schedule a Study Session item for further discussion.

Deputy Mayor Nieuwenhuis thanked staff for the presentation and for their responsiveness to the aggressive timeline imposed by FEMA and the DOE. He questioned what would happen if COVID restrictions were reinstated and the City was unable to take action before August 19. Ms. Tanus said staff has been told that Bellevue property owners would lose their national flood insurance coverage. She noted that some communities are adopting an interim official control to meet the August deadline while they continue to study and consider the regulations and the impacts.

Councilmember Lee complimented staff for working under such a tight timeline. He said he appreciated Councilmember Robertson's questions and concerns about the potential impacts on property owners of adopting the regulations. Mr. Lee expressed concern about the consequences of rushing this issue. He said he is interested in knowing the number of Bellevue property owners with national flood insurance. However, he noted that impacts to even one property owner could be significant.

Responding to Mayor Robinson, Mr. Whipple said that most of the public contacts have been from people wanting to know if their property is in the floodplain. Property owners affected by map changes to their parcels were notified in a letter from the City in 2017. They were also invited to a FEMA map revision open house event in Kent during the FIRM update process. Mr. Whipple said that the findings of a number of studies since 1995 are reflected in the August 19, 2020 FIRM updates. He said the public process for updating the maps has been ongoing since FEMA initiated the map update in 2013. Mayor Robinson said she wants to ensure that the property owners within the mapped areas are receiving the information they need to be able to understand and comment on the process.

Mayor Robinson requested the Council's comments regarding Option 1: Enter a finding of necessity for Council to process the floodplain management LUCA and direct staff to prepare the recommended LUCA for public hearing and final action in July.

Councilmember Stokes expressed support for moving forward with the public hearing and LUCA process.

Councilmember Robertson expressed support for moving forward and strongly urged the Council to schedule a Study Session discussion before the public hearing. She suggested the Council could take final action on the LUCA the same night as the public hearing.

Responding to Mayor Robinson, City Manager Miyake said he will work with the City Clerk to determine where the topic will fit into the Council's schedule. Mr. Miyake confirmed that individual staff briefings are available as well.

Councilmember Barksdale expressed support for moving forward as suggested.

Deputy Mayor Nieuwenhuis expressed support for Option 1.

Councilmember Zahn concurred with support for Option 1.

Councilmember Lee expressed support for moving forward and for understanding the impacts on property owners.

Mayor Robinson noted a Council consensus to move forward with Option 1, and to hold a Study Session discussion before taking final action.

- (b) Proposed amendments to Bellevue City Code (BCC) Chapter 22.16 (Transportation Impact Fee Program).

City Manager Miyake introduced discussion regarding proposed amendments to the City's Transportation Impact Fee Program, Bellevue City Code Chapter 22.16. The purpose of the amendments is to reduce the temporary financial burden on developers as well as the administrative burden on City staff.

Transportation Director Andrew Singelakis said the proposed amendments to the Transportation Impact Fee Program reflect housekeeping changes and clarifications, as well as a provision for the deferred collection of certain types of fees. No rate changes are proposed at this time.

Eric Miller, Implementation Planning Manager, said the review of the Transportation Impact Fee Program was initiated in January, and briefings were held with each Councilmember in April and May. Staff is actively involved in the stakeholder outreach process. In May, staff held a briefing with the Chamber of Commerce and its permitting and land use committee as well as a briefing with the developer community. A presentation to the Bellevue Downtown Association (BDA) is scheduled for tomorrow. Mr. Miller said there has been no opposition to the proposed code amendments to date.

Mr. Miller said that one purpose of the amendments is to improve the impact fee program process. The current code requires the reimbursement of a percentage of the value of land that is dedicated to the City or of the construction that a developer completes as part of an impact fee project under the City's Transportation Facilities Plan (TFP). One proposed revision applies a refund and reimbursement cap consistent with the amount of the impact fee owed by the developer.

Molly Johnson, Development Review Manager, described recommended changes to the timing of fee collections for tenant improvements and affordable housing developments. She said the code currently requires all fees to be collected at the issuance of the building permit. For mixed

use developments, the fees are collected when construction begins. However, the uses and tenants have not typically been identified at that point. Ms. Johnson said the proposed code amendment will allow tenant improvements fees to be collected with the tenant improvement building permit instead of with the larger building construction permit.

Ms. Johnson said that the second change related to fee collection applies to affordable housing units and developments. Affordable housing units and developments are eligible for an exemption. However, the amount of the exemption is not currently calculated until the units are nearly ready for occupancy. Ms. Johnson said the amendment proposes deferring the payment of the fees instead of collecting the full fee and later reimbursing a certain amount. She noted additional amendments to clarify definitions and the relationship of the impact fee program to other programs and plans.

Mr. Miller said the Transportation Impact Fee Program is based upon the Capital Facilities Plan, which is an element of the Comprehensive Plan. He said there is a list of exemptions in the current impact fee code that includes affordable housing, public transportation facilities, and other types of development. Mr. Miller said staff recommends adding City facilities to the list of exemptions.

Mr. Miller said staff will continue its stakeholder outreach, including a meeting with the BDA the following day. Next steps will be final Council review and adoption of the code amendments.

Mayor Robinson thanked staff for the presentation.

Responding to Councilmember Lee, Mr. Miller said that a development in the Spring District was conditioned on dedicating the right-of-way for Spring Boulevard to the City. The impact fee code requires that after the amount of the impact fee is credited to the developer, the City must also pay a portion of the value of the right-of-way dedication to the developer. Mr. Miller said there were two cases over the past 10 years in which the credit to the developer exceeded the initial impact fee.

Councilmember Zahn expressed support for streamlining and clarifying the code, and thanked staff for their community outreach. She said Imagine Housing previously expressed concerns regarding the collection of fees that are later refunded. Responding to Ms. Zahn, Ms. Johnson said the change will not reduce the time needed to deliver development projects. However, the changes will streamline the administrative process.

Councilmember Robertson expressed support for the proposed changes to the Transportation Impact Fee Program. She noted that she raised the issue regarding the impact fee credit based on her experience providing legal assistance to local governments. She said she would be comfortable taking action on the amendments as a consent calendar item.

Councilmember Barksdale thanked staff for the extensive community engagement to consider changes to the impact fee program.

Councilmember Stokes expressed support for the recommended revisions.

Deputy Mayor Nieuwenhuis concurred and said he is ready to move forward.

Mayor Robinson concurred with Councilmember Robertson and others about placing approval of the proposed amendments on a future consent calendar.

10. Public Hearing: None.

11. Land Use: None.

12. Other Ordinances, Resolutions, and Motions

- (a) Resolution No. 9766 ratifying and confirming Fourth Civil Emergency Order Imposing Curfew of June 3, 2020 and Termination of Fourth Civil Emergency Order imposing Curfew of June 4, 2020.

Mayor Robinson said the first curfew in Bellevue was enacted on May 31 due to credible intelligence about the potential for violence. However, the curfew was later lifted in the absence of any credible threats. Mayor Robinson requested Council approval of Resolution No. 9766 ratifying and confirming Fourth Civil Emergency Order Imposing Curfew of June 3, 2020 and the Termination of Fourth Civil Emergency Order imposing Curfew of June 4, 2020.

→ Deputy Mayor Nieuwenhuis moved to approve Resolution No. 9766, and Councilmember Stokes seconded the motion.

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

13. Unfinished Business: None.

14. New Business: None.

15. Executive Session: None.

16. Adjournment

At 7:20 p.m., Mayor Robinson declared the meeting adjourned.

Charmaine Arredondo, CMC
City Clerk

/kaw