

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Regular Session

April 20, 2015
8:00 p.m.

Council Chamber
Bellevue, Washington

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

ABSENT: None.

1. Call to Order

The meeting was called to order at 8:10 p.m., with Mayor Balducci presiding.

2. Roll Call, Flag Salute

All Councilmembers were present. Councilmember Chelminiak led the flag salute.

(a) Stand Against Racism Day Proclamation

Mayor Balducci read the proclamation recognizing April 24 as Stand Against Racism Day in Bellevue.

Gina Yarwood, representing the YWCA Family Village in Redmond, accepted the proclamation and thanked the Council for its ongoing support. She invited the Council and the public to a related event on April 24.

3. Communications: Written and Oral

Mayor Balducci noted that public comment would not be taken on the Puget Sound Energy (PSE) transmission line. The record on that matter was officially closed with the Hearing Examiner's recommendation, and the Council acts in a quasi-judicial capacity to consider the Process III application.

- (a) Terry Lukens commented on the proposed East Link Amended and Restated Memorandum of Understanding (MOU) with Sound Transit. He expressed support for moving forward with the MOU and light rail project. He believes the agreement achieves nearly everything Bellevue was asking for, including the Downtown tunnel and enhanced

mitigation. He recalled that voters supported light rail in the Sound Transit 2 package. He urged the Council to take action on the MOU and to move forward.

- (b) Ross Jacobson spoke in favor of the East Link Amended MOU. He noted that he is a current Board Member and past Chair of the Bellevue Downtown Association (BDA). He has attended most of the BDA meetings over the past few years regarding the light rail alignment and Downtown tunnel. He commented on the importance of bringing light rail to the Downtown and the broader community to support businesses, customers, and commuters, and to attract employers and employees.
- (c) Ruth Lipscomb said she looks forward to the East Link light rail project moving forward. She noted that younger people do not necessarily want to own cars due to the expense of buying, maintaining, and insuring vehicles. She thanked Mayor Balducci and Deputy Mayor Wallace for their hard work in the negotiations with Sound Transit. She believes the agreement gives Bellevue everything it was asking for, and she hopes the Sound Transit Board will approve the agreement.
- (d) Alex Zimmerman, representing StandUP-America, reiterated his ongoing request that the City Manager have monthly meetings with citizens. He said people continue to elect bad officials. He said Bellevue was a beautiful, nice community 25 years ago but that is not the case now.
- (e) Kristen Bryant noted provisions in the East Link MOU for continued environmental study. She expressed support for the Eastside Rail Corridor mitigation trail for biking and walking. She encouraged the City to require trees along the entire trail, including around the Operations and Maintenance Satellite Facility (OMSF) in the Bel-Red area. She expressed concern about building the light rail alignment through wetlands.
- (f) Dr. Don Davidson, former Councilmember and Mayor, recalled that he and Terry Lukens worked together on the City Council in the past to preserve and protect the Mercer Slough Nature Park. He said someone in the past indicated that he was the cause of the first East Link MOU. He said he obtained a verbatim transcript from the City Clerk of everyone who spoke and he would like that to be distributed to the Council.
- (g) Bill Popp, a registered civil engineer specializing in transportation planning, said it is not possible to mitigate the long-term impacts that will result from the light rail project. He said the traffic signal control at the South Bellevue Park and Ride lot intersection increases traffic backups and causes cut-through traffic into the Enatai neighborhood. He expressed concern about traffic impacts during construction of the project and said he does not believe that the East Link alignment decisions are irreversible. He said a bored tunnel along the west side of Bellevue Way would be a better alignment solution with fewer impacts. Mr. Popp said Sound Transit engineers recommended a bored tunnel for the corridor in October 2012. He urged the Council to ask Sound Transit to conduct an immediate feasibility cost study for the bored tunnel option in South Bellevue.

- (h) Leslie Miller thanked the Council for dedicating resources to create the Bellevue Diversity Initiative, and asked them to use the plan in its daily work as Councilmembers. As the Council reviews the Comprehensive Plan, Ms. Miller asked the Council to consider policies that will encourage and create affordable housing. She noted a number of open positions on Boards and Commissions and asked the Council to consider candidates' dedication to diversity in making its decisions.

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

5. Report of the City Manager: None.

6. Council Business and New Initiatives

- (a) Council Liaison Recommendations for 2015 Reappointments to Bellevue's Boards and Commissions

Councilmember Robertson recommended the reappointment of three Environmental Services Commission (ESC) members who have each completed one term. She said she also supports Councilmember Robinson's nomination for a reappointment to the Parks Board.

→ Councilmember Robertson moved to reappoint Anne Howe, Aaron Morin, and Calvin Wang to the Environmental Services Commission, and to reappoint Dallas Evans to the Parks and Community Services Board. Councilmember Stokes seconded the motion.

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

7. Approval of the Agenda

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

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

8. Consent Calendar

Mayor Balducci referred the Council to the memo in the desk packet regarding Item 8(h). She said Finance Department staff requested an amendment to Ordinance No. 6225 to better reflect how the receipt of the grant will be recorded in the Budget.

→ Deputy Mayor Wallace moved to approve the Consent Calendar, as amended by the substitute version of Ordinance No. 6225 [Item 8(h)] provided in the desk packet. Councilmember Chelminiak seconded the motion.

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

- (a) Council Meeting Minutes
Minutes of March 30, 2105 Special Meeting
- (b) Motion to approve payment of claims and payroll for the period March 1, 2015 through March 31, 2015.
- (c) Ordinance No. 6224 authorizing:
 - 1) Budget transfer of \$410,000 from the Utility Facilities for 120th Avenue NE Improvements (Segment 2) Project (CIP Plan No. S-63) to the East Central Business District Sewer Trunkline Improvements Project (CIP Plan No. S-52), and amending the 2015-2021 Utility Capital Investment Program (CIP) Plan to reflect the transfer of the \$410,000 from the Utility Facilities for 120th Avenue NE Improvements (Segment 2) Project (CIP Plan No. S-63) to the East Central Business District Sewer Trunkline Improvements Project (CIP Plan No. S-52); and,
 - 2) Motion to award Bid No. 15016 for East Central Business District Sewer Trunkline Improvements to Shoreline Construction, as the lowest responsible and responsive bidder in the amount of \$2,874,698.03 (CIP Plan No. S-52).
- (d) Motion to award Bid No. 15001 for AC Water Main Replacement 2015 - Phase 2 to Kar-Vel Construction, as the lowest responsible and responsive bidder, in the amount of \$2,245,379.84 (CIP Plan No. W-16).
- (e) Resolution No. 8899 authorizing six-month extensions to the existing Olympic Pipeline Franchise Agreement and Agreement to Share Information between the City of Bellevue and Olympic Pipe Line Company (OPLC).
- (f) Resolution No. 8900 authorizing execution of a General Services Agreement for city-wide parking monitoring services with Diamond Parking Services for a five-year term.
- (g) Resolution No. 8901 authorizing execution of an amendment to the existing Professional Services Agreement with MacLeod Reckord Landscape Architects to complete final engineering services for stormwater facilities.
- (h) Ordinance No. 6225 authorizing execution of a Fiscal Year (FY) 2016 Water Quality Grant Funding Agreement (and any subsequent grant-related documents) with the Washington State Department of Ecology to accept state grant funds of up to \$861,609 to design and construct the Bellevue Downtown Park Regional Water Quality Facilities Project which includes a low impact development component; amending the 2015-2021 Utility Capital Investment Program (CIP) to increase the budget of the Minor (Small) Capital Improvement Project (CIP Plan No. D-59) by \$861,609; amending the 2015-2016 Utility CIP Budget by \$861,609 to provide spending authority in the current biennium; appropriating unanticipated

and future revenues to that fund; and, authorizing the expenditure of said grant funds.

- (i) Resolution No. 8902 authorizing the execution of a five-year General Services Contract with Stripe Rite Inc., in a total contract amount of \$549,120.45, to provide annual city-wide traffic striping maintenance.
- (j) Motion to adopt Storm and Surface Water System Plan Interest Statement.
[Discussed with Council on April 6, 2015.]

9. Public Hearings: None.

10. Land Use

- (a) Consideration of the application of Puget Sound Energy (PSE) to construct a new 115 kV overhead transmission line connecting the existing Lake Hills Substation with the Phantom Lake Substation. *[Council previously discussed this quasi-judicial item on January 26, 2015.]*

Mayor Balducci said the Council will consider action on the conditional use permit (CUP) application sought by Puget Sound Energy (PSE) to construct this electrical project connecting two of the city's substations. The required public hearing was held on November 20, and no appeals were filed. The Council first addressed this matter on January 26. It was originally scheduled for action on February 2, but the Council requested additional time to review the record.

The Council has not been allowed to take public comment on this matter because it is a quasi-judicial proceeding. Any ex parte communications involving Councilmembers must be disclosed. Mayor Balducci said this is not a typical policy decision by the Council. Instead, the Council must consider the evidence presented in the record as well as the Hearing Examiner's recommendation.

Mayor Balducci acknowledged that there has been a relatively high level of community interest in this application, particularly by members of the organization CENSE (Coalition of Neighborhoods for Sensible Energy), which was created due to concerns about PSE's Energize Eastside project.

City Attorney Lori Riordan said the Council is determining the question of whether or not the CUP application will be granted for this particular project. There was no appeal of the Hearing Examiner's recommendation and therefore the applicant is the sole party in this matter. The Council will not take any testimony or argument.

Ms. Riordan said the State Appearance of Fairness Act applies to the Council's deliberations. Under this act, Councilmembers act as judges and should not engage in ex parte contacts. Although judges cannot have ex parte contacts, the law acknowledges that individuals might contact Councilmembers on this matter. Councilmembers must disclose these contacts including

the name of the other person, when and where the contact occurred, and the substance of the communication. After Councilmembers disclose ex parte contacts, they will be asked to indicate whether or not they feel capable of judging this matter fairly.

Ms. Riordan said the Council has received approximately 50 emails on this project. These have been collected by staff and preserved for the record in case they are needed for a future legal proceeding. Councilmembers do not need to list any of these emails as part of their disclosures, unless a Councilmember responded to a communication without staff's knowledge. Councilmembers must disclose all forms of communications including phone calls, emails, letter, and direct conversations.

Responding to Ms. Riordan, Councilmember Chelminiak said he received an email from David Pater, which he forwarded to the City Clerk. He affirmed that he is able to judge this matter impartially.

Councilmember Lee said he had not had any ex parte contacts on this specific matter. However, in a meeting with an individual regarding a number of City issues, this project was mentioned and Mr. Lee indicated to the resident that he could not comment. Mr. Lee said he is able to judge this matter impartially based on the record.

Deputy Mayor Wallace said he received three emails from Dick Lee through his Wallace Properties work email. He later sent an email to the full Council, and his comments were consistent with his earlier emails to Mr. Wallace. Mr. Wallace said he would forward all emails to the City Clerk. Responding to Ms. Riordan, Deputy Mayor Wallace said he is able to set aside the information provided in those contacts and to judge this matter impartially based upon the record.

Mayor Balducci said she lives in the middle of the project area and received a number of communications from the public. She received the email from Mr. Pater that was mentioned by Councilmember Chelminiak. She said Steve Kasner, a member of the East Bellevue Community Council and a neighbor, has spoken with her at least twice about the matter. That occurred several weeks ago, and the general comments were that he is opposed to the selected alignment, questions the need for the transmission line, and feels it will be detrimental to the neighborhood.

Ms. Balducci reported that, on May 15, Jim Harja, her husband, ran into Steve Kasner and a number of City staff at the grocery store. They had a conversation about the project but she was not present. Jim later shared with her that he supports the benefits of the project in terms of improving electrical reliability.

Mayor Balducci said she took a tour with PSE representatives in mid-March, and most of the conversation was general education about the electrical system and how it is managed, with a focus on the Energize Eastside project. However, they visited the control center and they responded to her questions about how the Lake Hills and Phantom Lake substations work as well as what the transmission line connection would and would not do. One PSE representative was Evan, who spoke in very technical terms beyond her full understanding at some points. Others present included Katherine Taylor, PSE; Jens Nedrud, PSE; and Sarah Langton, a contractor for

PSE. In late March, Mayor Balducci attended the Bridle Trails Community Club meeting primarily to talk about the Energize Eastside project. A question was raised about the Lake Hills transmission line. However, she did not speak directly to that project.

Ms. Balducci said that, last week, she received an email through her personal email account from a friend named Jackie Becker. She forwarded a copy of the email to the Council Office. The email consisted of questions and did not take a position on the project.

Mayor Balducci said she lives between the Lake Hills and Phantom Lake substations and has experienced extended power outages which are longer than those that occur in other parts of the community.

Responding to Ms. Riordan, Ms. Balducci said she is able to set aside that information and make an impartial decision based solely on the record created by the Hearing Examiner.

Councilmember Robinson said she had no disclosures to report. She responded to contacts asking for information and commented that she could not discuss the matter or hear what the person wanted to say.

Councilmember Stokes said he had not opened any emails that had any hint of this topic and he did not speak to anyone about the matter. The only emails he is aware of are included in the copies held by City staff. He said he is able to make an impartial decision based on the record.

Councilmember Robertson said she received eight or nine emails to which she did not respond, and she has forwarded those to City staff. A number of her neighbors in Somerset have brought up the topic, on the phone and in person, and she let them know she could not discuss the matter. She spoke to a group at the Mercer Island Community Center about the Energize Eastside project, and explained at the beginning of that meeting that she could not hear comments on the Lake Hills transmission line. Responding to Ms. Riordan, Ms. Robertson said she can set aside that information and make an impartial decision.

City Attorney Riordan said the Council would receive a staff report and have the opportunity to ask questions tonight. She said the Hearing Examiner was present as well. The Council's consideration and decision on this permit falls under Process III for land use decisions. The project is within the jurisdiction of the East Bellevue Community Council.

Ms. Riordan said the alternatives before the Council are to approve the application adopting some or all of the findings of the Hearing Examiner by reference, to approve the application with modifications including additional conditions, to remand the application to the Hearing Examiner for additional information, or to deny the application. The City's Land Use Code does not specify what burden of proof is required to support the decision. However, because this is a civil matter, an appropriate standard of proof would be a preponderance of the evidence. If the majority of the Council concludes that the Hearing Examiner's recommendation is supported by sufficient evidence to convince a fair-minded person of the correctness of the findings, conclusions and recommendations, the Council would vote to approve the permit and could adopt the Hearing Examiner's recommendation. If the Council concludes that additional

conditions should be included in the permit, it will be necessary to do so based upon a preponderance of the evidence contained in the record.

If a majority of the Council believes that the record does not contain sufficient evidence of any of the statutory criteria for granting a conditional use permit, Council may remand the matter back to the Hearing Examiner to take additional evidence on that particular criterion. If remanded, the instructions to the Hearing Examiner should be in sufficient detail to make it clear to the Examiner, staff, and the applicant to avoid any confusion.

Ms. Riordan said the permit should be denied only if the Council finds that, overall, the Examiner's findings, conclusions and recommendations are not supported by substantial evidence in the record.

Land Use Director Carol Helland presented the staff report. The project application is seeking approval to construct a new 115kV overhead transmission line between the Lake Hills Substation and Phantom Lake Substation. The total length of the line is 2.89 miles along NE 8th Street, 148th Avenue, and SE 16th Street. Approval of the SE 16th Street segment is included in the application. However, it will not be considered for construction at this time to allow PSE and the City to coordinate on City Capital Investment Program (CIP) projects in that area. The Critical Areas permit and Shoreline Substantial Development permit related to this project were issued in October by the Director of Development Services and approved with conditions. Neither of those permits were appealed.

Ms. Helland said the project before the City Council this evening includes a Conditional Use Permit and a Shoreline Conditional Use permit, both of which are quasi-judicial. The CUP must be approved by the East Bellevue Community Council, and the Shoreline Conditional Use permit is forwarded to the State Department of Ecology for final decision.

Ms. Helland said the purpose of the proposed project is to provide reliability for the Lake Hills and Phantom Lake neighborhoods. Each substation is currently fed separately by a transmission line. The proposed project will create a loop so that each substation is fed by two transmission lines. In this case, if one power line goes out, the other will be able to continue to meet customers' needs. The project will provide the flexibility for PSE to make repairs without affecting service.

Ms. Helland described the area served by the project, alternatives considered, and the land use and zoning analysis prepared in anticipation of the proposal. The City Council passed regulations in 2007 requiring a preliminary siting analysis before applications were filed. This is the first electrical facility application submitted since those regulations were adopted. The alternative siting analysis looked at several alignments. The Land Use Code encourages the consideration of visual impacts, areas that are not residentially zoned, and the distance of structures to the proposed lines.

Ms. Helland said the Hearing Examiner found that the 148th Avenue alignment had the fewest impacts on residential neighborhoods, affected the fewest residential properties, and provided the greatest opportunity for mitigation. The Hearing Examiner also cited arterial street speeds on

148th Avenue, the fact that the line does not intersect the park, and only one or two residences have frontage on the proposed transmission corridor.

Ms. Helland said the substation upgrades are related primarily to the removal of hazardous trees and vegetation. None of the healthy trees are planned for removal. Mitigation requires realigning one of the driveway access points to Lake Hills Boulevard to obscure the station and retain the existing screening.

Ms. Helland described the transmission line route in greater detail. The project includes a corridor restoration plan for 148th Avenue from Bellevue College to Bel-Red Road. The City's work was initiated before PSE's work because some of the vegetation had ended its useful life and needed to be refreshed. As a result, the PSE project was an opportunity to leverage the tree removal into some better continuity of design for the corridor and to replace grass with lower maintenance and drought-resistant shrubs and ground cover. The City and PSE hired the same consultant to ensure that PSE's mitigation work is consistent with the City's corridor plan. Ms. Helland said PSE must compensate the City in the amount of \$856,740 for the loss of 295 mature City-owned trees. No trees are being removed from private properties. The money will be used for plants, soil and irrigation only. Any excess funds will be used to extend plantings beyond the edges of the PSE project.

Ms. Helland said a total of 10 public hearings were held since 2007 by PSE, the City, the East Bellevue Community Council, and the City's Hearing Examiner (November 20, 2014). She highlighted a summary of the public comments received throughout the entire process including questions related to the need for the project, routing alternatives and considerations, and construction timing and impacts. She noted that the Electrical Reliability Study in recent years recommended that the Lake Hills and Phantom Lake Substations be connected to achieve the reliability present in the rest of Bellevue.

Ms. Helland said the Hearing Examiner recommends approval of the PSE Shoreline Conditional Use Permit and the Conditional Use Permit applications subject to conditions, which are listed in the presentation and on pages 27-36 of the Hearing Examiner's recommendation. Conditions encompass a wide variety of topics including noise and construction hours, pole design, detailed engineering plans, utilities issues, pavement restoration, safety, environmental disturbance and restoration, landscape and irrigation plans, substation upgrades, tree removal and mitigation landscaping, maintenance and monitoring for restoration work and mitigation, and a development agreement for the SE 16th Street alignment.

Ms. Helland said the transmission line on SE 16th Street must be on one side of the road and coordinated with the City's future CIP project. The development agreement will require the same type of tree assessment that was conducted for the rest of the alignment.

Responding to Councilmember Lee, Ms. Helland said certain property owners asked to negotiate with PSE regarding pole locations. The conditions allow some flexibility for the City to accommodate those preferences.

Councilmember Robertson said three items, including the MDNS (Mitigated Determination of Non-significance), have not been appealed and did not go through the Hearing Examiner. She questioned the reason for an MDNS versus an environmental impact statement (EIS). Ms. Helland said the MDNS was decided upon after the staff review of the environmental checklist and attached information on the alternatives analysis. It was concluded that the impacts would be reduced below the level of probable significant environmental impact, given the conditions attached to the proposal, and therefore the MDNS was appropriate.

Responding to Councilmember Robertson, Ms. Helland confirmed that state law on environmental review has changed since the permit was initiated. A couple of years ago, the State created a State Environmental Policy Act (SEPA) Advisory Committee that worked with the Department of Ecology to change the categorical exemptions under SEPA. In April 2014, a new categorical exemption related to utilities went into effect which exempts utility transmission lines of 115kV or lower when located in existing ROW or utility corridors.

Ms. Robertson said the record includes residents requesting that the lines be placed underground. She questioned why the Hearing Examiner did not recommend that the line be placed underground.

Ms. Helland said she could describe why staff did not recommend undergrounding and the Hearing Examiner reached the same conclusion. The conditions placed on a permit must comply with the City's authority to place limitations and requirements on a proposal. The City's Comprehensive Plan speaks directly to the undergrounding of distribution lines only, which are lower voltage than the proposed transmission lines. Both staff and the Hearing Examiner determined the City did not have the authority to make that choice, which would have bound the City to a cost-sharing allocation with PSE. Responding to Councilmember Robertson, Ms. Helland said the cost of undergrounding is five to eight times the cost for the overhead lines (\$6.45 million).

Responding to Ms. Robertson, Ms. Helland said there are no distribution lines along the transmission line corridor. Ms. Helland confirmed that, when distribution lines are overbuilt with transmission lines, the distribution lines are required to go underground because that is identified as a project intensification.

In further response, Ms. Helland said pole height is addressed on page 75 of the staff materials. The City Code indicates that the electrical engineers are to certify the height is the minimum necessary for the intended function. Pole heights are determined by NERC (North American Electrical Reliability Corporation) standards and safety requirements. The necessary pole height is 75-80 feet, and the separation between wires is 7-10 feet.

Councilmember Robertson observed that the NERC standards are causing more trees to be removed. She questioned whether the standards are advisory or binding on PSE and/or the City. Ms. Helland said they are federal standards that are binding on PSE.

Referring to the fee of \$856,740 from PSE for the loss of trees, Ms. Robertson said this covers the cost of plants and soil. She questioned how the rest of the replanting work will be covered.

Ms. Helland said it is PSE's responsibility to adhere to the mitigation plan. PSE will cover the cost of the final design plan and installation.

Councilmember Robertson asked whether the record addresses requiring trees or shrubs of a specific height and/or maturity. Ms. Helland said the types and sizes of trees are addressed through the Lake Hills conceptual plan. Development Services Department staff and Parks Department staff are working with the urban forester to ensure oversight of this project by the City. Ms. Robertson said the record ensures a five-year surety to ensure the vegetation survives. Does the record stipulate how vegetation will be deemed to be adequate? What is the timing for reaching comparable maturity? Ms. Helland said the timing is generally targeted between five and 10 years.

Responding to Ms. Robertson, Ms. Helland said the vast majority of the 39 poles will be wooden. However, metal poles are required at certain locations. City staff are working on design elements with PSE, including to specify that there be no chain link fencing.

While Ms. Helland looked for information, Mr. Chelminiak said undergrounding is addressed on page 50 of the staff report.

Responding to Ms. Robertson, Ms. Helland said staff will find the comments from the East Bellevue Community Council as reflected in their June 5, 2012 meeting minutes and share that information shortly.

Mayor Balducci noted that the Council typically submits questions in advance of meetings to allow staff to have the information at hand. However, in quasi-judicial matters, all questions must be presented during the public meeting.

Councilmember Lee questioned whether the Hearing Examiner stated conditions related to the design of the poles. Ms. Helland referred the Council to page 55 of the packet materials for depictions of the wooden poles with arms that attach to the wires. On page 56, there are pictures of other types of poles, which must be used at corners. She said the conditions imposed in the staff report and in the Hearing Examiner's report start on page 27, and the pole design condition is on page 29.

Councilmember Robinson questioned whether the Hearing Examiner looked at other technologies.

Mayor Balducci said the Code requires an alternatives analysis, which was completed. A number of alternatives were analyzed and narrowed to three finalists which went through a full analysis.

Responding to Ms. Balducci, Ms. Helland said staff engaged the public in considering the three alternatives. The public was strongly opposed to placing the lines on residential streets (156th and 164th Avenues). The majority who participated suggested that the lines should instead be placed on a high-speed traffic corridor that accommodates other utilities, and the lines should go through all of the areas that benefit from the lines rather than through one specific smaller area.

Mayor Balducci questioned the City's ability to impose an alternative that the applicant did not like. Within the context that the City can no longer require an EIS for a 115kV line, the City's options are very limited. Ms. Balducci said that was her understanding, that the City cannot dictate an alternative. The City reviews and evaluates applications against the Code and applicable criteria.

Ms. Balducci observed that all of the alternatives had unwanted impacts for at least some members of the public. The alternative involving 156th Avenue placed the lines through the Lake Hills Greenbelt, which was not acceptable to the public. On 164th Avenue, the lines would have gone through front yards. If the lines were placed underground, residents would have had to contribute thousands of dollars per home to connect to the lines. Mayor Balducci said the City is not allowed by law to pay the cost of the individual connections, and PSE also cannot pay the costs. In addition, this alternative would leave the City owing millions of dollars for the transmission lines.

Responding to Councilmember Robinson, Ms. Helland said the project has been in the City's Comprehensive Plan since the mid-2000s. The Electrical Reliability Study conducted by the City's consultant recommended adding a transmission line to connect the Lake Hills and Phantom Lake Substations. PSE proposed the project in 2007 and worked on the alternatives analysis from 2008 to 2011, at which time the agency filed its application in December 2011. Councilmember Robinson questioned whether the Hearing Examiner analyzed new technologies since 2007. Ms. Helland said he did not; he analyzed the project placed before him.

Mayor Balducci said this is not the Energize Eastside project, which is about demand and the need for greater capacity. Ms. Balducci said the Lake Hills transmission line is about fixing a dead-end in an electrical circuit. When the current line loses power, there is no redundancy to continue service. She said there is no new technology that changes that fundamental principle of how electrical circuits function. This current configuration results in longer power outages in the Lake Hills and East Bellevue neighborhoods.

Councilmember Robinson said she is interested in an answer to her question based on a Hearing Examiner's research and critical evaluation of that research.

City Attorney Riordan said the Hearing Examiner's job is to review the application presented to the City. He or she takes evidence relating to the application, including testimony from interested parties. Another party would need to put that sort of information (i.e., alternatives, new technologies) before the Hearing Examiner in order for it to be considered and analyzed.

Responding to Councilmember Chelminiak, Ms. Helland said the NERC standards apply to this project. Among other issues, they address safety in the United States, Canada and a portion of Mexico.

Mr. Chelminiak said the record showed there are 12,400 customers served along the transmission line. Referring to the choice of this route over the route that is shorter and less expensive, the intent was to avoid residential areas to the extent possible.

Responding to Councilmember Chelminiak, Ms. Helland said the hierarchy for the location of electrical utilities was identified by the Council as looking at commercial areas before residential areas. Other factors were that there is only one segment of existing transmission line in the entire area, which is SE 15th Street west of the Phantom Lake Substation. Other factors were avoiding the greenbelt and cost constraints.

→ Councilmember Chelminiak moved to extend the meeting to 11:00 p.m., and Councilmember Lee seconded the motion.

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

Councilmember Stokes said he appreciated the questions that have been asked. He feels the discussion has covered all aspects of the Hearing Examiner's recommendation, which he believes reflects a good balance of the objectives and issues. The project will provide needed redundancy to ensure electrical reliability. He is pleased that trees will be replaced. Mr. Stokes said it is clear that a preponderance of the evidence supports the Hearing Examiner's decision. He anticipates the corridor will be better than it is now after the landscaping work is completed.

Responding to Councilmember Robertson's earlier question, Ms. Helland said the record indicates comments from the East Bellevue Community Council expressing general frustration about the alignment options. They also expressed an interest in undergrounding the transmission lines.

Councilmember Lee questioned whether the City can specify wooden versus metal poles. Ms. Helland observed that wood is better in a treed setting. In addition, the curved arms on the poles look better and less industrial than other types of infrastructure. Metal poles will be required on certain corners, including NE 8th Street and 148th Avenue, for engineering stability.

Referring to a photo in the meeting materials, Mr. Chelminiak observed that removing and replacing trees is preferable to cutting trees in half. He feels the landscaping plan for the project will be significant and beneficial.

Responding to Mayor Balducci about the next course of action, Councilmember Robertson said she would like more time to review the record and to consider whether additional conditions might be appropriate. She has read the Hearing Examiner's report but not the entire record.

Responding to Mayor Balducci, Ms. Helland said one implication in delaying the Council's decision relates to plantings. A decision was originally set for February, and further delay might cause the project to miss this year's planting season. The project is anticipated to take 4-6 months.

Ms. Balducci observed that she previously requested a delay from February to now. She is willing to concur with further delay if desired by a majority of the Council.

Councilmember Chelminiak said he was prepared to take action that evening, but he is not bothered by waiting until May 4.

Councilmember Stokes concurred. He observed that the Council owes a decision to the residents affected by the level of electrical reliability. The Hearing Examiner's decision is supported by a preponderance of the evidence, and he would like to move forward as soon as possible.

Responding to Councilmember Robertson, City Attorney Riordan said that, if the Council approves the application and the Hearing Examiner's recommendation, the drafting of the legislation will be relatively straightforward. If the Council chooses to impose conditions, Ms. Riordan would want Councilmembers to provide support from the record. If Council chooses to remand the matter to the Hearing Examiner, there would need to be clear direction about the issue/s for an additional hearing. If the application is denied by the Council, Ms. Riordan said staff will need significant detail supporting the basis for the denial.

Councilmember Lee is agreeable to delaying a decision for two more weeks. He supports allowing sufficient time for Councilmembers to feel comfortable with their decision.

Councilmember Chelminiak suggested directing staff to prepare the legislation for Council's consideration based on the standards of the reasonable person's determination, preponderance of evidence, and giving substantial weight to the Hearing Examiner's decision. He does not see anything in the record that would remand or deny the application. However, if there is something he has missed, he would be happy to consider amendment of the Hearing Examiner's decision.

Mayor Balducci restated Mr. Chelminiak's suggestion, adding her suggestion that the legislation be brought back on May 4, and that Councilmembers continue to explore any questions or issues with staff in the meantime.

City Attorney Riordan said she would be more comfortable with a vote confirming that direction.

→ Councilmember Stokes moved to approve the application as recommended by the Hearing Examiner, and Deputy Mayor Wallace seconded the motion.

Responding to the Mayor, staff confirmed that final action will not take effect until the Council takes a vote on the legislation presented on May 4.

Responding to Councilmember Chelminiak, Ms. Riordan said that, if a Councilmember wants to propose a condition, he or she should indicate where in the record Ms. Riordan would find support for an additional condition. If that occurs, staff can draft alternative versions of the ordinance for final Council consideration.

→ The motion carried by a vote of 5-2, with Councilmembers Robertson and Robinson dissenting.

At 10:15 p.m., Mayor Balducci declared a break. The meeting resumed at 10:25 p.m.

11. Other Ordinances, Resolutions and Motions

- (a) Resolution No. 8903: Council is considering final action on the proposed Amended and Restated Memorandum of Understanding, Second Amendment to Transit Way Agreement, and Three Party Agreement with Sound Transit and King County. *[Public hearing held April 13, 2015.]*

City Manager Miyake introduced discussion regarding Resolution No. 8903 taking final Council action on the Amended and Restated Memorandum of Understanding, Second Amendment to Transit Way Agreement, and Three Party Agreement with Sound Transit and King County related to the East Link light rail project.

Kate Berens, Deputy City Manager, said she would highlight themes heard through public comment during the Public Hearing and present minor changes made to the agreements since that time. The four sections of the Amended MOU are financial reconciliation, the Operations and Maintenance Satellite Facility (OMSF), project permitting and mitigation, and project coordination.

With regard to financial reconciliation, the City's \$60 million contingent contribution was eliminated. The agreement specifies that the \$100 million upfront contribution will be met through a combination of property transfers and in-kind or cash contributions, all within the existing City budget. The City will receive a \$25 million payment from Sound Transit for East Link permitting and inspection fees and additional property impacts. As part of the agreements, the City gains ownership of a number of Sound Transit properties, including at the 130th Avenue NE Station. That site will give the City the opportunity to pursue transit-oriented development (TOD) in conjunction with a parking facility for Sound Transit.

Ms. Berens said the agreement addresses design issues and mitigation standards for Sound Transit's Operations and Maintenance Satellite Facility (OMSF), if the preferred alternative in the Bel-Red corridor is the final site. The MOU requires compliance with the City's Noise Code without regard to certain exemptions and requires infrastructure improvements (i.e., pedestrian/bike connections).

Key themes from public comments opposed siting the OMSF in the Bel-Red corridor, encouraged moving forward with signing the Amended MOU and accelerating the development agreement for TOD parcels, and asked the City to ensure safe bicycle connections along the route. The overall goal of the parties as articulated in the MOU is that the Phase 1 TOD parcels could be developed concurrent with or close in time to the commencement of East Link operations.

Ms. Berens said the Amended MOU and companion agreements address project permitting and mitigation, providing increased certainty for the City in the areas of environmental mitigation, noise mitigation, and maintenance of traffic during construction. The MOU provides certainty for Sound Transit with regard to the timely review of permits and a fixed fee for East Link permit review, approval, and construction inspection.

The MOU addresses the early installation of sound walls where feasible to mitigate construction noise. Key public comment themes addressed noise and traffic mitigation as well as

environmental mitigation for the Mercer Slough Nature Park.

Ms. Berens said a recent revision to the MOU requires temporary noise walls around the south tunnel portal construction area. An additional revision to the MOU since the public hearing is a requirement for collaboration between Sound Transit, its contractor, and the City to minimize lane closures and to make good faith efforts to maintain four lanes on Bellevue Way SE.

Ms. Berens said environmental mitigation will be handled through the City's permitting process, and the MOU does not change those requirements. Mercer Slough Park and Surrey Downs Park are both impacted by the East Link project. Extensive wetlands mitigation will be completed on the south end of the Mercer Slough, which will result in more and a greater variety of native vegetation.

Ms. Berens said a City-owned property in the Bel-Red corridor, referred to as the Safeway/Mid-Mountain property, was purchased with the idea that a portion would be used for transportation, a portion for a future park, and a portion for utilities functions. Sound Transit will complete a wetlands mitigation project, and a portion will be set aside for future active park uses.

Ms. Berens said the Light Rail Permitting Citizens Advisory Committee continues to review the permitting process. Staff is requesting action on Resolution No. 8903 authorizing the execution of the Amended and Restated MOU, Second Amendment to the Transit Way Agreement, and the Three-Party Agreement with Sound Transit and King County.

Mayor Balducci said elected officials from Sound Transit and the City have been negotiating the revised MOU over the past several months. During the past few weeks since the draft agreement was shared with the public, the City received feedback during the Public Hearing and via email. The current MOU reflects changes as noted by Ms. Berens.

Ms. Balducci encouraged Council action tonight on the Amended MOU. She said it provides both the City and Sound Transit the necessary measures to be able to move forward with the construction of light rail, provides certainty about the City's financial contribution, eliminates the \$60 million contingent contribution, and guarantees \$25 million to the City for out-of-pocket costs as well as a land exchange (130th Avenue NE parcel) for additional property takes.

Ms. Balducci said the MOU provides certainty for Sound Transit, the City and the community with regard to the permitting processes and certain protections that will be required and provided as construction and train operations begin. There is certainty about the various City and Sound Transit projects that need to happen together for maximum efficiency and minimum costs. There is a path toward certainty in supporting the land use goals for the Bel-Red corridor.

Ms. Balducci said permitting processes are in place, separate from the MOU, to ensure that the light rail line is designed with an adequate level of mitigation.

→ Deputy Mayor Wallace moved to approve Resolution No. 8903, as reflected in the version in the Council's desk packet. Councilmember Chelminiak seconded the motion.

Deputy Mayor Wallace said the original Resolution established the rationale for the MOU. In the negotiations, he felt there were a couple of areas in which the City was not successful in achieving the necessary details in the MOU. The first issue is traffic mitigation on Bellevue Way SE. After the public hearing, Sound Transit agreed to add some language about good faith efforts. However, the desk packet version of the Resolution goes into further detail encouraging staff to use its best efforts. The first provision is that the Director of Transportation will use best efforts to devise a mitigation plan that enables four lanes of traffic along Bellevue Way SE for as great a duration as possible. To the extent four lanes cannot be maintained, the Director of Transportation will use best efforts to devise a mitigation plan that requires the maintenance of three travel lanes, with one being a reversible lane. The Director of Transportation shall use best efforts to require Sound Transit to implement such a mitigation plan as a condition of the right-of-way use permit.

Continuing, Mr. Wallace said the second issue addresses Noise Code variances. The City states a standard in the Land Use Code overlay. However, it does not address noise variances if Sound Transit were to request something outside of the normal construction hours allowed by the City. Mr. Wallace said the City of Seattle has an extensive history of granting noise variances to Sound Transit and conditioning those variances with appropriate mitigation. His suggested language for the MOU indicates that the Department Director shall consider the City of Seattle noise variances and Director's Rule 3-2009 as precedent in reviewing the adequacy of Sound Transit's noise mitigation plans for construction of the East Link project, such that the requirements for construction noise mitigation: a) strictly comply with the Bellevue Noise Control Code, and b) in all cases, the mitigation is equal to or better than applicable precedent established in Seattle under Director's Rule 3-2009 and previously issued construction noise variances for major public projects, to the extent permissible by law. This specifically includes, without limitation, standards for the installation of permanent and temporary sound walls, limits for interior sound levels measured from the inside of buildings, requirements for noise control and monitoring plans, requirements for compliance with noise variance and other related permit requirements, and requirements for community outreach.

Mr. Wallace said the City was able to negotiate a number of favorable provisions in the Amended MOU. However, these are two issues he felt were important to add to the Resolution. He said the suggested amendments have been reviewed by the City's legal team and have been found to be sufficient. Permit staff also find these requirements to be viable.

Responding to Councilmember Lee, Ms. Berens said the Transit Way Agreement was originally adopted in 2011 at the same time as the MOU. It allows Sound Transit to use the City rights-of-way for its alignment. She described two clean-up amendments as part of the package related to an ongoing maintenance requirement for the tracks and a minor amendment to the definition of "umbrella MOU."

Councilmember Robertson questioned whether Transportation Director Dave Berg and Development Services Director Mike Brennan had a chance to review the revisions and whether they felt comfortable with the City's ability to implement the direction of the Council as reflected in the Resolution. Both responded in the affirmative.

Ms. Robertson noted a provision in the MOU stating that, if the project is not built or becomes not feasible, the MOU is dissolved and the City receives its property back. She said there has been discussion about the ability to cross I-90. If Sound Transit is not able to bring light rail to Bellevue via I-90, does language in the MOU ensure the City's ability to nullify the MOU?

Assistant City Attorney Monic Buck said yes, the project is specifically defined in the MOU in Exhibit C-1 as starting from I-90. If light rail is not ultimately constructed following that design, the MOU will terminate.

- Councilmember Chelminiak moved to extend the meeting to 11:30 p.m., and Deputy Mayor Wallace seconded the motion.
- The motion carried by a vote of 7-0.

Deputy Mayor Wallace said he created a "before and after" slide show to talk about the agreement. This has been a long process of planning and reaching agreement on the light rail alignment. He said it was important to get the financial details right, and the City achieved great successes between 2011 and now with the MOU. The \$60 million contingent contribution has been eliminated. Additional property impacts to the City resulting from changes to the alignment by Sound Transit will be compensated through a property exchange in which the City receives the parcel on 130th Avenue NE. This will enable the City to initiate development of the second node in the Bel-Red corridor, with the Spring District being the first node.

Mr. Wallace noted that the City's \$100 million contribution for the tunnel and additional mitigation is valued at \$100 million by Sound Transit. However, that is not the cost to the taxpayers in Bellevue. What the City is actually trading is City-owned properties, property the City is acquiring for other projects, and utilities work the City can complete at a lower cost than Sound Transit could.

With regard to mitigation, Mr. Wallace described a slide depicting South Bellevue, Enatai, Surrey Downs and Downtown Bellevue. He described the evolution of negotiations to reduce impacts to neighborhoods through modifications to the alignment. The modified alignment is out of the right-of-way and, in part, in a trench. While Sound Transit will remove 1,300 trees, Sound Transit will replace those with 9,600 new ones. Mr. Wallace said there will be impacts and restoration will take some time. However, improvements will be achieved.

Mr. Wallace highlighted additional revisions to the alignment along 112th Avenue SE that the Council was able to successfully negotiate to mitigate property and noise impacts.

Moving into the Downtown, Mr. Wallace described early alternatives and the Council's ability to achieve a tunnel and station design that would minimize disruption to businesses and result in cost savings compared to other tunnel options.

Deputy Mayor Wallace said he will support the agreement, which he believes is beneficial to the community. He said the CAC will continue to review permitting activities, and City staff will perform its usual oversight of mitigation and compliance with City Codes. Mr. Wallace believes

that Sound Transit will work with the City to achieve the goals set by the Council with regard to exceptional mitigation.

Councilmember Stokes concurred with Mr. Wallace's comments. He said this has been an amazing journey which benefited from the collaborative design process between Sound Transit and the City. The team work between elected officials and staff resulted in a better alignment as well as cost savings for the project. He believes the result will be a transit system the City can be proud of and that will contribute to economic development and overall quality of life.

Councilmember Stokes said he appreciates the hard work of the Mayor, Deputy Mayor and staff in negotiating the Amended MOU.

Councilmember Chelminiak concurred with the Deputy Mayor's comments, which he said were very close to the comments that he had prepared to make this evening. Mr. Chelminiak said the MOU provides certainty about the route and mitigation. He said the City listened to residents and eliminated elements opposed by the community. The City was able to negotiate a Downtown tunnel which reduces a number of impacts.

Mr. Chelminiak said he asked staff to provide a summary of transportation projects since his time on the Council. These include State projects on SR 520 (including the HOV lane and Northup Way lane), I-405 projects (i.e., south widening and upcoming toll lanes), and the braided ramp project. City projects include NE 10th Street, NE 12th Street, projects on 124th, NE 8th Street, re-signaling Bellevue Way at NE 24th Street, and the expansion of Northup Way. These projects total \$1.7 billion over the past 11 years from the State as well as \$200 million controlled by the City, with much of the latter leveraging State, Federal and regional grants. Mr. Chelminiak said the strategy is not roads versus rail but roads and rail.

Mr. Chelminiak said the Amended MOU and related agreements are fair to both agencies and greatly beneficial to the City. He said light rail is the anchor for high-density growth where it is appropriate. He believes this will stimulate further economic activity in Bellevue while also protecting neighborhoods.

Councilmember Chelminiak thanked former City staff for their hard work on light rail: Matt Terry, Planning and Community Development Director; Goran Sparrman, Transportation Director; Bernard van de Kamp, Transportation staff; and former City Manager Steve Sarkozy. He thanked former Mayor Connie Marshall for her involvement as Mayor and as a Sound Transit Board Member. Mr. Chelminiak thanked former Mayor Grant Degginger for his critical role and determination in achieving the Downtown tunnel.

Councilmember Robertson said she appreciates all of the comments as well as the presentation by Deputy Mayor Wallace. She recalled that she co-chaired the Light Rail Best Practices Committee and later served on the Planning Commission. The alignment has improved greatly since the project's inception. The result demonstrates that an engaged, informed and determined community, coupled with elected leaders who listen, can have a significant influence.

Ms. Robertson expressed support for the mitigation and project improvements represented by the Amended MOU. She said Mr. Wallace's presentation clearly demonstrated the considerable benefits to the City reflected in the agreements. She said the City successfully achieved the elimination of at-grade crossings for safety and noise-related issues. Ms. Robertson said the Amended MOU effectively addresses previous adverse impacts to neighborhoods, mobility and the built environment.

Ms. Robertson said the agreement demonstrates how hard work and diligence produced a good result that saves tens of millions of dollars for Bellevue. However, the City will continue to be diligent in monitoring the MOU and permitting through construction and the beginning of train operations. She said the City needs to keep working to protect the neighborhoods, environment, mobility and the economic viability of local businesses through construction.

Councilmember Lee said he wished the City could do better. However, he is proud of Bellevue staff and the Council, including past staff and Councilmembers, who have worked hard over many years. He said the Deputy Mayor's presentation demonstrates how much has been accomplished through careful diligence and oversight of the project, and he thanked Mr. Wallace for his hard work. He thanked the current and former Mayors and Councilmembers for their persistence and dedication to creating a good project for the community.

Mr. Lee said the East Link project has demanded a significant amount of the Council's and staff's time in recent years. He said the MOU provides exceptional mitigation and a project that is good for the community and the region. Mr. Lee expressed support for the motion.

- Councilmember Stokes moved to extend the meeting to 11:40 p.m., and Councilmember Robertson seconded the motion.
- The motion carried by a vote of 7-0.

Councilmember Robinson thanked the current and former City Councils for the years of hard work. She thanked the Mayor and Deputy Mayor for their negotiations with Sound Transit and for working well together for the best possible outcome. She appreciates the revisions to the MOU. She said it is important to support the community and downtown businesses during construction. She looks forward to seeing light rail in Bellevue.

Mayor Balducci said the entire community will benefit from the East Link project. She supports and is proud of the hard work by the Council to protect the community. She said light rail will connect Bellevue to the region in a way that it has not been previously connected. She believes it will be transformative for Bellevue and enable smart, modern land use development around light rail.

Mayor Balducci said there has been a tremendous amount of collaboration on this project. She thanked former Mayor Don Davidson for his critical role in this process. She commended City staff for their hard work: Deputy City Manager Kate Berens, Transportation Director Dave Berg and his staff, Development Services Director Mike Brennan, Planning and Community Development Director Chris Salomone, Assistant City Attorney Monica Buck, and East Link

Outreach Coordinator Kate March. Mayor Balducci thanked City Manager Brad Miyake for his leadership.

Ms. Balducci thanked Deputy Mayor Wallace for his work with her to achieve the best outcome for the community. She expressed appreciation for the efforts of Councilmembers Robertson and Stokes during previous negotiations, former Mayor Grant Degginger, Councilmember Chelminiak's research, and all of the work by the Council.

Mayor Balducci acknowledged the support of Senator Patty Murray and Congressman Adam Smith in advocating on Bellevue's behalf. They both understand the value of high-capacity transit. Senator Murray has supported East Link with federal funding, and Congressman Smith participated in creating the vision for the Bel-Red corridor and the maintenance base.

Mayor Balducci thanked the community for their extensive participation over several years and necessary contributions to the development of the project.

→ The motion to approve Resolution No. 8903, as presented in the version in the Council's desk packet, carried by a vote of 7-0.

12. Unfinished Business: None.

13. Continued Oral Communications: None.

14. New Business: None.

15. Executive Session: None.

16. Adjournment

At 11:35 p.m., Mayor Balducci declared the meeting adjourned.

Myrna L. Basich, MMC
City Clerk

/kaw