

CITY OF BELLEVUE  
CITY COUNCIL

Summary Minutes of Extended Study Session

November 9, 2015  
6:00 p.m.

Bellevue Public Safety Training Center  
Bellevue, Washington

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

ABSENT: None.

PLANNING COMMISSION:

Chair Michelle Hilhorst, Vice Chair John deVadoss, and Commissioners  
Barksdale, Carlson, Laing, Morisseau and Walter

1. Executive Session

*[Note: To be held at end of meeting.]*

2. Approval of Agenda

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

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

3. Oral Communications: None.

4. Study Session

(a) Incentive Zoning Workshop with Planning Commission

Mayor Balducci said the purpose of the workshop is to discuss the Downtown Livability Update and the City's incentive zoning system. The workshop follows up on Council direction during its review of the Downtown Livability Citizen Advisory Committee's (CAC) recommendations. The goal is to increase the Council's and the Commission's understanding of incentive zoning and to align their expectations for a general approach.

The Councilmembers and Commissioners introduced themselves.

Dan Stroh, Planning Director, said the Downtown Livability program was studied by the CAC appointed by the Council. The Planning Commission's role is to formulate Land Use Code recommendations for the Council based on the CAC's work and on the review and analysis by the Planning Commission and staff.

Mr. Stroh said incentive zoning is one component under review by the Planning Commission. Additional items include public open space, the Pedestrian Corridor, design guidelines, building height and form, and other topics. Mr. Stroh said three key questions for updating the City's incentive zoning are: What do we want to incentivize? How should we do it? What is the market-based exchange rate? He noted that the last question would be addressed in the future.

Mr. Stroh described the foundations of incentive zoning. As development becomes more dense, it is critical to pay attention to the quality of development and design and to the creation of great neighborhoods in the Downtown. Mandatory features are defined through development standards (e.g., permitted uses, dimensional standards, landscaping requirements) and design guidelines (e.g., quality of design, impacts). Incentive zoning provides a menu of amenities to deliver the desired livability.

Mr. Stroh said that floor area ratio (FAR) is a measurement of building density based on the total floor area of a building compared to the site area. For many years, 0.5 FAR was the maximum for areas outside of the Downtown. Buildings with the same FAR can result in different building forms and heights, and an incentive offers additional FAR in exchange for certain amenities.

Mr. Stroh highlighted Downtown Subarea Plan policies regarding bonus incentives to encourage urban residential development, signature streets, unifying design features, retail and service uses, and the replication or protection of historic facades or other significant features when redevelopment occurs.

Deputy City Attorney Bob Hyde described three key legal principles related to zoning: 1) base FAR requirements should not be so restrictive as to destroy a property's economic viability, 2) required monetary or property exactions must have a nexus and be roughly proportional to the negative impacts created or exacerbated by the development, and 3) at least one amenity providing bonus FAR and height must have a nexus and be roughly proportional to the impact/s created by the additional FAR and/or height. The two sources of law related to property takings are the U.S. and State Constitutions.

Mr. Hyde said the base FAR is the level of development allowed without an incentive system. The consideration of changes to the City's incentive zoning system should address whether changes to the base FAR and incentives would destroy a property's economic viability. If so, the action would be considered an unconstitutional taking.

With regard to the second principle, Mr. Hyde said nexus is the connection between the exaction and the harm created or exacerbated by the development. Rough proportionality is a more complex concept, and the Supreme Court has determined that it is difficult to define.

Mr. Hyde said the third principle refers to the bonus system itself. The *Koontz v. St. Johns River Water Management District* (2013) case was not specifically about a bonus system. However, it related to offering a developer more than one option. If a government provides bonus FAR and/or building height to developers, at least one of the bonus options must satisfy nexus and proportionality. The developer must be provided with an option it can exercise that is connected to the negative impact and roughly proportional to that impact. The case determined that governments may also offer additional options that do not require nexus and proportionality.

Mr. Stroh introduced Allegra Calder, Berk Consulting, to describe relevant case studies.

Ms. Calder said she started studying Seattle, Portland, Denver and Chicago in 2013, and each city has amended its program since that time. This can be related to changing market conditions, unanticipated outcomes, and/or failure to achieve the desired objectives.

Ms. Calder said Seattle overhauled its program which resulted in an affordable housing component that was not producing housing on development sites and accepted fees in lieu of providing housing. The program was changed to a mandatory inclusionary housing program in which a developer must provide affordable housing on the site or pay a higher fee in lieu. With regard to nexus, commercial properties in Seattle will also be required to pay a fee based on the concept that commercial development is increasing the need for affordable housing. Seattle's Mayor and City Council are studying a number of additional alternatives. Seattle now provides incentives for larger apartments with three or more bedrooms.

Ms. Calder said most of the current incentive programs focus on affordable housing. One issue to consider is whether the local government wants the affordable housing to be built on the primary site or whether it can be allowed elsewhere.

Ms. Calder said Portland is similar to Bellevue in terms of an incentive menu approach. Portland offers 18 options while Bellevue has 23 available incentives. Portland found that most of the incentives are not being used. Portland is currently overhauling its system as part of a comprehensive planning process and is focusing its incentives on affordable housing. Ms. Calder said that certain items provided in the past as a bonus, in Portland and other cities, are becoming mandatory requirements.

Ms. Calder summarized case studies of Denver and Chicago. Denver allows on-site, off-site and fee in lieu options for providing affordable housing. The fee varies based on the need for housing in particular areas. Denver offers expedited review practices and parking reduction requirements for developers as well. Denver and Seattle both allow a developer to produce fewer affordable units if more units have multiple bedrooms and/or if housing is provided for senior and disabled adults. Chicago designated four downtown zones with a varying pricing structure for affordable housing and/or design elements and amenities.

Ms. Calder said it important for a City to define its goals before choosing incentives. All of the cities studied have different requirements for different areas and neighborhoods. It is rare to have the same rules citywide.

Mr. Stroh requested Council feedback on the role that incentive zoning should play in Bellevue's fiscal and implementation strategy. He invited discussion of examples from elsewhere that might be particularly instructive for Bellevue's update.

Referring to Mr. Hyde's earlier comments, Deputy Mayor Wallace asked whether there is a definition and list of negative impacts. Mr. Hyde said the Council should choose the impacts it wants to address (e.g., loss or gain of public space, traffic increases, watershed/environmental elements, noise, spillover lighting, etc.) for any particular development.

Responding to Mr. Wallace, Mr. Hyde said monetary or property requirements should demonstrate nexus and proportionality. However, optional incentives do not need to provide a strict connection.

Deputy Mayor Wallace requested, for future discussion, information on the parameters of negative impacts. He noted discussions in Seattle which included an argument that building more residential housing can cause housing to be less affordable. Mr. Hyde said he would research that issue.

Responding to Councilmember Chelminiak, Ms. Calder confirmed that affordable housing is the primary focus for incentives in other cities at this time. The incentives tend to involve parking requirements and transit-oriented development.

Responding to Mr. Chelminiak, Mr. Hyde said a taking (property or fee) requires just compensation unless there is a nexus to an identified public problem and it is roughly proportional to the impact created by the development on the identified public problem. However, according to the State Supreme Court, the demonstration of nexus and proportionality is not strictly required for optional incentives. For example, if a larger commercial development replaces a smaller commercial development, a bonus in the form of a farmers market would not necessarily be based on nexus and proportionality. However, increasing the required parking to achieve additional FAR might require nexus and proportionality.

In further response to Mr. Chelminiak, Mr. Hyde said there often comes a time in cities in which the economic reality turns a bonus (i.e., parking) into a requirement. However, if the base FAR is not increased and the mandatory exactions (property or fee) are increased, there could be a point at which the development would not be economically viable, and this would represent a taking.

Councilmember Lee concurred with Deputy Mayor Wallace's interest in the definition and parameters for negative impacts. Mr. Lee said it would be useful to have more examples based on the experience of other cities and/or case law. Mr. Hyde said he would provide more information.

Councilmember Robinson questioned whether a developer could use the incentive system if there was not a negative impact to offset. Mr. Hyde said that, most likely, any economically viable development in Downtown Bellevue is likely to have an impact that can be considered negative. He said the purpose of an incentive is to provide a public benefit to ameliorate the impact. Mr. Hyde said the City needs to identify negative impacts.

Councilmember Robinson questioned the difference between an incentive to offset impacts on driving versus transportation impact fees. Mr. Hyde said the latter are set by state law and typically must meet the nexus and proportionality test. The two are separate in terms of the regulatory framework. Mr. Hyde said he would research and provide clarification. Ms. Robinson expressed concern about placing multiple requirements on developers for transportation impacts.

Commissioner Laing observed that many issues are already addressed in the Land Use Code (i.e., parking requirements, environmental regulations). He questioned the purpose of an incentive related to parking when requirements are already in the Code.

Mr. Hyde said the issues can be complicated without an easy answer. He suggested it would be necessary to look at the specific purposes that each statutory scheme was intended to provide. His understanding of transportation impact fees is that they address infrastructure needs generated by a development. In contrast, incentives could relate to on-site parking for the use of the development. With regard to critical areas, Mr. Hyde cautioned against using an incentive if a particular impact is already mitigated in another manner. However, he said he is not an expert in that area.

Mr. Stroh said the current bonus for downtown structured parking is not about providing the parking ratio, which is already a code requirement. However, the current incentive addresses the way in which parking is provided (i.e., structure versus surface lot). The connection with livability and impacts is the need for increased density and walkability in an urban environment. He said transportation impact fees are focused on the street system and public infrastructure.

Mr. Stroh said this process involves identifying what the City wants to achieve and which incentives can fulfill those goals. What are the implications of increasing density in Downtown Bellevue? What do we need to make sure we provide for people living and working in this increasingly dense environment?

Mr. Laing questioned whether there is a difference between mitigating a negative impact and providing a public benefit when there is not necessarily a negative impact to offset. He observed it would be beneficial to include incentives for the latter to achieve desired amenities. Mr. Hyde said he would research state law on that and discuss it further in the future.

Councilmember Stokes questioned whether a developer could gain a higher FAR if they provided a plaza, as an example. Mr. Hyde said yes, a plaza could be considered a public benefit and/or as mitigation to minimize the loss of open space.

Mr. Stokes questioned how the issue of affordable housing fits into the nexus and proportionality concept. Mr. Hyde said there are at least two pending legal challenges related to affordable housing incentives. The Supreme Court of California addressed a challenge to San Jose's affordable housing, which is currently on petition to the U.S. Supreme Court. The key issue is what the connection needs to be between a particular development project and affordable housing in a particular city. Mr. Hyde said there is also a challenge related to Seattle's affordable housing pending before the Washington State Court of Appeals. He said there should be a nexus to the

issue that the City is trying to solve. He cautioned against trying to justify, for example, affordable housing based on the identified public problem as the parking. He said the two are not inherently connected. He reiterated that bonus incentives do not require the strict demonstration of nexus.

Commissioner Barksdale questioned how the case studies were selected and whether the research showed how those cities monitored and modified their systems. Emil King, Strategic Planning Manager, said the intent was to study cities with incentive systems in place. With regard to implementation, Ms. Calder said the research found a great deal of variation in policies and approaches. She said Denver ultimately changed to a form-based code and suddenly everyone had the maximum allowable densities, so there were no bonuses to give away. She said all incentive systems are subject to a process. In Portland, they are being addressed as part of the comprehensive plan update.

Mr. Barksdale requested more information on how incentive programs are managed, monitored, and modified by other cities.

Councilmember Robertson asked staff to confirm whether her understanding is correct. When a building is constructed, there are layers of regulations including the zoning code and building code. A project also goes through SEPA (State Environmental Policy Act) review, which might generate mitigation requirements, as well as through the analysis for determining transportation impact fees. She concurred with Councilmember Robinson that the City does not want to be adding extensive traffic mitigation requirements to the zoning code if it duplicates impact fee purposes. An additional layer is the bonus and/or possibly a super bonus. As a policymaker, Ms. Robertson said she wants to make that the tradeoffs are fair. Mr. Hyde confirmed the accuracy of her understanding.

Ms. Robertson said that, as the City moves through the amenity and incentive system, there are many items other than affordable housing to be addressed in the Downtown (e.g., Pedestrian Corridor, Grand Connection, open space, plazas, activated sidewalks, weather protection, bike facilities, and underground parking). As the City talks about what should go into the base FAR versus a bonus/super bonus, she would like to follow two principles: 1) if the City lifts the base, it should not result in a down zone/smaller project; and 2) ensure that the amenities/bonuses offered can produce profitable projects for developers.

Commissioner John deVadoss thanked staff for the presentation and said the case studies were helpful. He would like to see feedback and input from developers as well. He supports the objective for affordable housing. However, he observed that the list of incentives is long and perhaps some of the items are outdated. He suggested considering incentives to address connectivity/broadband amenities.

Councilmember Stokes noted the need to maintain perspective. He said incentives are intended to go beyond requirements as one of the layers articulated by Councilmember Robertson. He suggested it will be important for the Planning Commission to review and consider how incentives can accomplish livability objectives beyond the existing code. Mr. Stokes thanked staff for the presentation.

Councilmember Robinson said someone told her that the cost of an underground parking space is roughly \$70,000. If so, she questioned how that can be economically feasible for developers.

Councilmember Chelminiak said he always tries to focus on the Council's job, which is to set policy. He said the Comprehensive Plan policy excerpts (Attachment 1) in the meeting materials are very good. He observed that incentives fall within the realm of creating great places (i.e., designating specific theme streets including retail, entertainment, and commerce). He said the Council has also talked about incentives for residential development, and Bellevue is experiencing more residential units in the downtown than originally anticipated.

Mr. Chelminiak said affordable housing is a policy issue to be considered within the context of incentives. He referred to Comprehensive Plan policy S-DT-36 which states that development standards or regulations are used to address building bulk, height, setbacks, FAR, landscaping, setbacks, open space requirements and development incentives. He noted Council interest in narrowing the list of incentives. He suggested that affordable housing as an incentive should be provided within one square mile of the downtown. However, he questioned whether a fee in lieu provides an advantage and how it applies to A Regional Coalition for Housing (ARCH) projects that are outside of Bellevue. Mr. Chelminiak said Kirkland, Redmond, and other cities have inclusionary housing requirements in their Code. He is not familiar with the implications but suggested it might be helpful to study.

Mayor Balducci concurred and observed that she does not see how affordable housing can be addressed without at least considering an inclusionary housing requirement.

Councilmember Lee thanked staff for the presentation and expressed support for looking at top priorities. He said the incentives must be practical and realistic. He said the City needs to be visionary and to look at future goals. How can we provide buildings that connect people and places, especially in the downtown? What do we want to encourage by providing incentives? He suggested working to identify new incentives that might be beneficial.

Responding to Commissioner Walter, Ms. Calder said policies typically allow a developer to provide a desired element (e.g., affordable housing on- or off-site) or to pay a fee in lieu. Denver is the only city studied that allows the city to make a payment to developers to achieve a specific item.

Ms. Walter expressed concern that affordable housing will be placed in neighborhoods while the majority of the amenities will be located in the downtown. Going forward, she would like to discuss whether the amenities should be located within the same area as the projects that are receiving the bonus FAR.

Commissioner Carlson questioned whether there has been any discussion about lowering taxes to encourage affordable housing. Mr. Stroh said the Council adopted the multifamily tax exemption (MFTE) earlier this year, which provides a deferral of property taxes for 12 years for projects that include affordable housing. The downtown is included in the areas eligible for the MFTE.

Commissioner Laing noted that he was the Co-Chair of the Downtown Livability Citizen Advisory Committee. He said the incentive system should be aspirational and should consider a broad range of possible incentives before narrowing the list. He observed that Bellevue's development activity is strong and the focus of incentives should be on enhancing livability. He cautioned against doing anything that will hamper development or produce unintended consequences, such as the potential for a down zone mentioned by Councilmember Robertson.

Commissioner Morisseau questioned whether the case studies provide in-depth details about which incentives worked well or not, and why. Ms. Calder acknowledged that incentives do not always meet a city's goals or they have unintended consequences. Ms. Morisseau observed that, while changes were made, certain incentives in Portland were very effective. She suggested it is helpful to look at why an incentive succeeded as well as why others were not effective.

Deputy Mayor Wallace said he would prefer to not have an incentive system and to follow Seattle's practice of discussing each project including FAR and design elements. He suggested that Bellevue needs to clarify what type of density and development it wants in the downtown.

Mr. Wallace described an example to demonstrate Seattle's approach. If there is a base 5 FAR for a site, the City of Seattle will offer an additional FAR in exchange for an affordable housing fee. However, there is never a down zone combined with making a developer then pay its way back up. He observed that would legally be considered a tax.

Mr. Wallace said Bellevue is not talking about increasing its base FAR. In considering incentives, if developers are going to be asked to buy their way up with an incentive, perhaps there needs to be the opportunity to go beyond the current maximum FAR in exchange for achieving something of value to the City. At that point, it becomes easier to ask developers to start paying for parks, civic centers, and other facilities.

Mr. Wallace said Bellevue currently has two bonuses (parking and residential) that provide the ability to achieve the maximum FAR without any payment. He said Bellevue Towers is a fantastic building that could not likely have been mandated into existence but rather the market achieved that outcome. It is a one million square foot building and the residential bonus was four million square feet. How would you tell a developer that anything but the maximum FAR is not a down zone?

Deputy Mayor Wallace observed that essentially every incentive on Bellevue's list should be mandated (e.g., parking, landscaping, awnings, etc.). He would prefer to move away from incentives and to instead focus on the appropriate FAR and height for projects.

Mayor Balducci said the typical Council process is to establish a set of principles before sending a matter to the Planning Commission for its review. However, tonight's discussion is not intended to produce a set of final principles at this point. She referred to the Downtown Livability Citizen Advisory Committee (CAC) report, which provided a good basis for this discussion. The report stated that the City should focus on amenities that are most important for achieving livability in downtown. She would add the words viability and memorability because those were identified in the Downtown Subarea Plan update.



Mayor Balducci said the CAC report advised that the Council should consider which items require an incentive versus what the market will develop without incentives. She noted this was addressed in Deputy Mayor Wallace's comments. Continuing, Ms. Balducci said the CAC report stated that the code should provide the flexibility to encourage creative design, and the amenities should help to reinforce the downtown's identity and its neighborhood zones. The report recommended that the modified incentive system must be feasible and act as a realistic incentive, which was highlighted by Councilmember Robertson.

Mayor Balducci concurred with the Deputy Mayor's suggestion that the City eliminate incentives for development projects and features that the market will deliver without the incentives and/or that should be requirements (i.e., parking). She supports narrowing the list of incentives to include only those amenities that the City actively wants but might not otherwise get with development.

Moving on with the presentation, Mr. Stroh described an example of how Bellevue's incentive system currently functions. He referred to Attachment 4, Downtown Livability Land Use Code Audit, and highlighted the related challenges and opportunities identified by the CAC. Public input encouraged expanded flexibility and adaptability, the consideration of new amenities, applying the incentive system to prioritize downtown needs, and maintaining a realistic focus on the economics of development.

Mr. Stroh highlighted the CAC's recommendations for the Downtown Livability Update, many of which were mentioned by Mayor Balducci. The CAC further recommended requiring weather protection, developing a method to consider alternative amenities, recalibrating the economics of the amenity incentive system, and considering neighborhood-specific weighting for incentives. Mr. Stroh noted that fee in lieu payments can be applied to any amenity, and those amenities could be provided on- or off-site. He said Bellevue's current system does not provide the fee in lieu option. However, the CAC suggested that the City review and consider it.

Mr. Stroh highlighted the table listing the 23 existing amenities and potential new amenities to consider. There is currently no incentive for affordable housing. With regard to alternative methodologies, he asked the Council and the Commission to consider whether they would like to place more of the incentives into requirements and whether they would want to provide an option to bypass the incentive system.

Councilmember Robinson said she understands the desire to simplify the incentive system. However, she would like to retain potential amenities for developers to consider. She suggested selecting specific incentives for different areas of the downtown, and she would like to include affordable housing. She suggested looking at ways to discourage car trips, for example through housing units with less parking but free or reduced price ORCA transit cards. She supports incentives to encourage green design features as well.

Responding to Commissioner Barksdale, Mr. Stroh said it can take five years for a project to go from inception to construction, so it is important to maintain predictability and a level playing field for development. At the same time, the City wants to modify its system over time to

maintain or enhance its effectiveness. Mr. Stroh said development cycles tend to extend over six years to eight years. He noted that this update of the incentive system will apply more to the next development cycle than the current development cycle. He said it is important to be predictable yet adaptable.

Commissioner Laing recalled that the Downtown Livability CAC discussed the importance of the ongoing monitoring of incentives. He said the CAC also discussed the light rail project and suggested waiting until the project is in place before addressing certain changes in the code and amenity system. Mr. Laing concurred with the Deputy Mayor about simplifying the system.

Mr. Laing questioned the value of the distinction between base and bonus FAR. With regard to the concept of offering incentives for public spaces, Mr. Laing observed that providing a FAR or height bonus based on a certain allowable use in a specific space can significantly harm the potential for keeping the space occupied. He suggested identifying multiple potential uses for a specific space. He noted that Pacific Northwest Ballet and the Eastside Heritage Center will be looking for new homes due to the light rail project.

Commissioner deVadoss commented that considering livability provides the opportunity to be aspirational and visionary and to focus on innovative ideas such as “smart buildings.”

Commissioner Carlson asked Councilmembers to name the one incentive they believe has been the most successful. Councilmember Robertson said underground parking. Mayor Balducci said housing but acknowledged that might have occurred without incentives.

Councilmember Chelminiak noted housing and underground parking. He concurred with comments by Deputy Mayor Wallace and others that an incentive system might no longer make sense and that many of those items should now be requirements.

Mr. Chelminiak observed that multiple factors influence development including the developer’s vision, activities and services desired by the public, and/or appropriate incentives that help to achieve the desired outcome. Despite the past designation by the City of 106<sup>th</sup> Avenue as an entertainment signature street, two businesses along the street recently closed. He said entertainment uses collocated with retail uses have created a successful destination experience for the community and visitors (e.g., development along Bellevue Way).

Mr. Chelminiak suggested that the Great Streets concept warrants a review. He believes that one of the most significant improvements for the downtown would be to focus on the Pedestrian Corridor and proposed Grand Connection.

Councilmember Robertson opined that residential development and underground parking do not require incentives. She concurred with Deputy Mayor Wallace’s suggestion to focus on mandatory features. She would like to get to a form-over-function standard in which the FAR and maximum building envelope would be established without specifying the uses for the space.

Ms. Robertson questioned whether the City has ever considered moving to a form-based code. Mr. Stroh said urban form-based codes tend to be hybrids. He clarified that the term refers to

focusing on building form with lesser attention to what uses or functions occur in the building. He said the concept has been in use for approximately 20 years. It raises many issues including trip generation from residential uses versus office uses and the difference in the size of the floor plates for office and residential uses. Mr. Stroh said a form-based code would require extensive study and understanding of the implications and unintended consequences.

Councilmember Robertson recalled that the original objectives of the Downtown Livability work were to address livability and maintaining a vibrant downtown environment. This tends to be achieved through the human-scale elements including pedestrian and bike amenities, mid-block connections, landscaping, places to sit, public art, and open spaces. She suggested that incentives should focus on these types of public benefits that enhance the urban environment and overall community experience. She would like to see the Grand Connection move forward.

Councilmember Stokes concurred with the concept of looking at what would be built if there were no incentives. He noted that Austin, Denver, Minneapolis-St. Paul, Pasadena and Seattle have all experienced some very desirable development and redevelopment, but he was not sure about the role of incentives. He said he liked Ms. Robertson's idea about looking at form versus prescribed uses for buildings. He suggested focusing on what will make Bellevue a great urban center and identifying incentives to encourage desirable elements if and where needed.

Councilmember Lee said the people is what makes Bellevue a good community. He encouraged maintaining a focus on the vision for Bellevue's future. He believes this will best be achieved through market-driven development and redevelopment. He wondered what effect incentives had on Bellevue's existing built environment. With regard to the Grand Connection to Wilburton, he said there needs to be something on the Wilburton end, and most likely the market will determine what that will be. Mr. Lee said the Council and the Planning Commission should provide the vision but let the market establish what makes sense economically.

Commissioner Hilhorst said she would like the Planning Commission to discuss public-private partnerships and Comprehensive Plan policies related to education and attracting higher education. She suggested considering incentives in those areas.

Referring to the list of existing and potential new amenities (slide 25 of presentation), Deputy Mayor Wallace suggested they could be broken into mandates, options, and items that should be removed. He would move landscaping to a landscape ordinance. He said Seattle would be a good "green factor" case study for what could potentially be done in Bellevue. However, he believes there would need to be an optional fee in lieu. He observed that Seattle's regulations have resulted in developers installing plants that are not likely to thrive. He suggested adopting requirements for open space, bike storage, and other amenities versus the bonus approach.

In terms of incentives, Mr. Wallace opined that there should be a limited opportunity to increase the FAR. He suggested that, if the maximum FAR in each zone was reduced by one, and developers had the option to increase it by two, the resulting development would likely average the original maximum FAR. Mr. Wallace suggested incentives for fee in lieu contributions for downtown civic elements (e.g., Grand Connection, community center, parks, investments in streams and storm water projects). He proposed eliminating bonuses related to narrow uses (e.g.,

black box theatres, child care facilities, etc.). He would support a bonus for on-site art, sculptures and water features. For affordable housing, he suggested considering the options of either providing on-site, rent-restricted units or a fee in lieu to ARCH.

Mr. Wallace observed that development sustainability features apply to the BelRed corridor and should be considered for the downtown. He expressed support for exploring technology and broadband-related incentives, as suggested by Commissioner deVadoss. Mr. Wallace said he would remove the iconic features incentive, which he sees as vague and something the market will provide.

Mayor Balducci agreed with limiting the list of incentives to achieve the City's goals and to simplify the system for developers. She suggested that items related to pedestrian connections (e.g., sidewalks, awnings) should be mandatory and that there should be universal standards for downtown. She said open space/plaza and affordable housing incentives should be offered, and she would like to retain the incentive to encourage iconic buildings and/or features.

Ms. Balducci noted the challenge of ensuring a certain quality and/or practicality of amenities. For example, she is familiar with developments that provide open space on an upper floor, which is not necessarily noticed by or accessible to the public. She said the CAC report observed that second-story retail uses have not typically worked out well in some areas. She would support eliminating that incentive.

Mayor Balducci said she likes the idea of a "wild card" innovative feature within a development. However, there would need to be a way to review and evaluate those proposals. She said incentives might be effective to address maintaining light exposure and views in a built environment.

Councilmember Chelminiak commented on the importance of connectivity in the downtown. He believes the government does have an appropriate role in guiding and requiring those features. However, incentives might not be the best way to address this issue. It might be more effective for the City to work through those features with developers on individual projects.

With regard to environmental elements, including LEED standards, Mr. Chelminiak said many development and building codes are already moving in that direction and incentives might not be necessary. He concurred with the suggestion for allowing multiple uses in a bonus space instead of dictating one type of use. Mr. Chelminiak said a fee in lieu for affordable housing would need to have defined parameters.

Wrapping up, Mr. Stroh thanked everyone for the discussion and suggested that staff draft principles for Council review and discussion. The principles will ultimately guide the Planning Commission's future review and analysis.

Councilmember Robertson reiterated that incentives should not result in a down zone for development and should be conducive to economic feasibility. She favors narrowing and refining the list of current incentives to identify mandates versus existing or new incentives. She would like to establish design standards or incentives to address light, shade and view impacts.

Councilmember Lee reiterated his suggestion about working with the community to establish a vision. He believes the City should be a facilitator in development and redevelopment with minimal regulations and optimal flexibility for market-driven development.

Councilmember Chelminiak expressed support for reducing the dependency on incentives, updating the regulatory framework, maintaining flexibility, and enhancing certainty for developers and the City. He said designing for safety is important. He encouraged a focus not only on specific development sites but on the overall appearance and experience within the downtown.

Commissioner Barksdale concurred with Councilmember Lee about minimal regulations and allowing the market to dictate development. As data is collected and reviewed over time, it might be appropriate for the City to modify its codes and incentives to ensure objectives are being met.

Commissioner deVadoss expressed support for the Deputy Mayor's proposal about how to approach incentives and development regulations. He said this effort should be aspirational in looking at what livability looks like in five years and beyond.

Commissioner Hilhorst said this effort must remember to address safety as a significant component of livability. One need for the City is to site and build a downtown fire station, which is an opportunity that will likely affect only one or two property owners. The community's future also includes light rail. She questioned what that means for public safety in terms of personnel and facility needs.

Councilmember Robinson said she and Councilmember Chelminiak participated in a staff briefing, and both agreed that the downtown population has been somewhat different than anticipated with families and young children. Ms. Robinson would like to consider more protective walkways and separations between pedestrians and traffic.

Deputy Mayor Wallace recalled the legal framework and said he believes it is possible to achieve desired development and public benefits while preserving private property rights.

Mayor Balducci encouraged a continued focus on the key word of livability, which is a downtown that is safe, comfortable, active, and economically viable. She thanked the Commissioners for coming and said this has been an excellent discussion.

## 5. Mini-Consent Calendar

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

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

- (a) Resolution No. 9001 authorizing execution of a professional services agreement with SFE Global Incorporated to provide services, for the Flow Monitoring for

Inflow and Infiltration (I&I) project, in the amount of \$196,880 (CIP Plan No. S-67).

- (b) Resolution No. 9002 authorizing execution of a professional services agreement with CH2M Hill Engineers, Inc. for engineering services, for the Kelsey Creek – NE 8th Street Culvert Replacement Preliminary Design and Permitting project, in the amount of \$626,043 (CIP Plan No. D-105).

6. Council Discussion of Upcoming Items: None.

7. Executive Session

At 9:01 p.m., Mayor Balducci declared recess to Executive Session for approximately 20 minutes to discuss one item of potential litigation. She noted that the meeting would be adjourned following the Executive Session.

At 9:30 p.m., the Executive Session was concluded and the meeting was adjourned.

Kyle Stannert  
Acting City Clerk

/kaw