

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Regular Session

April 6, 2015
8:00 p.m.

Council Chamber
Bellevue, Washington

PRESENT: Mayor Balducci and Councilmembers Chelminiak, Lee, Robinson, and Stokes

ABSENT: Deputy Mayor Wallace and Councilmember Robertson

1. Call to Order

The meeting was called to order at 8:06 p.m., with Mayor Balducci presiding.

2. Roll Call, Flag Salute

All Councilmembers except Deputy Mayor Wallace and Councilmember Robertson were present. Councilmember Robinson led the flag salute.

(a) Proclaiming April as Autism Awareness Month

Mayor Balducci read a proclamation recognizing April as Autism Awareness Month in Bellevue.

A representative of Professional Hospitality Management reported that membership hotels are working together this month to raise awareness of Autism Spectrum Disorder (ASD). This includes fundraising, the display of blue lights, and other activities. He thanked the City for its recognition and proclamation.

(b) Arbor Day-Earth Day 2015 Proclamation; Tree City USA Award

Mayor Balducci read a proclamation recognizing April 18, 2015 as Arbor Day/Earth Day 2015 and encouraging citizens to participate in community-wide celebrations and environmental enhancement efforts.

Curtis Kukal, Park Ranger and Environmental Programs Coordinator, introduced Terry Flatley, Urban Forestry and Natural Resources Manager for the City of Renton employee, who spoke on behalf of urban forestry managers of the Washington Community Forestry Council.

Mr. Flatley presented two awards to the City of Bellevue from the Arbor Day Foundation: the City's 24th Tree City USA Award and 22nd Annual Growth Award. He provided a brief history of Arbor Day in Washington state and thanked the Council for its support of community forests.

3. Communications: Written and Oral

Mayor Balducci indicated that the Council would allow comments from the five persons signed up to speak on the individual room rentals issue given that it is on the agenda for Council action. Typically, three persons are allowed to speak to either side of an issue.

- (a) Duse McLean requested reimbursement from the City for costs associated with damage to her sewer line and driveway. She submitted her comments and request in writing.
- (b) Tiffany Dao, Bellevue College Office of Student Legislative Affairs, commented on the need for affordable housing. She thanked the City for involving students in discussions about affordable housing. She expressed support for the Rental Housing Association's recommendation regarding proposed Ordinance No. 6223 to increase the number of unrelated adults allowed in a household from four to five. She asked that the deadline for complying with the Ordinance be amended to June 30, 2016 instead of one year. This would prevent the disruption of living arrangements for students before the end of the academic year. Ms. Dao expressed support to add language preventing month-to-month leases beyond September 14, 2015. This is the midpoint between the end of the summer quarter and beginning of the fall quarter, and would allow students time to find alternate housing.
- (c) Paul Bell, State Legislative Liaison for the students of Bellevue College, thanked the Council for involving Bellevue College students in the issue of individual room rentals. He expressed general support for the proposed regulations and strongly encouraged efforts to provide more affordable housing in Bellevue. He said he looked at some of the places that will be shut down by Ordinance No. 6223. He observed that some were clean and decent while others were disturbing and not well maintained, preying on the most vulnerable. He said students want clean and safe housing.
- (d) Dave Rule, President of Bellevue College, expressed support for Ordinance No. 6223 and thanked the Council and City staff for working with students. He said Bellevue College is moving forward with its housing plans and recently released a request for proposals (RFP) for a Phase I plan that will add 350-500 beds on campus.
- (e) Nils Dickmann encouraged the City to save the Philbrook House in Old Bellevue, which is believed to have been built in the 1890s and is one of the few remaining Victorian structures in Bellevue. The house was occupied by Civil War veteran Alphonso W. Philbrook and later served as a restaurant and boarding house for whalers, plumbing supply store, bakery, and numerous antique businesses. Mr. Dickmann is working with the owner of the house and others interested in saving the house and has raised \$3,500 to help move the house. The property owner has pledged \$7,000 toward moving and preserving the house, and a King County 4Culture grant request could provide an

additional \$1,500. Mr. Dickmann submitted his comments in writing, as well as letters of support from the Eastside Heritage Center and the Washington Trust for Historic Preservation. He noted the need to move the house by the beginning of May.

Mayor Balducci asked the City Manager to follow up and to provide more information on this issue to the Council the following week, given the urgency for moving the structure.

- (f) Alex Zimmerman, StandUP-America, said the King County Council adopted a policy accumulating the power of three branches and is now fascist. He said the City of Seattle adopted the same policy one year ago. He questioned what the next steps will be and suggested that, perhaps, this fascism will spread to state and federal governments. He directed profanity at the Council as he walked away from the podium.
- (g) Benjamin Premack spoke about cycling and described a serious accident he experienced years ago in Boston when a person opened a car door in front of him as he was riding in a bike lane on a street. He requested dedicated bike paths separated from roadways in Bellevue, especially if that is possible along the length of the East Link light rail project.

Mayor Balducci said more information on bike facilities included in the East Link project will be released within the next few days. However, plans include a mixed use path along the alignment from I-90 to the East Main Station and another path/trail in the Bel-Red area.

- (h) Bill Popp, an Enatai resident, recalled staff's comments the previous week about the noise walls for the East Link light rail project. However, staff did not mention the mesh panels that would be on top of the walls, which will block all views of the Mercer Slough Nature Park for drivers, bicyclists, and pedestrians. Mr. Popp said he sent a letter to the Light Rail Permitting Citizens Advisory Committee (CAC) with his concerns.
- (i) Glenn Lextor expressed support for proposed Ordinance No. 6223 regulating room rentals in single-family areas. However, he is concerned that this is two weeks too late for new renters on his street. He would like to see an effective mechanism for enforcement.
- (j) David Pater concurred with previous speakers regarding Ordinance No. 6223, which he supports. He said residents appreciate the City for working with them. He said the houses being addressed by the ordinance are multifamily uses and belong elsewhere.

4. Reports of Community Council, Boards and Commissions: None.

5. Report of the City Manager

- (a) Bellevue Storm and Surface Water Plan [Continued from Study Session]

City Manager Brad Miyake said this item was continued from the earlier Study Session. Staff is seeking Council action to affirm the statement tonight or in the future.

Paul Bucich, Assistant Director of Utilities, said the meeting packet provides the Draft Council Interest Statement on the Storm and Surface Water System Plan. The Comprehensive Storm and Surface Water Plan was adopted in 1995. Since that time, the population has increased significantly and the tree canopy has decreased. In addition, the Endangered Species Act was not a factor for Bellevue at that time. However, the City has been dealing with the listing of Chinook salmon for the past 16 years, as well as other species in the Puget Sound region.

Also, Mr. Bucich said the NPDES (National Pollutant Discharge Elimination System) Phase II Permit did not exist in 1995. While the requirements drive a lot of what the Utilities Department does, they are based on complying with the Clean Water Act. The permit is not sufficient to effectively manage the storm and surface water system.

Mr. Bucich said staff is seeking Council feedback on, and potentially approval of, the proposed interest statement tonight. If changes are requested, staff would like to return on April 27 for action. Staff will take strategic initiatives to the Environmental Services Commission in May and June, hold a public open house in July, and bring final recommendations from the Commission back to the Council in September or October. Staff anticipates two Council Study Session discussions in the fall leading to final approval of the Storm and Surface Water System Plan.

Councilmember Robinson commended staff on the Coal Creek Parkway project. She suggested adding a reference in the interest statement to the use of “best practices.” Councilmember Lee suggested the plan should be a future-focused document and he does not want the use of the term to restrict the types of practices or methods that might be implemented over time. Ms. Robinson clarified that her meaning of best practices refers to innovative and the most effective practices available.

Mr. Bucich said staff has innovative ideas to explore with the Environmental Services Commission that would advance the storm and surface water management. Councilmember Lee reiterated that he does not want staff to feel constrained in what it studies and considers. Mayor Balducci suggested language to indicate that the City should, wherever possible, use best practices and innovations.

Councilmember Stokes expressed support for the interest statement. He is not opposed to adding the term “best practices,” but feels it is overused and somewhat vague. He looks forward to seeing the draft plan. Councilmember Robinson read a definition of “best practice”: A technique or methodology that, through experience and research, has been proven to reliably lead to a desired result.

Mayor Balducci summarized the Council’s interest that staff continually monitor advancements in the field and push the City to remain at the leading edge of industry standards and practices.

Moving on, Mayor Balducci noted that the interest statement has several references to economic vitality and economic development. She suggested language to reflect that sound, reliable utilities are important to overall quality of life as well and to serving the citizens of Bellevue.

Councilmember Chelminiak spoke in favor of approving the interest statement as presented.

Mayor Balducci suggested that staff bring the interest statement back on the Consent Calendar if there are no further comments from the Council.

(b) Management Brief providing 2014 Annual Performance Measures Survey
Topline Results

Rich Siegel provided an overview of the 2014 Annual Performance Measures Survey. Nearly 500 surveys were completed, and the survey is one of the City's tools to support informed decision making at all levels. Mr. Siegel highlighted measures demonstrating a high level of satisfaction including overall quality of life, quality of City services, whether the City is headed in the right direction, value of services for tax dollars paid, comparability to other communities, and perceptions regarding Bellevue neighborhoods.

Responding to Mayor Balducci, Mr. Siegel said the full report will be out within three to four weeks.

Responding to Councilmember Lee, Mr. Siegel said the results continue the trend of being very positive. He will provide results since 2010. Mr. Lee said it would be interesting to see if there is any correlation between the results and economic cycles.

Councilmember Chelminiak highlighted that less than one percent of the respondents perceive Bellevue as worse than other cities. He said this is as important as the high satisfaction levels. He observed that this reflects the good work of the City and staff.

(c) SCATS Contract Amendment to Expedite Completion

Mr. Miyake highlighted Agenda Item 8(g), which completes the final phase of the SCATS traffic adaptive signal control system. The system has been very effective in reducing traffic congestion and enhancing traffic flow in Bellevue.

(d) Enatai Community Meeting

Mr. Miyake highlighted the Enatai public meeting held the previous Tuesday with more than 100 attendees. Neighborhood Outreach staff and the Police Department hosted this community meeting to discuss the increase in property crimes.

6. Council Business and New Initiatives

Mayor Balducci thanked Councilmember Chelminiak for submitting his report in writing, in accordance with the pending Council rule. The remaining Councilmembers said they would forego their reports given the full agenda.

7. Approval of the Agenda

→ Councilmember Chelminiak moved to approve the agenda, and Councilmember Lee seconded the motion.

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

8. Consent Calendar

→ Councilmember Chelminiak moved to approve the Consent Calendar, and Councilmember Stokes seconded the motion.

→ The motion to approve the Consent Calendar carried by a vote of 5-0, and the following items were approved:

(a) Council Meeting Minutes

Minutes of March 9, 2015 Extended Study Session

Minutes of March 16, 2015 Study Session

Minutes of March 16, 2015 Regular Session

Minutes of March 23, 2015 Extended Study Session

(b) Resolution No. 8893 authorizing Garland/DBS, Inc. to re-roof portions of the Crossroads Community Center and Robinswood Park restroom/concession stand using the U.S. Communities Government Purchasing Alliance (Cobb County, GA. #ITB-14-5903).

(c) Resolution No. 8894 authorizing execution of a four-year Interlocal Agreement between Bellevue and the cities and organizations of Kirkland, Mountlake Terrace, Port of Seattle, Renton, SeaTac, Tacoma, Tukwila, Woodinville, Seattle Parks and Recreation, University of Washington, USDA Wildlife Services, Washington State Parks, and the US Fish and Wildlife Service for waterfowl management.

(d) Motion to award Bid No. 15006 for Yarrow Creek West Tributary Culvert Removal Project, as the lowest responsible and responsive bidder, in the amount of \$490,180.04 (CIP Plan No. D-81).

(e) Resolution No. 8895 authorizing execution of an amendment to the Agreement for Professional Services with Pacifica Law Group LLP, outside counsel for the City in the lawsuit, of Greensun v. Bellevue (KCSC Case No. 14-2-29863-3SEA) in an amount not to exceed \$200,000.

(f) Resolution No. 8896 authorizing execution of an amendment to the Agreement for Professional Services with Keating Bucklin & McCormack, outside counsel for the City in the Shoreline Hearings Board appeal of Davidson et al, v. City of Bellevue, et al (SHB Case No. 14-025), in an amount not to exceed \$300,000.

- (g) Resolution No. 8897 authorizing execution of the ninth amendment to the purchase agreement with Transcore ITS, LLC for the SCATS traffic adaptive signal control system in an amount not to exceed \$320,000.
- (h) Motion to Award Bid No. 15020, for the 2015 Overlay Program to Watson Asphalt Paving Company Inc., as the lowest responsive and responsible bidder, in the amount of \$4,046,306.95 (CIP Plan PW-M-1 Overlay Program, and CIP Plan W-16 Small Diameter Water Main Replacement).

9. Public Hearings

- (a) Public Hearing and action on proposed Ordinance No. 6222 extending interim zoning controls adopted by Ordinance No. 6133 B-1, as amended and extended by Ordinance No. 6156, regulating recreational marijuana uses.

Catherine Drews, Legal Planner, said staff is requesting extension of the interim zoning controls regulating recreational marijuana uses. She said the state legislature is now in session and will be addressing amendments to laws governing both recreational and medical marijuana, including revenue sharing proposals. Staff recommends extending the interim regulations for an additional six-month period as allowed in the State Growth Management Act to allow staff to come back with any changes based on the state legislature's actions.

Responding to Mayor Balducci, Ms. Drews said she anticipates that any amendments could be incorporated into the City's proposed ordinance by the six-month deadline.

→ Councilmember Chelminiak moved to open the public hearing, and Councilmember Stokes seconded the motion.

→ The motion carried by a vote of 5-0.

No one came forward to comment.

→ Councilmember Chelminiak moved to close the public hearing, and Councilmember Stokes seconded the motion.

→ The motion carried by a vote of 5-0.

→ Councilmember Chelminiak moved to adopt Ordinance No. 6222, and Councilmember Stokes seconded the motion.

→ The motion carried by a vote of 5-0.

Mayor Balducci said she has heard no comments from the public on the recreational marijuana retail stores for some time.

10. Land Use: None.

11. Other Ordinances, Resolutions and Motions

- (a) Ordinance No. 6223 amending the land use charts to identify "rooming house" as an allowed use in multi-family and certain commercial and Bel-Red land use districts, amending the general development requirements applicable to "rooming houses," amending the definitions of "bed and breakfast," "boarding house," and "family," creating new definitions of "rooming house" and "single housekeeping unit," repealing Ordinances Nos. 6128, 6152, 6172, and 6219; providing for severability; and establishing an effective date.

City Manager Miyake recalled the history of this issue and the work of the Planning Commission, residents, and the Council to develop regulations to appropriately address individual room rentals in single-family neighborhoods.

Mayor Balducci said she is pleased to reach this point of considering the permanent regulations. She understands students' concerns that the regulations would terminate the prohibited uses before the end of the school year. However, this issue has been going on for some time and residents are eager to move forward. Responding to Ms. Balducci, Ms. Drews said the proposed ordinance does not include any type of discretionary hardship exception from that requirement.

Mayor Balducci stated her concern that this could be disruptive to students toward the end of the school year. She hopes the City can work with these situations if needed, and she supports the proposed regulations.

→ Councilmember Stokes moved to adopt Ordinance No. 6223, and Councilmember Lee seconded the motion.

Councilmember Chelminiak said he wanted to speak to some practical aspects. If a student is paying month to month, he or she would make it through most of the school year and would likely be able to complete that school year in the same rental unit, even if that extended one month beyond the deadline for compliance, before enforcement action would conceivably move forward.

Councilmember Chelminiak commented on the City's relatively quick response to an issue raised by the community, which is a business practice that is inconsistent with single-family neighborhoods. He noted health and safety issues with the rooming houses. Mr. Chelminiak expressed support for the motion and said the ordinance strikes a proper balance between providing housing options while regulating a business practice that is inconsistent with single-family zones. He observed there was somewhat extensive discussion about the definition of "family." He noted it is a term of law that has been upheld in other jurisdictions.

Councilmember Stokes thanked residents for their involvement and persistence on this issue. However, neighbors will need to remain vigilant to monitor the situation. He supports adopting the ordinance as proposed and giving it time to work. Mr. Stokes said this topic raises broader issues about how to approach housing needs throughout Bellevue. He said this effort provided

the opportunity to define a number of housing-related terms (e.g., rooming house, boarding house, bed and breakfast, family, single housekeeping unit), which helps to focus where different types of housing should be located.

Councilmember Stokes thanked residents for their work with the Council and staff. He said Stephanie Walter was very involved, thoughtful and focused in this effort, and he recommended her for a Planning Commission appointment. He said it is good to have that outcome from this process.

Councilmember Lee recognized residents for raising and working through this issue. He acknowledged the need for the City to work on affordable housing and thanked residents for working constructively with the City to find a solution that is good for Bellevue.

Mayor Balducci said there has been good, increasingly varied discussion on this topic in recent weeks. She noted the perception by some that this limits the number of children in a family. She clarified that the regulations do not limit the number of related individuals living together in a home.

Mayor Balducci said the regulations are not an attempt to make it hard to rent in Bellevue. She said seeing the impacts of these individual room rentals on the neighborhood illustrated why this business model became a problem.

Ms. Balducci credited Councilmember Chelminiak for being the first to visit the Spiritwood neighborhood and observe what was going on. What the Council found was small homes being chopped into multiple, tiny rooms for rental as well as the construction of huge structures obviously intended to be boarding houses (i.e., many bedrooms and bathrooms and multiple kitchen-type areas).

Mayor Balducci said residents have specific expectations about single-family and multifamily zoned areas, and the emerging boarding houses are not compatible with single-family neighborhoods. She said the City is working on ways to provide incentives for affordable housing. However, the ordinance addresses a business model that developed in the wrong zone.

→ The motion to adopt Ordinance No. 6223 carried by a vote of 5-0.

Mayor Balducci said residents have been very diligent and patient in working through this issue. She thanked the Bellevue College administration and students for working with the Council, and observed that the regulations are a reasonable solution at this time.

- (b) Resolution No. 8898 authorizing the Development Services Department to process applications to modify existing wireless facilities consistent with the Federal Communication Commission's January 8, 2015 rule implementing Section 6409(a) of the Spectrum Act of 2012.

Mr. Miyake introduced proposed Resolution No. 8898 applicable to existing wireless facilities.

City Attorney Lori Riordan provided background information on what led to the Federal Communication Commission's January 8, 2015 rule implementing Section 6409(a) of the Spectrum Act of 2012. The 2012 law was designed to expedite the permitting process for certain types of wireless facilities, and the FCC was tasked with drafting an order to implement the new law. The law goes into effect later in the week. The FCC sought input from a variety of stakeholders as it drafted the rule. The City and other local governments commented on the proposed order. However, many of these concerns were not addressed.

Ms. Riordan said the FCC rule takes away some of the local control over the deployment and permitting process for wireless facilities, and restricts the City's ability to require mitigation of the expansion and colocation of facilities. Section 6409(a) of the Spectrum Act of 2012 states that a state or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the dimensions of such tower or base. Eligible facilities are defined as a request for modification of an existing wireless tower or base station that involves: a) colocation, b) removal of transmission equipment, or c) replacement of transmission equipment.

As an example, Ms. Riordan said that, if a carrier wants to increase the size of an existing tower, the carrier is able to add 20 feet in height and six feet in width under the new rules. For wireless facilities that are a secondary use (i.e., installed on a light pole), the allowed height increase is 10 feet and the width can be expanded potentially up to six feet. The rules allow the addition of up to four equipment cabinets as large as residential refrigerators.

If the City receives applications that fall within these parameters, it will need to follow the procedures outlined in the FCC order. If an application is not processed within 60 days, the permit is deemed granted. If an application is incomplete, the City must notify the applicant within 10 days to provide the opportunity for the addition of information.

Ms. Riordan said it is important for the City to comply with the order and to process applications in a timely manner to avoid them being automatically approved. She said the City also wants the wireless carriers, citizens, and customers of the carriers to have some certainty as to how the City will respond to the order.

Ms. Riordan said Resolution No. 8898 provides time for staff to develop a work program for implementing the rule. As that work plan is drafted, staff will look for ways to mitigate the impacts of the regulations, which includes providing City facilities as locations responding to new applications. With this approach, if the carrier wants to modify the equipment at a later date, the City will be able to address the application as the owner of the property as opposed to in the City's regulatory capacity.

Ms. Riordan said the City has joined a coalition of other local governments who have filed suit in the Fourth Circuit Court on the East Coast to appeal the FCC's order and to seek a judicial determination that the order went too far in interpreting the 2012 Spectrum Act. The lawsuit requests that the court return the order to the FCC for revisions that restore more local control. Ms. Riordan said the goal is to strike a balance that allows for wireless deployment throughout the City that provides the desired access, certainty, and ability to mitigate impacts.

Responding to Councilmember Robinson, Ms. Riordan said the City's existing requirements for screening and/or concealing the facilities can still be applied under the order. Staff will be exploring Code changes (e.g., height limits on structures, cloaking requirements) to enable the City to exercise more local control.

Mayor Balducci observed that it is best to approve the Resolution and avoid installations that are ultimately permitted through the City's inaction in processing permit applications. She concurred with continuing to fight for local control, however.

→ Councilmember Stokes moved to approve Resolution No. 8898, and Councilmember Lee seconded the motion.

Councilmember Lee spoke to the importance of regaining local control. He wondered whether there is a way to work with federal legislators to resolve the issue. Mayor Balducci confirmed that retaining local control in all areas is inherent in the Council's legislative agenda. Mr. Lee said he would like to hear any recommendations from the City's lobbyist about a way to pursue a different solution.

→ The motion carried by a vote of 5-0.

12. Unfinished Business: None.

13. Continued Oral Communications: None.

14. New Business: None.

15. Executive Session: None.

16. Adjournment

At 9:47 p.m., Mayor Balducci declared the meeting adjourned.

Myrna L. Basich, MMC
City Clerk

/kaw