

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Extended Study Session

May 9, 2016
6:00 p.m.

Conference Room 1E-113
Bellevue, Washington

PRESENT: Mayor Stokes, Deputy Mayor Chelminiak, and Councilmembers Lee¹, Robertson, and Robinson

ABSENT: Councilmembers Slatter and Wallace

1. Executive Session

Deputy Mayor Chelminiak called the meeting to order at 6:03 p.m., and declared recess to Executive Session for approximately one hour to discuss one item of potential litigation.

The meeting resumed at 7:07 p.m., with Mayor Stokes presiding.

2. Approval of Agenda

Deputy Mayor Chelminiak suggested adding an item to the agenda following item 4(b), after Councilmember Lee arrives, to consider two ordinances adopting interim official zoning controls related to recreational marijuana retailers for a period of six months. Two alternatives are presented for Council consideration.

City Attorney Lori Riordan said the ordinances propose two interim controls. One is a 100-foot separation requirement between retail marijuana businesses and residential land use districts zoned R-1 through R-30 (i.e., one housing unit per acre through 30 units per acre). The second provision limits the number of retail marijuana outlets that would be permitted in Bellevue to six, with a maximum of one store in each of the six subareas where this type of business is permitted.

Ms. Riordan said the ordinance with the emergency clause would go into effect immediately. The alternate version would go into effect five days later. The adoption of either ordinance requires a public hearing within 60 days.

¹ Councilmember Lee arrived at 7:37 p.m., at the beginning of the discussion on Agenda Item 4(b).

→ Deputy Mayor Chelminiak moved to approve the agenda, amended to add consideration of Ordinance Nos. 6286-A and 6286-B following Agenda Item 4(b), or after Councilmember Lee arrives. Councilmember Robertson seconded the motion.

→ The motion to approve the agenda, as amended, carried by a vote of 4-0.

3. Oral Communications

- (a) Queen Pearl expressed concern regarding the legalization of marijuana, the adverse effects of smoking marijuana and cigarettes, and the location of a marijuana business in Seattle next to a church.
- (b) Alex Zimmerman reiterated his request that the City Manager host public discussions. Mr. Zimmerman was frustrated that he can speak to the Council but not engage in a conversation.
- (c) Warren Halverson, President of the Canter Greens Homeowners Association and a member of the Bridle Trails Community Club and the Coalition of Eastside Neighborhoods for Sensible Energy (CENSE), expressed concern about transparency and the consideration of alternatives related to Puget Sound Energy's Energize Eastside project. He highlighted items from PSE's 2015 Annual Report and 2015 Integrated Resource Plan. The reports indicate a slight growth in the number of customers and a decrease in energy usage. Mr. Halverson asked the City to formally request that PSE update its needs analysis and that PSE choose the least intrusive and most cost-effective solution for the Energize Eastside project. He submitted his comments in writing.
- (d) Jim Hill, Kemper Development Company, said the Council will be reviewing a proposal for a pedestrian skybridge. He thanked City staff for their hard work on the proposal. He said the project will help activate the west end of the Pedestrian Corridor, which is part of the Grand Connection envisioned by the Council extending from Meydenbauer Bay to the Wilburton area.
- (e) Dan Koch, Director of Electric Operations at PSE, commented on the Willow 2 preferred alternative for the Energize Eastside project. He said the proposal has been developed through working with the community to address concerns about pole height, view impacts, and safety. He said PSE is meeting with residents and going door to door to discuss the project. The scoping process for the Phase 2 Draft Environmental Impact Statement (DEIS) is underway, and he understands that the Council will be discussing the scoping process tonight. Mr. Koch thanked the Council for its thoughtful engagement and said he looked forward to continued collaboration.
- (f) Liping Ke expressed concerns related to the Energize Eastside project including the need for the project, cost, removal of trees, environmental impacts, and safety. She asked the Council to consider the CENSE alternative, which is more cost-effective and environmentally friendly. She submitted her comments in writing.

- (g) Aileen Wu, representing Parents Against Marijuana Near Schools (PAMNS), recalled Detective Jensen's report the previous week that there have been eight thefts in marijuana stores over the past two years and 30 thefts of alcohol during the past three months. Ms. Wu said there are many more retail outlets that sell alcohol, and marijuana retail theft is 60 percent higher than alcohol theft. She expressed concern that marijuana stores will continue to be a temptation for potential robberies because it is a cash business. She submitted her comments in writing.

4. Study Session

- (a) Council Business and New Initiatives

There was no discussion.

- (b) City Council Comment Letter on Puget Sound Energy's Energize Eastside Phase 2 DEIS Scoping Process

City Manager Brad Miyake opened discussion regarding the Council's comment letter on the scoping for the Energize Eastside Phase 2 Draft Environmental Impact Statement (DEIS) process. The Phase 1 DEIS was completed earlier in the year.

Deputy City Manager Kate Berens said staff is seeking Council feedback to finalize the draft letter commenting on the scope of the Phase 2 DEIS. The DEIS report will be issued in early 2017, and the Final EIS combining the Phase 1 and Phase 2 DEIS processes will be issued in the summer of 2017.

Ms. Berens said the Council's role in submitting the letter is as a stakeholder. The City is acting as lead agency for the State Environmental Policy Act (SEPA) review process for a number of jurisdictions. Ms. Berens said the two-phase DEIS process was designed to allow a more thorough understanding of the project and related issues. Phase 1 focused on linking the need for the project to the viability of alternatives. Phase 2 is focused on the specific impacts of viable alternatives and on identifying mitigation measures for those impacts. A single EIS report supports Bellevue and partner cities in their permitting actions.

Puget Sound Energy's preliminary preferred alternative is the Willow 2 alignment. Bellevue and the other cities impacted by the project will ultimately be asked to make a permanent decision on PSE's project application. The EIS studies the impacts of PSE's selected alternative. The purpose of the process is to allow the public to suggest reasonable alternatives and/or mitigation to address environmental impacts.

Nicholas Matz, Senior Planner, presented a map of the Willow 2 alignment. He said the term reasonable alternatives refers to: 1) actions that could feasibly attain or approximate the proposal's objectives, but at a lower environmental cost of decreased level of environmental degradation, and 2) actions over which an agency with jurisdiction has the authority to control impacts, either directly or indirectly through the requirement of mitigation measures.

Mr. Matz said the Phase 2 scoping notice clarifies that the DEIS is intended to identify Phase 1 alternatives that were not carried forward and to articulate the reasoning for not carrying them forward. Topics identified by the Council during Phase 1 included visual impact simulations, alternatives or measures to minimize visual impacts, and alternatives or measures to minimize the risk associated with collocation of the transmission lines with the Olympic Pipeline.

Mr. Matz said the draft Phase 2 DEIS comment letter focuses on four key areas: 1) transparency in terms of understanding the detailed impacts of the variations included in the Willow 2 preferred alternative, 2) visual impacts, 3) safety, and 4) ecological impacts. He noted the memo in the desk packet clarifying language in the draft letter which states that the “Phase 2 DEIS should quantify the number or significant trees likely to be removed for construction of PSE’s preferred alternative.”

Mayor Stokes said the topics highlighted in the letter have been discussed with the Council a number of times. He thanked staff for their work on the letter.

Councilmember Robinson requested more information on how Alternative 2 was evaluated against the purpose and need described in Phase 1 of the EIS. She questioned whether there are any reasonable modifications to the alternatives that would allow PSE to address the purpose or need or to extend the timeline. Ms. Robinson would also like the letter to address continuing to partner with PSE to develop the next generation of power supply and capacity. Ms. Berens said staff will bring back information on those topics when they come back with the final letter for action.

Councilmember Robertson noted that a number of residents are concerned that Alternative 2 is not reflected in the Phase 2 DEIS review. Responding to Councilmember Robertson, Ms. Berens noted that an open house is scheduled in Bellevue City Hall on May 17 regarding the Energize Eastside project.

Ms. Berens said the Phase 1 DEIS and Phase 2 DEIS work together toward the preparation of one Final EIS. Phase 1 enabled a broader conversation about the purpose, need, and potential alternatives. Phase 2 addresses the project that PSE intends to submit for permits. The City needs to understand the impacts of that specific project and the opportunities for mitigation.

Ms. Berens said the Phase 2 scoping phase provides the opportunity for the public to submit alternatives and to describe how it meets the purpose and need described in Phase 1 by Puget Sound Energy. She said PSE will make the final decision about which project it submits for permitting action.

Ms. Robertson questioned why Alternative 2 is not in the Phase 2 DEIS. Ms. Berens said staff will come back with more information on the analysis of Alternative 2. Councilmember Robertson suggested that the letter clarify that the City is working to ensure that the process is transparent.

Ms. Robertson said she strongly supports language in the draft comment letter about alternative measures to address visual impacts. She supports the request for visual simulations of the alignment. She expressed concern about the impact on property values. She recalled a statement in the Phase 1 DEIS that the project does not affect property values over time, except for higher

value properties. Ms. Robertson observed that many properties in Bellevue are higher value properties. She suggested that this comment from the Phase 1 DEIS should be addressed further in the Phase 2 DEIS.

Councilmember Robertson expressed support for the comments in the letter regarding safety. She wants to be sure to differentiate between safety during construction and during operations, because different mitigation measures might be required during the two stages. Ms. Robertson expressed concern about noise impacts during construction. She said some residents are also concerned that they will not have access to their homes during construction. Ms. Robertson said the City needs to be sure it has a full understanding of impacts and the appropriate mitigation to eliminate that level of inconvenience.

Ms. Robertson observed that the Willow 2 alignment is relatively new, and she knows that PSE has been meeting with residents. She requested information on how those discussions are going and the comments from residents.

Ms. Berens encouraged the public to attend the open house to provide feedback to the City about how PSE is working with the community.

Ms. Robertson said the City has future projects along portions of the Willow 2 alignment. She would like to coordinate construction to the extent possible to minimize disruptions and provide effective mitigation.

Councilmember Lee thanked everyone for their work on this project. His goal is to ensure that the City Council represents the concerns and issues raised by the community. One issue he would like to address is alternative energy sources and technologies. He said many residents question the need for the project. He would like to request flexibility for modifying the project, including the technology, if circumstances and energy usage change going forward. He said the Council needs to be looking at energy projections and, if there is a difference in projections, consider what can be done.

Responding to Deputy Mayor Chelminiak, Ms. Berens confirmed that PSE makes the project decision. The City has no authority to direct PSE on the project it describes in its permit application. The EIS does not determine the best alternative but identifies impacts of the alternatives studied. In further response to Mr. Chelminiak, Ms. Berens said PSE has indicated that its permit application will reflect the Willow 2 alternative. She said there are possible variations within that broader alternative, however.

Mr. Chelminiak said the City will ultimately determine how to address safety, environmental, and other impacts in its permit review.

Ms. Berens said each jurisdiction involved with the project will handle its permitting process independently. Mr. Chelminiak said regulations vary between jurisdictions. He questioned how to ensure that strong safety practices are followed throughout the project alignment.

With regard to the ecological impact, Mr. Chelminiak said most codes address impacts related to relatively small projects. Energize Eastside is a large project crossing multiple jurisdictions. He said there should be a way to quantify the cumulative detriment to the ecosystem service value for the entire project. He said the project will remove a significant number of trees which will affect water runoff, light, wildlife, and the tree canopy. Ecosystem service values quantify the full detriment to the environment. Mr. Chelminiak said this is a form of economic science that can be applied to this type of project.

Responding to Deputy Mayor Chelminiak, Ms. Berens confirmed that PSE may submit its application before the EIS is completed. However, the City cannot take action until the Final EIS is issued. Mr. Chelminiak encouraged continued engagement between the City and PSE to anticipate and prepare for impacts.

Mayor Stokes said it is important for the Council and the public to understand the City's role. He said there are impacts with every public project and a number of measures are used to mitigate those impacts. He said the letter should acknowledge that the project has both benefits and impacts affecting a number of Eastside communities. He expressed support for the letter and the Council's comments. Mr. Stokes observed that the process provides the opportunity to work with other cities and to provide leadership. He looks forward to a successful project.

Ms. Berens said staff would like to bring the letter back to the Council on May 16. She said upcoming PSE open house meetings are May 10 in Renton and May 17 in Bellevue.

Mayor Stokes observed that the City has done a good job of determining mitigation for the East Link light rail project. He believes that mitigation for the Energize Eastside project will be successful as well. He thanked the community for their involvement and input.

(c) Consideration of ordinance regarding Interim Zoning Controls related to Recreational Marijuana

Mayor Stokes requested Council consideration of interim zoning controls related to recreational marijuana.

City Attorney Lori Riordan said two alternative ordinances were prepared for the Council's consideration. They contain the same substantive text. However, one provides the option of adopting an emergency ordinance, which requires a supermajority vote. The interim regulations create a 100-foot buffer between residential land use districts and retail marijuana outlets, and limit the total number of retail marijuana stores in Bellevue.

During the past year, the Washington Liquor and Cannabis Board approved a 100-percent increase in the number of retail marijuana businesses allowed in King County. The number of stores allowed in Bellevue increased from four to eight stores. Staff proposes allowing one store in each of the six subareas with the appropriate zoning for retail marijuana businesses, for a total of six stores.

Ms. Riordan said the Council has been hearing concerns from the community about the proximity of residential neighborhoods to some of the proposed stores. Staff recommends

adopting a 100-foot separation requirement between retail marijuana stores and residential land use districts.

If Council approves the interim zoning controls, a public hearing will be held within 60 days. Staff will develop a work plan for completing its study of appropriate regulations. Ms. Riordan said the Council will determine whether it would like to send the issue to the Planning Commission or address it solely within the Council process.

Councilmember Lee questioned the rationale for choosing 100 feet as the separation distance. Ms. Riordan said the recommendation is based on staff's analysis of the parcels where recreational marijuana businesses are allowed to locate, available commercial space, and the locations relative to residential land use districts.

→ Councilmember Robertson moved to adopt proposed Ordinance No. 6286-A to implement an interim zoning control regulating recreational marijuana retailers, declaring an emergency, and directing staff to schedule a public hearing. Councilmember Lee seconded the motion.

Responding to Deputy Mayor Chelminiak, Ms. Riordan said there are currently three retail marijuana businesses in Bellevue, and two have requested the medical marijuana endorsement. Two additional applications have been received, and the regulations applied to those applications will depend on where they are in the process with the City. In further response, Ms. Riordan said the State issues licenses based on its criteria, but applicants must comply with local regulations.

Mr. Chelminiak said the ongoing changes in State regulations make it a challenge for local governments to adopt regulations. He observed that Bellevue has acted responsibly in addressing the issues. Under the new laws, individuals will be able to access medical marijuana in Bellevue, which was previously not allowed. He expressed support for the proposed ordinance.

Councilmember Robinson expressed support for the motion.

Mayor Stokes expressed support for the ordinance.

Councilmember Robertson said marijuana laws continue to evolve. She believes Bellevue has been proactive in trying to balance the will of the voters who approved recreational marijuana, the needs of medical patients, and the interest of the broader community in preserving a positive family environment. She expressed support for the limit of six stores, one in each subarea that contains the appropriate zoning, and for the proposed separation from residential districts. She encouraged the public to speak during the future public hearing, and she thanked staff for their work.

Councilmember Lee said that, while he seconded the motion, he would prefer to have no retail marijuana stores. He believes it is important to have a clear message for young people. He said this is an opportunity for further study and to maintain flexibility.

Mayor Stokes said this is a serious issue, and the Council is trying to implement the will of the majority of the voters regarding legalization. He said the City continues to work with the Bellevue School District to educate youth.

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

- (d) Economic Development Code Changes – Consideration of Expanded Regulatory Implementation Tools and Associated Resource to Support the City Council’s Economic Development Priorities

City Manager Miyake recalled that, in October 2015, the Council endorsed a robust planning and land use code development work plan. At that time, Council directed staff to work on identifying regulatory implementation tools to respond to time-sensitive opportunities that advance the City’s economic development agenda.

Chris Salomone, Director of Planning and Community Development (PCD), introduced staff’s presentation of proposed regulations responsive to specific economic development opportunities. He noted that Bellevue has national and international competition in the area of economic development. He said this is a cross-departmental response to the Council’s request that the City provide flexibility where appropriate.

Mike Brennan, Director of the Development Services Department (DSD), said it is important to be able to respond to emerging opportunities as the Council continues to refine economic development policies. Regulatory tools studied by staff include development agreements, interim official controls, narrowly scoped Land Use Code Amendments, and contract rezones (concomitant agreements). Development agreements provide enhanced regulatory certainty for developers while assuring that the City receives certain investments or amenities as part of the development. A contract rezone grants a rezone for a property or properties in exchange for the developer meeting certain future development conditions.

Mr. Salomone described two requests considered by staff to be suitable for an interim official controls approach. The Industrial and Commercial Bank of China (ICBC), the largest bank in the world, is interested in locating in the Plaza Building at NE 8th Street and 112th Avenue NE in space that has been vacant for a number of years. Current zoning restricts the space to retail use. Mr. Salomone said the interim controls would be in effect until permanent regulations are studied and established through the next periodic review of the BelRed corridor.

Councilmember Robertson said there was a similar request in recent months from a real estate business that wanted to locate in retail space. She would like to add real estate offices to the interim zoning controls. Mr. Salomone said that use was identified by the Downtown Livability Citizen Advisory Committee as well to be considered in its final recommendations.

Ms. Robertson asked staff to check on the status of that particular case. If the real estate company’s request is still pending, she would like to consider allowing it to locate as soon as possible.

Mr. Salomone said the second proposal under interim official controls relates to Park Place Motors, which is being displaced by Sound Transit’s East Link light rail project. The company

has been unable to find a suitable location in the BelRed corridor. Mr. Salomone said staff believes it is an appropriate request to relocate to the industrial site identified by the company.

Land Use Director Carol Helland said the interim official controls process will allow the Council to act quickly to implement temporary regulations until permanent regulations are adopted as part of the Downtown Livability work and the periodic review of the BelRed Plan. Adoption of the interim controls requires a public hearing within 60 days. The temporary regulations may be in effect for up to six months, and the six-month period may be renewed. Ms. Helland said the Downtown Livability Plan is anticipated to be completed by the end of this year.

Ms. Helland requested Council direction on the two proposals before discussing the next two proposals. She recalled that the Council discussed financial institutions and banks in the past as uses that attract people and as logical candidates for allowing in retail spaces. The interim official control would define banks and financial institutions as pedestrian-oriented frontage and retail activity. If approved by the Council, staff will bring ordinances back for action and request that the Council schedule a public hearing no later than July 11.

- Councilmember Lee moved to direct staff to initiate an ordinance regarding the interim official control related to the Industrial and Commercial Bank of China proposal. Councilmember Robertson seconded the motion.

Mayor Stokes expressed support for the motion and thanked staff for responding to the Council's interest in expediting certain items related to economic development.

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

Ms. Helland said staff will bring the ordinance back for Council action on May 16.

Ms. Helland said Park Place Motors is one of several businesses that are being displaced due to the East Link project. The proposed interim official control would allow the business to move into a vacant BelRed facility. Approval of the proposal will require a public hearing within 60 days, no later than July 11.

- Councilmember Robertson moved to direct staff to initiate an ordinance regarding the interim official control related to the Park Place Motors proposal. Deputy Mayor Chelminiak seconded the motion.

Responding to Councilmember Lee, Ms. Helland said the Pacific Northwest Ballet has identified a temporary alternative while it continues to negotiate with Sound Transit regarding future permanent space. Mr. Lee encouraged City staff to let Sound Transit know about the City's flexibility on this issue.

Deputy Mayor Chelminiak recalled that the BelRed Plan anticipates the accommodation of high-capacity transit. He observed that approval of the motion makes sense and fits with the City's vision that "Bellevue is open for business." He said it is important to continue to be a good

partner with local businesses that have been in Bellevue for a number of years. He thanked staff for their work.

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

David Bingham, Park Place Motors, expressed his gratitude for the Council's support to keep his business in Bellevue.

(e) Development Agreement between the City and LS2 Retail, LLC, and Lincoln Square Hotel, LLC, for a Pedestrian Corridor Bridge

Deputy City Attorney Bob Hyde introduced discussion of the proposed development agreement to allow the pedestrian skybridge requested by the Kemper Development Company. If the Council approves moving forward with the agreement, a few items will need to be finalized before final Council action.

Ms. Helland described the proposed bridge across the western end of the Pedestrian Corridor (NE 6th Street), which is an important element for the Grand Connection that will ultimately connect Meydenbauer Bay to the Wilburton subarea. A pedestrian bridge was not originally contemplated for this location. However, the Pedestrian Corridor design guidelines and the Land Use Code do allow for bridging of the corridor for weather protection. Staff is requesting approval of the conceptual design of the bridge and of the development agreement as the design of the Grand Connection moves forward.

Ms. Helland said the development agreements provides the process for the Council to approve the bridge design and allows Kemper Development Company to integrate the construction of the Pedestrian Bridge into its development and to avoid interruption of their project estimated for occupancy in April 2017. The agreement provides time for Balmori Associates to complete the Grand Connection design for this segment, and allows the ground plane improvements to be constructed by Kemper Development Company in early 2017.

Ms. Helland requested Council feedback on the proposal. If approved by the Council, a public hearing will be held before formal Council action.

Deputy Mayor Chelminiak said the existing skybridges have worked well. They do not detract from street-level activity and provide views and weather protection.

Mayor Stokes observed that the pedestrian bridge is an opportunity to serve an artistic purpose as well.

Councilmember Robinson expressed support for the bridge as an exciting first element of the Grand Connections.

Councilmember Robertson expressed support for the development agreement. She said it is consistent with the original work by the Planning Commission and City Council when the first pedestrian bridges were adopted.

Councilmember Lee expressed support for the development agreement. He said pedestrian bridges have been a great addition to Bellevue, and Kemper Development Company is committed to providing attractive connections between its developments.

Mr. Helland said the public hearing will be scheduled for May 16.

(f) Proposed Ordinance amending the High-Rise Sign Code

Ms. Helland recalled previous discussion on February 1 of proposed changes to the High-Rise Sign Code, at which time the Council directed staff to conduct additional stakeholder outreach. On March 9, information was provided during the Planning Commission open house for the Downtown Livability Initiative. Stakeholders were generally supportive of the proposal to lower the minimum square footage required for placing a high-rise sign. Staff's recommendations were modified somewhat based on the input.

Jesse Canedo, Economic Development Manager, said the code proposal is intended to align with current and future business trends by lowering the threshold for a high-rise sign to 75,000 square feet of occupancy. He said businesses are increasingly using their space more efficiently and reducing their overall square footage. He said Salesforce is coming to Bellevue and will occupy approximately 75,000 square feet with 500 employees.

Ms. Helland said staff's research indicates that three existing businesses, in buildings that do not currently have a high-rise sign, would likely be able to take advantage of the proposed code change. She said this action was initiated by the earlier Council discussion on February 1, and a public hearing is not required for Bellevue City Code amendments.

Responding to Councilmember Lee, Mr. Salomone said a maximum of two signs will continue to be allowed per building. Ms. Helland said both signs must be for the same company. Mr. Lee expressed support for the proposal.

Deputy Mayor Chelminiak suggested placing the item on the next Consent Calendar.

Councilmember Robertson concurred, noting that she would like staff to highlight, at that time, how this compares to what was discussed on February 1. She questioned whether outreach was conducted to both businesses and residents. Ms. Helland said the outreach occurred as part of the Planning Commission open house on March 9. She said the event was well attended and there was good discussion.

In further response to Ms. Robertson, Ms. Helland said no other changes are being made to the Sign Code. The number and size of signs, as well as the maximum lumens, remains the same. Ms. Helland said the 75,000-square-foot threshold was determined through a collaboration of PCD and DSD staff to identify businesses with 300-500 employees, which is consistent with economic development goals.

Responding to Councilmember Robinson, Mr. Salomone said the signs must face east and south, toward I-405.

Responding to Councilmember Lee, Ms. Helland said if more than one business within a building wants a high-rise sign, it will be up to the building owner to negotiate with those tenants.

Mayor Stokes thanked staff for the presentation and asked them to bring the matter back for Council action.

5. Continued Oral Communications: None.

Mayor Stokes declared the meeting adjourned at 9:33 p.m.

Charmaine Arredondo
Acting City Clerk

/kaw