

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Regular Session

March 16, 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 Stokes led the flag salute.

3. Communications: Written and Oral

- (a) Joe Rosmann, Chair of Building a Better Bellevue, said he represents the many citizens concerned about protecting and preserving the Mercer Slough Nature Park. He thanked the Council for the decision the previous week directing the City Manager and staff to examine the details of Sound Transit's 90-percent engineering documents for the East Link light rail project. He said there have been significant changes between the 60-percent and 90-percent plans. These include a large elevated guideway, 10- to 14-foot high noise walls, and the removal of 1,300 trees and huge amounts of soil and peat. There is not a noise wall on the park side of the guideway. Mr. Rosmann said Sound Transit will be running 225 trains during 21 hours per day, and thousands of gallons of polluted water will be pumped from the trench in front of the Winters House into the slough. He said a toxic air canyon will be formed by the noise walls along the west side of Bellevue Way and 112th Avenue. He said these impacts are not consistent with Bellevue's identity as the City in a Park.
- (b) Laura Fox expressed concern regarding the serious environmental and neighborhood impacts related to the light rail project. She and many residents would like to know when the City first learned about these impacts.

- (c) Alex Zimmerman reiterated his ongoing request that the City Manager hold a monthly meeting with citizens. He suggested that City officials are like organized criminals. He referred to Bellevue citizens as 130,000 cows with low IQs.

Responding to the Mayor, Mr. Zimmerman said he has the right of free speech and that she is acting like a criminal. He said City officials do not respect the law. He said there is no government, constitution, or freedom of speech right now. He has been prosecuted three times, and a fourth time for trespassing, which he believes is only because he has different opinions.

- (d) Joanna Buehler, speaking on behalf of Save Lake Sammamish, said the organization is opposed to the Council's Shoreline Master Program Update because it believes the plan does not meet the goals of the Shoreline Management Act. She said the Code amendments under consideration tonight would reverse the protection of water quality and ecological function. She listed specific concerns regarding the matrix of options for the Council's consideration.
- (e) Masao Yamada introduced Kaitlynn Nutting, the Boys and Girls Clubs of Bellevue Youth of the Year. She presented the speech she would be giving during the statewide competition the following week. Ms. Nutting described past challenges in her life including sexual assault by a classmate and a troubled family. She shared how the Boys and Girls Clubs of Bellevue provided a safe environment, counseling and support that enables her to tell her story today. The Keystone program has taught her leadership, confidence, and the value of giving back to the community. Ms. Nutting said her life will always be better due to her experiences with the Boys and Girls Clubs of Bellevue.
- (f) Bill Popp followed up on Mr. Rosmann's comments and concerns regarding the environmental impacts of the light rail project. He said his declaration on the shoreline appeal indicated there are 14 acres of temporary construction easement that had not been identified in the Final Environmental Impact Statement (FEIS). Mr. Popp said the City had indicated that much of that area is for wetland mitigation and not light rail construction. He said there will be 75 slash piles scattered throughout the property, three feet wide by five feet high, to accommodate the woody debris from the entire East Link corridor. The area is currently screened from view, but the piles will be visible from the rail guideway. He does not consider this mitigation. Mr. Popp cautioned that a number of concerns and unknown facts are buried in the construction plans. He would like to see City staff take an objective approach to reviewing the documents and sharing the information with the Council.
- (g) Patti Mann spoke in favor of the Multifamily Tax Exemption (MFTE) residential target areas (RTAs), including the one in Newport Hills. She has been a part of this community for 28 years and is so committed to the neighborhood that her family is in the middle of planning for the demolition and rebuilding of their home. Ms. Mann said the Newport Hills commercial area has been a blight for many years. The owners have rejected many

offers to sell and have little interest in maintaining the property. She thanked the Council for purchasing the Tyler property several years ago and encouraged the development of a park on the site. Ms. Mann said she recently attended the presentation by ARCH (A Regional Coalition for Housing) of MFTE options under consideration for Newport Hills. She sees elements that will be positive for the neighborhood, including a community gathering space.

- (h) Charlie Klinge, representing the Washington Sensible Shorelines Association, thanked the Council for its consideration of options for the Shoreline Master Program. He commented on landscape regulations and said it is important to reduce the strict treatment of landscape modifications in the current draft SMP Update. He expressed support for Option 11b described in staff's presentation. *[Mr. Klinge submitted comments before the meeting, which were included in the Council's desk packet.]*

4. Reports of Community Council, Boards and Commissions

(a) Bellevue Convention Center Authority (BCCA) Update

Rick Carlson, Chair of the Bellevue Convention Center Authority (BCCA) Board of Directors, presented an update on the Meydenbauer Center. He introduced Stacy Graven, Executive Director of Meydenbauer Center, and Sharon Linton, Tourism Marketing and Communications Manager, Visit Bellevue Washington.

Mr. Carlson noted the presentation distributed to the Council regarding events, revenues, and economic impact related to Meydenbauer Center. He said the 2015 Visit Bellevue Washington guide has been distributed to every hotel room in Bellevue, SeaTac Airport, visitors centers in Washington and British Columbia, and hotel concierge/information desks.

Mr. Carlson described the Center's plans for \$12.5 million in interior and exterior renovations, including technology upgrades. The BCCA Board anticipates awarding the construction bids the week of March 24, and the primary construction period is June 15 to September 10. He thanked the City for its support of the Center and the upcoming capital improvements.

Mayor Balducci thanked Mr. Carlson for the update. She said the Council is pleased to see the renovations moving forward.

Councilmember Chelminiak thanked Meydenbauer Center and its new chef for the evening's dinner. He commented that it is important to upgrade facilities, technology, and food service over time to meet changing needs and aesthetic expectations.

Responding to Councilmember Robinson, Ms. Graven said new hearing assistive technology will be installed in the Theatre at Meydenbauer Center initially. It will be evaluated to determine its effectiveness and potential use in the rest of the convention center.

(b) Human Services Commission Update

Jim McEachran, Chair of the Human Services Commission, presented the Commission's recommendations regarding an additional \$225,000 in Community Development Block Grant (CDBG) funding that has become available. The Commission conducted an open request for proposal (RFP) process in January and reviewed applications during two meetings in February. The Commission recommends granting approximately \$23,000 to extend the Eastside Winter Shelter through April; \$5,000 to support the development of the biennial Human Services Needs Update; \$99,000 to support architectural design and engineering activities related to the new Boys and Girls Clubs of Bellevue facility; \$70,000 to the City's Major Home Repair Program; and \$28,000 to the Senior Services Minor Home Repair program. Mr. McEachran thanked the City for its support of community organizations.

Mayor Bellevue said she has received questions about the decision to not recommend funding for the Congregations for the Homeless permanent shelter proposal and the Salvation Army Eastside Corps Community Center project. She noted that the recommendations fund the City's proposal above the requested amount.

Mr. McEachran said the Commission received information from ARCH (A Regional Coalition for Housing) and City staff that the permanent shelter project would have other funds available for site development costs.

Joseph Adriano, Human Services Grant Coordinator, said staff learned, after the January RFP process, that Congregations for the Homeless would be able to access other funds for their architectural design costs.

Mayor Balducci requested additional time to learn more about the proposals, including the two not recommended for funding. She thanked the Human Services Commission for its extensive review of the proposals.

Mayor Balducci noted that the related item would be removed from the evening's Consent Calendar and postponed to a future meeting.

5. Report of the City Manager: None.

6. Council Business and New Initiatives

Mayor Balducci noted that Councilmember Chelminiak submitted his report in writing, which is provided in the Council's desk packet. Ms. Balducci said a pending Council Rule specifies that reports should be provided in writing. Councilmember Robertson said she would comply and not provide an oral report.

Councilmember Stokes commended the opening of the new Bellevue Youth Theatre at Crossroads Park.

Councilmember Robinson said she submitted her report in writing.

Councilmember Lee said he and the Mayor attended a Chinese Chamber of Commerce event to celebrate the Chinese New Year. Mr. Lee attended the opening of the Bellevue Youth Theatre. He reported that he attended the National League of Cities Conference, where the City of Bellevue received a cultural diversity program award for its Diversity Advantage Plan.

Deputy Mayor Wallace asked Councilmember Chelminiak to comment on the new Metro Service Guidelines Task Force. Mr. Chelminiak said the group of 40-45 individuals was appointed by the County Executive and confirmed by the County Council to review the work of the 2010 Regional Transit Task Force (RTTF), with a focus on social and geographic equity issues related to Metro transit services. Mr. Chelminiak said most of the group's meetings will be held at Bellevue City Hall.

Deputy Mayor Wallace suggested that the City's transit study be used as a tool for that process. He recalled past work on the 2010 task force by Councilmember Grant Degginger and Jim Stanton of Microsoft in identifying issues relevant to the Eastside. Mr. Wallace suggested reminding the County of those issues, to the extent that they still exist. Councilmember Chelminiak said he commented on the City's abundant access concept during the first meeting.

Mayor Balducci noted that she was at an event with Mr. Degginger and Mr. Stanton earlier in the week, and Mr. Stanton said he was very impressed with the change in the level of data and performance metrics that are being used since the 2010 task force work.

Mr. Wallace asked that Patti Mann's comments be entered into the record for the public hearing later in the agenda so she does not need to restate them.

Mr. Wallace noted continued public comment regarding the changes in the East Link light rail project as reflected in the 90-percent design documents. He asked that responses to the questions be drafted for the Council and the public.

Mayor Balducci said she will submit her full report in writing. She described a letter from the U.S. Postal Service regarding a new potential site for Bellevue's Main Post Office at 12224 NE Bel-Red Road. She said Councilmembers should submit any comments or concerns on the proposed site as soon as possible.

City Manager Brad Miyake said staff is currently conducting an analysis of the proposal and will report back to the Council. Mayor Balducci noted the public comment deadline of March 24.

Deputy Mayor Wallace suggested outreach to the business community on the proposal. He noted the site is quite a distance from the current location. His understanding is that the new facility will be relatively small, without the current distribution function. He said it would be preferable to find a space in the Downtown to serve businesses and residents.

7. Approval of the Agenda

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

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

8. Consent Calendar

Mayor Balducci requested postponing Item 8(b).

→ Deputy Mayor Wallace moved to approve the Consent Calendar, amended to remove Item 8(b). Councilmember Robertson 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 February 17, 2015 Study Session
Minutes of February 17, 2015 Regular Session
Minutes of February 23, 2015 Extended Study Session
Minutes of February 27, 2015 Special Meeting
Minutes of March 2, 2015 Study Session (cancelled)
Minutes of March 2, 2015 Regular Session

(c) Resolution No. 8890 authorizing: 1) Execution of a grant agreement (and supplements if necessary) with the Washington State Department of Transportation (WSDOT) to accept \$4,390,00 in Surface Transportation Program (STP) funding to support the construction phase of the 120th Avenue NE (Stage 3) project - NE 12th to NE 16th Streets (CIP Plan No. PW-R-168); and, 2) Execution of a grant agreement (and supplements if necessary) with the Transportation Improvement Board (TIB) to accept \$4,850,000 in state funding to support the right-of-way and construction phases of 120th Avenue NE Improvements (Stage 3) project - NE 12th to NE 16th Streets (CIP Plan No. PW-R-168).

(d) Motion to award Bid No. 15013, 2015 Annexation Guardrail Improvements as part of the Accident Reduction Program (CIP Plan No. PW-R-46), to Petersen Brothers Inc. as lowest responsible and responsive bidder, in the amount of \$227,810.52. This project will install guardrail in four locations (SE 42nd Place north of SE 43rd Street; SE 42nd Place between SE Newport Way and SE 43rd Street; SE 42nd Place south of SE Newport Way; and, SE Newport Way east of SE 42nd Place); and, one concrete barrier system, for erosion control, in a fifth location (SE Newport Way at 156th Avenue SE).

(e) Resolution No. 8891 authorizing signature and certification of the annual report documents, City of Bellevue 2014 Compliance Report and 2015 Stormwater Management Program Plan, required by the National Pollutant Discharge

Elimination System (NPDES) Phase II Municipal Stormwater Permit.

- (f) Motion to approve payment of claims and payroll for the period February 1, 2015 through February 28, 2015.
- (g) Resolution No. 8892 ratifying two proposed amendments to the King County Countywide Planning Policies relating to the King County 2014 Buildable Lands Report and establishing countywide greenhouse gas reduction targets.

Item postponed:

- (b) Ordinance No. 6221 accepting an increased CDBG grant award contract from the United States Department of Housing and Urban Development (HUD); accepting the amended 2015 Community Development Block Grant (CDBG) recommendations of the Human Services Commission; authorizing the expenditure of additional CDBG funds available for 2015; and authorizing execution of revised 2015 agency contracts as recommended by the Commission.

9. Public Hearings

- (a) Public Hearing on the Proposed Residential Target Areas for the Multifamily Tax Exemption (MFTE) Program

City Manager Miyake introduced the public hearing on the proposed Residential Target Areas for the Multifamily Tax Exemption (MFTE) Program.

Dan Stroh, Land Use Director, recalled that this is a voluntary incentive for cities designed to create opportunities for the private sector to help in developing affordable housing. He said it is a tool to be used as part of a broader housing strategy. He said there have been three Council study session discussions about whether to establish a MFTE program. The meeting packet contains a draft Code section similar to what was presented in January, with a change to the proposed Residential Target Areas based on Council feedback. State law requires a public hearing to invite comments on the RTAs.

Arthur Sullivan, Program Manager for A Regional Coalition for Housing (ARCH), said state legislation enables cities to establish a MFTE for eight or 12 years. For the 12-year exemption, the public benefit must include 20 percent affordable housing as part of the development. The exemption is on the improvement value of the multifamily units, and taxes are still paid on the land and non-residential uses. The exemption is available only in RTAs designated by local governments, and state law provides flexibility for creating local programs that meet specific needs.

Cities have the authority to determine the length of the exemptions, affordability levels (including phased affordability), designated RTAs, the ability to layer the MFTE with other incentives, variations in requirements for different RTAs, and program maximums for total units, time periods, etc.

Mr. Sullivan said the focus of tonight's public hearing is to receive public comment on the proposed RTAs: Bel-Red, Downtown, Eastgate, Newport Hills, Crossroads, and Wilburton.

- Councilmember Stokes moved to open public hearing, and Councilmember Robertson seconded the motion.
- The motion carried by a vote of 7-0.

Mayor Balducci noted Patti Mann's comments earlier during Oral Communications expressing support for the Newport Hills RTA.

The following citizens came forward to comment:

- 1) Jeanie Marquardson, a Newport Hills resident, described the loss of commercial activity over the past many years. However, she does not believe that designating an RTA in Newport Hills will stimulate retail activity, and she is opposed to the proposed building height of anticipated development. She said the neighborhood has 23 subsidized units and 100 moderate-income units managed by the King County Housing Authority. Ms. Marquardson noted additional existing multifamily housing and said the area is not equipped to accommodate 250-300 more units based on the roads in and out of the neighborhood. She does not believe retail activity will protect the neighborhood and said it is important to maintain the current balance of single-family and multifamily homes. She said the area has inadequate transit service and park facilities. She requested a park instead of the proposed mixed use development.
- 2) Warren Marquardson, Newport Hills, said the neighborhood has one of Bellevue's 96 parks, and that park was converted to turf-covered athletic fields in recent years. He is delighted to hear about the new Bellevue Youth Theatre, Meydenbauer Beach Park, the new Clyde Beach dock, and the new Hidden Valley sports facility. He said the Newport Hills commercial area is not going to be revived and adding 250-300 residents in a multi-story housing complex will not bring back retail services. Mr. Marquardson said a tax-exempt district sets the course for a concentration of subsidized apartments that a developer would not otherwise build. He said the cost of a tax exemption to add well-meaning subsidized units is a high price for Newport Hills. He asked the Council to remove Newport Hills from consideration as an RTA and to instead provide a park or community center at the shopping center site.
- 3) Heidi Dean, immediate past President of the Newport Hills Community Club, said she is also the Revitalization Chair/Retail Liaison. She thanked Mr. Stroh and Mr. Sullivan for meeting with residents to explain the MFTE proposal. She understands that it could be an effective tool but it is not a guarantee of redevelopment. She supports the idea of a City park but is not confident about the feasibility of the request. Ms. Dean said the alternative to a MFTE is that the property could be sold solely to develop housing without retail services. She encouraged the City to develop other park property previously purchased in the Newport Hills Subarea. She and other residents are concerned that the language in the

ordinance be written tightly enough to protect the integrity of the neighborhood. Ms. Dean said she wants to be sure that residents are involved and treated as active partners in determining the type of affordable housing that would be developed in the commercial core. She said residents have a strong interest in senior housing, which would not have the traffic impacts of other types of multifamily housing. Ms. Dean said she does support designating Newport Hills as an RTA for the MFTE.

- 4) Eric Leonard, Newport Hills, said the idea of high-density multifamily development in Newport Hills is a misguided proposal. He appreciates his neighbors' interest in revitalizing the shopping center. However, he believes that is not possible because shopping patterns have changed. He said adding several hundred more families to the area would be a burden for commuters during peak periods. He respects that the MFTE is an optional tool. However, he does not believe it is feasible for Newport Hills. He expressed concerns regarding traffic congestion and overcrowding in the neighborhood school. Mr. Leonard expressed support for developing a park at the shopping center site.
- Deputy Mayor Wallace moved to close the public hearing, and Councilmember Robertson seconded the motion.
- The motion carried by a vote of 7-0.

Mayor Balducci said there were written communications regarding the public hearing. Two were Newport Hills residents supporting the proposed MFTE, and two were real estate and business interests who had more general comments about the MFTE program as a whole.

Councilmember Robinson said she wants to learn more about the MFTE and about other incentives for affordable housing.

Responding to Mayor Balducci, Mr. Stroh said staff is seeking Council feedback on items to be discussed during the next Council discussion. However, action on the RTAs is not necessary at this point.

Councilmember Robertson said she is in favor of adding Wilburton and Crossroads to the Bel-Red, Downtown, and Eastgate RTAs. However, given the difference of opinions in Newport Hills, she would like more information on anticipated traffic impacts and what could be developed under the current Code without implementing the MFTE program there. She expressed interest in a survey of Newport Hills residents to determine the level of support for revitalizing the commercial area. If a survey is not feasible, she would like to see a plan for engaging more fully with the neighborhood.

Deputy Mayor Wallace observed that the best places to experiment with the MFTE program are the Downtown, Bel-Red corridor, and Wilburton. He believes there are questions that need to be answered about the other areas, particularly for Newport Hills. He suggested working with the owner of the shopping center to determine the feasibility and potential benefit of participating in the MFTE program.

Deputy Mayor Wallace said his initial reaction is that it is not essential to include Newport Hills as an RTA at this point. He suggested beginning with the proposed RTAs that do not have opposition from the community. He said Seattle, Renton, and other cities have adopted the MFTE program to provide workforce housing at 70-80 percent of median income, which is not low-income housing. For a development in Downtown Bellevue to be viable, higher rents are needed unless there is some type of an incentive.

Mr. Wallace said the City's current Code requiring affordable units for 50 years typically attracts publicly funded affordable housing groups and is not a beneficial tool for private development. He said the 50-year requirement essentially leads to the type of housing of concern to many residents.

Councilmember Lee said affordable housing is a topic that the City should address. He understands that the MFTE is a tool, but he does not believe there is a stated goal or purpose. He suggested looking thoroughly at housing needs before choosing a tool or incentive to meet the City's goals. He is willing to test the MFTE in one location, but he cautioned that affordable housing needs to be appropriately implemented in the community.

Mr. Lee observed there is a need for clear principles, criteria, and objectives for evaluating where the RTAs should be located. Councilmember Lee said the Council needs to address affordable housing as a whole.

Councilmember Robinson said there are only two cities in King County that have not adopted the MFTE. She agrees with Deputy Mayor Wallace's concern that the 50-year requirement on affordability is not an incentive for private developers.

Ms. Robinson said she has heard only positive comments on the proposed Crossroads RTA and would like to move forward with that location. She observed that the Newport Hills area could be added later if deemed appropriate. She said this could be an effective tool but it is only one of many tools that are or should be available to developers. Ms. Robinson requested that Mr. Sullivan provide more information on alternative tools and incentives for the next Council discussion.

Councilmember Chelminiak said he read recently that there is no home currently on the market in Bellevue for less than \$500,000. He concurred with Mr. Wallace's statement about the 50-year affordability requirement and said a 12-year requirement for the 12-year exemption is probably more feasible.

Mr. Chelminiak said it makes sense to implement the MFTE in the Downtown and Bel-Red corridor. If a decision is made to rezone the Newport Hills property to allow multifamily housing, he believes the MFTE could be an effective tool for redevelopment. However, the Council has not yet made that decision. Mr. Chelminiak supports including the Crossroads RTA, even though zoning work is pending, and the Wilburton area. He is open to considering Eastgate; however, more work in that area would be helpful.

Councilmember Robertson expressed support for the 12-year requirement for the 12-year exemption. She concurred with suggestions to first try the MFTE program in areas that are not controversial, which is the Downtown, Bel-Red, Wilburton and Crossroads RTAs. Other areas could be added in the future if needed.

Ms. Robertson would like the Code to ensure that the finishes of the affordable units would be the same as the market-priced units. She noted the need for a broader discussion about micro-housing as well.

Councilmember Stokes said the Council is generally in agreement on this topic. He observed that the discussions have become focused on where to try the MFTE program without a clear determination of the parameters for implementation. He favors focusing on two or three areas (i.e., Crossroads, Bel-Red, and the Downtown) first, with the understanding that changes and additions can be made later. He cautioned against losing sight of a broader discussion on affordable housing incentives and strategies.

Mayor Balducci suggested that the packet materials from tonight's discussion be provided again for the next discussion, given the lack of a clear consensus on which areas to include and exclude.

In reference to comments about what the City should be doing about the Newport Hills shopping center, Ms. Balducci said there is a strong subarea policy that the City will work to redevelop and reintegrate the shopping center. If the Council is going to change that policy, it should be done after intensive work with the community. Mayor Balducci said all issues (e.g., housing, parks, transportation) should be part of a broader review of the subarea plan.

With regard to the MFTE tool, Mayor Balducci said selecting locations is important but it is not the end of the story because this is a fully voluntary program for developers. She has heard some concerns that the Crossroads proposal is a move toward pushing more affordable housing to that area, and some residents feel there is already a strong presence of affordable housing. However, Ms. Balducci said there is only one development under consideration within the proposed Crossroads RTA, and that developer has said it will not use the MFTE tool.

Mayor Balducci observed that, when the Council talks about affordable housing, some residents envision low income, high-rise buildings that exist or were more prevalent in the past in certain cities. However, the cost of the anticipated units would be intended to providing housing for local workers who still find it difficult to afford living in Bellevue.

Ms. Balducci thanked residents for their interest and informed input on this topic.

10. Land Use: None.

11. Other Ordinances, Resolutions and Motions: None.

12. Unfinished Business

(a) Continuation of Study Session discussion on the Shoreline Master Program Update

Carol Helland, Land Use Director, continued the Study Session discussion on Code drafting options for the Shoreline Master Program Update, beginning with Item 9 on the Code Drafting Options Matrix. Option 9 would allow provisions to be administratively modified by the Director without going through the Special Shoreline Report Process in order to address oddly shaped or substandard sized lots.

→ Councilmember Robertson moved to extend the meeting to 10:30 p.m., and Councilmember Stokes seconded the motion.

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

Councilmember Robertson noted that she suggested Option 9 to make it easier to address small and other non-standard lots.

Responding to Mayor Balducci, Ms. Helland said the suggestion was to use a narrowly tailored set of criteria specifically for oddly shaped or substandard sized lots, similar to the approach in the Critical Areas Ordinance.

Mayor Balducci noted a consensus in support of Option 9.

Ms. Helland said items 10 and 11 address similar issues in different parts of the Code. Item 10 relates to the threshold for requiring a permit for landscape/vegetation modifications, and Item 11 is the substantive requirement. She said the threshold does not need to be the same as the substantive requirement, and compliance with the Code is required even if a permit is not required.

With regard to item 10, the threshold language is provided in the clearing and grading Code (BCC 23.76.035.A). The question for the Council is: Should there be a trigger other than the 1,000 square foot threshold of vegetation disturbance associated with the citywide standard for requiring a clearing and grading permit to be applied to the shoreline vegetation conservation area? Existing language in the SMP Update states a threshold of 200 square foot of disturbance.

Option 10a maintains the 1,000 square foot threshold. Option 10b applies the 1,000 square foot threshold from 10 feet to 200 feet from the ordinary high water mark (OHWM). From 0-10 feet, the 200 square foot threshold would apply

Responding to Deputy Mayor Wallace, Ms. Helland confirmed that the permit trigger is in the clearing and grading Code. A shoreline permit is not necessarily required for this work. The question before the Council is whether the clearing and grading permit should be triggered at 200 square feet or 1,000 square feet of vegetation disturbance.

Mayor Balducci said she is struggling with setting up a two-tiered system. She said properties along streams have different requirements than what is being established for lake shorelines. She

understands there are different functions. However, she questioned how the City will justify maintaining the strict standards of the Critical Areas Ordinance when it comes up for an update.

Councilmember Robertson said the Critical Areas Ordinance threshold applies to 0-25 feet from the stream. Ms. Helland said that CAO regulation applies to the shoreline or any critical area. Ms. Robertson said her understanding is that the disturbance threshold applies to 0-25 feet. She said this is an important distinction because the proposed shoreline regulation applies double the amount of area for whether to require a permit.

Ms. Robertson said residents cannot do gardening in their own yard under the 10a and 10b options without either getting a permit or complying without a permit. Ms. Robertson said she has a problem with limiting gardening activity, especially within the 25-50 foot space.

Responding to Councilmember Lee, Ms. Helland clarified that Item 10 relates to what level of vegetation disturbance/modification triggers a permit, and Item 11 questions how the Council wants to regulate vegetation modification. Mr. Brennan said Item 10 deals with the administrative aspect of the regulations (i.e., When is the City involved in providing oversight of the modifications through permitting?). Even if a permit is not required, residents are still subject to complying with the regulations.

Councilmember Robinson said her interest is in protecting the shoreline while not making the regulations too complex to understand. She understands that the City of Mercer Island has completed its SMP, and questioned whether Bellevue could look at how they handled this issue. Ms. Helland said Mercer Island's permit trigger is in a separate section of the Code. Similarly, Bellevue could simply use the regulation in the clearing and grading Code. Ms. Robinson said she would like to see the details of how Mercer Island handled this.

Mayor Balducci said she is not in favor of comparing with other jurisdictions. If that is the Council's desire, she observed it would be necessary to compare both cities' entire Codes.

Councilmember Stokes agreed that the SMP Update should be specific to Bellevue. He noted that jurisdictions have different environments and situations. He suggested, to be consistent with other sections of the SMP and to provide some flexibility, making the permitting requirement the same for 25-50 feet and 0-25 feet, instead of introducing 0-10 feet. Referencing Option 10b, Mr. Stokes said he cannot support restricting the permitting threshold to 10 feet from the ordinary high water mark (OHWM). He believes it makes more sense to set regulations differentiating between 25-50 feet and 0-25 feet, which is more relevant to the issue of no net loss of ecological function. He believes this provides flexibility for property owners and balances their concerns.

Mayor Balducci restated Option 10a, staff's recommendation, and Option 10b, Councilmember Robertson's suggestion. Ms. Balducci observed that Mr. Stokes supports Option 10b, amending the area requiring a permit to 0-25 feet from the OHWM instead of 0-10 feet. She suggested calling this hybrid option 10c for purposes of discussion.

Councilmember Robertson observed that, if the Council adopts Option 10b or 10c and does not adopt any of the options under item 11, residents will be gardening at their peril. Even if they are

doing a small gardening project, they would still have to meet the long involved mitigation formula. She recommended Option 10b or 10c, along with a parallel option for item 11 so that residents are able to garden without worrying about specific species of vegetation.

Mayor Balducci noted no Council support for the base language or Option 10a. Four Councilmembers (Lee, Robertson, Robinson, Wallace) support 10b. Ms. Balducci said she supports Option 10c proposed by Councilmember Stokes, and Mr. Chelminiak concurred.

Deputy Mayor Wallace noted that Option 10b pairs with Option 11b. Noting Mr. Stokes' suggestion about not differentiating for 0-10 feet, Mr. Wallace suggested adopting 10b and 11b and requesting additional information on the impacts to property rights and the environment between the 10-feet and 25-feet thresholds. He observed that he is not aware of the science behind choosing the appropriate threshold or the impacts on property rights.

Responding to Mayor Balducci, Ms. Helland said the Critical Areas Ordinance designates the first 25 feet as the critical area buffer.

Mayor Balducci said she is concerned about moving toward allowing practices that have not been allowed for nearly 10 years. She observed that this could degrade protection closest to the water line.

Deputy Mayor Wallace said the Council has achieved a lot of common ground on the first nine options. What seems to be the potential for unanimous support of items 10 and 11 is the structure that Councilmembers Robertson and Stokes have talked about and whether there should be a boundary distinction between 10 feet and 25 feet. The 200-foot vegetation disturbance trigger is within the first boundary, and the 1,000-foot disturbance trigger is within the second boundary. Mr. Wallace proposed agreeing that this is the basic structure, and going back to the issue of 10 feet versus 25 feet following additional information.

Mayor Balducci said she is okay with the bifurcation of the 25 feet because it tracks with what is on the ground today. She is not okay with the difference in which 200 square feet of lake shoreline could be disturbed but 200 square feet along a creek could not. She observed that both are important to ecological function, and she does not see an established basis for treating them differently.

Mayor Balducci questioned the impact of Options 10b and 11a together. Ms. Helland said 10b would trigger a permit for any disturbance in excess of 200 square feet within 0-10 feet of the OHWM, and the citywide standard would exist elsewhere. With regard to Option 11a, Ms. Helland said that, beyond the 10-foot line, up to 1,000 square feet could be disturbed without a requirement for mitigation. This would be inconsistent with the substantive work by the Council to provide mitigation in that area.

Councilmember Lee said the options need to be consistent. He suggested consideration of the Deputy Mayor's proposal to obtain further information on the science behind the 10-foot and 25-foot distances from the OHWM.

Councilmember Robertson observed that the Council is interested in a 25-foot demarcation of the near shore versus 10 feet. She suggested that Options 10c and 11b would be a fair compromise, with the 10 feet in 11b changed to 25 feet. These two options are consistent with each other and would provide a compromise between the differences of opinion.

Councilmember Robertson said the permit regulations would track with the clearing and grading threshold of 1,000 square feet of disturbance within 0-50 feet of the OHWM. The threshold for 200 square feet of disturbance would trigger at 0-25 feet from the OHWM. These provisions are reflected in Option 10c. Option 11b creates a restricted area within 25 feet from the OHWM for landscape modifications (i.e., gardening) that do not include impervious surface changes or removal of significant trees. The 200 square feet exception from the requirements to provide mitigation applies to 0-25 feet from the OHWM, and a 1,000 square foot exception applies 25-50 feet from the OHWM. Ms. Robertson encouraged support for this combination of options.

Councilmember Robinson referenced Option 11b and questioned whether the 200 square feet exception from the requirement for mitigation in the 0-25 foot area from the OHWM provides sufficient protection for that area along the shoreline.

Ms. Helland said the aspect she is concerned about is that the Council has now moved from a 200 square foot exception to a 1,000 square foot exception within the first 50 feet of the OHWM. The base document reviewed by The Watershed Company and presented by staff required mitigation of all vegetation modifications, and this is a significant move from that earlier work (i.e., designating 1,000 square feet as exempt from the requirement for mitigation).

Ms. Robinson said she would like to find more protection for 0-25 feet from the OHWM and more flexibility for 25-50 feet from the OHWM. Ms. Helland said there is probably a way to do that, but it would require additional review and revision of the Code. In previous development of the base SMP Update draft, mitigation was always required in the 0-50 feet. Now, to exempt 1,000 square feet of vegetation modification without mitigation is a different situation. This means that mature landscaping could be taken out leaving bare ground.

→ Councilmember Chelminiak moved to extend the meeting to 10:45 p.m., and Councilmember Robertson seconded the motion.

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

Ms. Robinson questioned the impact of changing the 1,000 square feet of disturbance threshold to 200 square feet within 0-50 feet of the OHWM. Ms. Helland questioned whether the Council is thinking in terms of gardening. She said the regulations do not prevent gardening in an existing garden. The current Code allows perennials, annuals, other plants, and bare ground to be replanted without triggering anything. The effect of what is being discussed this evening is that, if 1,000 square feet of disturbance is exempted from mitigation, any plants except significant trees could be removed to bare ground. That is a significant regulatory change.

Councilmember Robertson said most people are not going to take out landscaping and leave bare ground. She is concerned about micro-managing residents' gardens.

Deputy Mayor Wallace reiterated that the Council has been able to reach common ground on so many issues. He observed that Councilmember Stokes' proposal is a good compromise that he hopes the Council can support.

Mayor Balducci said there has been a proposal to adopt Options 10c and 11b with the threshold changed from 10 feet to 25 feet. She noted support for this approach from at least four Councilmembers. However, she does not support this combination.

Moving on, Ms. Helland said item 12 addresses terminology. Should the area 0-50 feet from the OHWM be referred to as the vegetation conservation area or something else?

Councilmember Stokes suggested the term "landscape stewardship area." He observed that this has a more positive and affirming connotation.

Mayor Balducci said she favors leaving it as vegetation conservation area. Councilmember Robertson expressed support for Mr. Stokes' idea. Deputy Mayor Wallace concurred with the Mayor.

Responding to Mr. Brennan, Mayor Balducci suggested leaving the term as it is for now.

Responding to Councilmember Chelminiak, Ms. Helland said the Ordinance will be completed by the end of the month for review by the Council and the public. Adoption of the Ordinance is anticipated during the April 20 meeting. Ms. Helland said The Watershed Company will prepare the Cumulative Impact Analysis (CIA), and staff will report any issues of concern back to the Council.

Mayor Balducci said she hopes the consultant finds that the draft SMP Update meets the no net loss of ecological function standard. If it does not, she would like feedback on which items are of concern.

Councilmember Robertson commented on suggestions regarding non-regulatory alternatives. One was that the Council create a voluntary urban vegetation garden program. She is in favor of that suggestion. She suggested adding: 1) support for the Willowmoor Project, 2) continued work with King County to keep the Sammamish River clean, and 3) a reference to the work with the WRIA 8 forum.

Councilmember Stokes concurred that this is an opportunity to highlight the City's current work and activities.

13. Continued Oral Communications: None.

14. New Business: None.

15. Executive Session: None.

16. Adjournment

At 10:45 p.m., Mayor Balducci declared the meeting adjourned.

Myrna L. Basich, MMC
City Clerk

/kaw