

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Extended Study Session

September 12, 2016
6:00 p.m.

Conference Room 1E-113
Bellevue, Washington

PRESENT: Mayor Stokes, Deputy Mayor Chelminiak¹, and Councilmembers Lee, Robertson, Robinson, Slatter, and Wallace²

ABSENT: None.

1. Executive Session

The meeting was called to order at 6:10 p.m., with Mayor Stokes presiding. There was no Executive Session.

2. Approval of Agenda

→ Councilmember Wallace moved to approve the agenda, and Councilmember Slatter seconded the motion.

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

3. Oral Communications

Mayor Stokes explained that state law prohibits individuals from commenting on whether the Council should take a position on the Sound Transit Phase 3 (ST3) ballot measure, or on the positive or negative aspects of the ST3 ballot measure package.

- (a) Bill Hirt expressed concern about Sound Transit's East Link light rail project. He said the agency planned to close the South Bellevue Park and Ride in March. However, he opined that the closure was deliberately delayed beyond this fall's election because Sound Transit does not want to inconvenience the public before the vote on the Sound Transit Phase 3 package. He said Sound Transit is not meeting the conditions of the memorandum of understanding (MOU) with Bellevue. He expressed concern regarding bus transit access during the construction of light rail.

¹ Deputy Mayor Chelminiak arrived at 6:17 p.m.

² Councilmember Wallace left the meeting at 9:44 p.m.

- (b) Todd Woosley, Hal Woosley Properties, said the Council will review the recommended Eastgate/I-90 Land Use Code language next week. He spoke on behalf of the longtime owners of the Trailer Inns of Bellevue RV Park in the Eastgate area. They would like to sell the property to a multifamily developer for workforce and affordable housing. Mr. Woosley said the Code language does not make multifamily development feasible, and he will be proposing language that would make a project economically viable.
- (c) Clark Kramer said he and his brother own the Trailer Inns of Bellevue RV Park. They have been working with Planning staff for quite some time to study traffic and other issues related to the future redevelopment of the site. Prospective buyers of the property have determined it would not be feasible to develop the site for needed affordable housing. Mr. Kramer said the code designation is harming his property, which is contrary to the Eastgate/I-90 Citizen Advisory Committee's recommendations. He said code changes are necessary to meet the goal of providing affordable housing. He asked the City to conduct further study and/or to preserve the current permitted uses for his site.
- (d) David Ruehr, Board President for the Bellevue Youth Theatre Foundation, and Board Vice President Katherine Jordan provided an update on the theatre's activities. She said the theatre recently completed its production of Charlotte's Web, which nearly doubled the number of participants from five years ago. Three casts presented the play to allow everyone to participate. Mr. Ruehr said the BYT Foundation raised more than \$50,000 in January to support theatre programs including guest artists, guest professionals, and an expanded costuming program. Ms. Jordan said the theatre is introducing the Theatre of Possibility program this fall for individuals within the autism spectrum. This is a free program sponsored by the BYT Foundation and the Nikki Fox Fund, which Councilmember Lee helped to establish to honor Ms. Fox, a disabled adult, and to ensure access to the theatre's programs. Mr. Ruehr said the next annual benefit event will be a dinner theatre performance on January 28.
- (e) Alex Zimmerman, representing StandUP-America, said he thinks changes to the Council rules on oral communications within the past year were directed at him. He expressed concern regarding government and freedom of speech. He said the public cannot have a dialogue with the Council.
- (f) Charlie Klinge, representing the Washington Sensible Shorelines Association (WSSA), referred to the current Critical Areas Ordinance (CAO) update as well as the City's Shoreline Master Program (SMP) still being held by the State Department of Ecology (DOE) pending its review. He expressed concern regarding the very short timeline for addressing the CAO update, which apparently is needed to maintain the City's eligibility for certain grant funds. He expressed concern that impacts to property owners are not being considered. He said the DOE has not complied with the legal requirement to review the City's SMP submittal within 180 days.
- (g) Michelle Wannamaker, an Eastgate resident, distributed maps of the area proposed for the new homeless shelter discussed with the Council before the August recess. She noted a conflict between two different maps of the area, with the homeless shelter on one map overlapping a pedestrian/public space on the other map. Ms. Wannamaker said that, during the two years of planning the homeless shelter project, no one ever mentioned the

transit-oriented development (TOD) plans to the shelter partner agencies. Ms. Wannamaker said the homeless shelter was never discussed with the Planning Commission during its year-long review of the Eastgate/I-90 land use and transportation plan. She said an alternative location on the hillside has been taken out of consideration due to the steep slope and vegetation. She expressed concern that the Council will approve the Eastgate/I-90 Land Use Code amendments without first implementing the Citizen Advisory Committee's recommended traffic and transit improvements. She said this would be a violation of the Growth Management Act.

- (h) Richard Edgar said he and his wife live on property to be acquired by the City for Fire Station 10. He said they completed construction of their new house in 2008. He said September 4 was the first time they were notified of the proposed Fire station location. He is distressed about the prospect of relocating and leaving their dream house containing a number of custom features. Mr. Edgar said the stated rationale for choosing the site is that it meets six criteria, none of which consider the mental, emotional or physical impacts on the residential owners being evicted. He asked the City to reopen the site selection process with an added criteria addressing impacts to residents.

4. Study Session

(a) Council Business and New Initiatives

Councilmember Lee provided an update on his meeting with U.S. Department of Transportation staff, including Mark Sullivan, Director of the Federal Highway Administration's Center for Innovative Finance Support, while he was visiting Washington, D.C., on personal business. Mr. Lee met with the staff who process loans for the TIFIA (Transportation Infrastructure Finance and Innovation Act) program. The City's loan application provides roadway funding for the BelRed corridor to complement and support redevelopment. He said the City hopes to have the loan in place by late 2016 or early 2017.

Mayor Stokes introduced discussion about whether the Council should take a formal position on the upcoming Sound Transit Phase 3 (ST3) ballot measure. He noted that Councilmembers will not discuss whether they support the package or what they consider to be its benefits or disadvantages.

Deputy Mayor Chelminiak said the ST3 package is one of the most important regional issues, and light rail is important for Bellevue, including as a part of the redevelopment of the BelRed corridor. He acknowledged that Councilmember Wallace opposes the ballot measure and said other Councilmembers have spoken publicly about their positions as individuals. Mr. Chelminiak said this is confusing for the public, and he believes it is important to establish an official Council position.

Mr. Chelminiak said taking a formal position would involve holding a public comment period. He suggested allowing 10 minutes for presentations by individuals on both sides of the issue, followed by the opportunity for up to five additional speakers on both sides of the ballot measure. He said this would be a good learning opportunity for the public. He said the Bellevue

Chamber of Commerce has taken a position, and the Bellevue Downtown Association (BDA) and others are anticipated to take formal positions as well.

Councilmember Slatter spoke in favor of taking a formal Council position. She said transportation is one of most important challenges facing the region. She observed that the Council has considerable depth and experience, and she believes the public deserves a conversation of the issues related to the ST3 package.

Councilmember Robertson said she likes that the Council works well collaboratively to address both City and regional issues. However, she is opposed to taking an official Council position on the ST3 ballot measure, which is not under the City's control. She observed that addressing the issue would not be a wise use of the Council's time, and she noted that the City Council does not typically take a formal position on non-City ballot measures. She said Bellevue will have two ballot items this fall and it would be appropriate to take a formal position on those proposals.

Ms. Robertson noted the Council's heavy work plan for the remainder of the year (i.e., Budget, two City-initiated levies, affordable housing, Downtown Livability Initiative, parental leave policy, marijuana uses zoning, Grand Connection, Eastside Rail Corridor, Low Impact Development principles, Critical Areas Ordinance update, Energize Eastside, the City's diversity initiative, and other topics). She is not interested in using staff resources or Council meeting time to discuss and formulate a Council position.

Ms. Robertson acknowledged that the Council is not unified. She encouraged avoiding an issue that is potentially divisive and that is not under the Council's control. She said Councilmember Wallace is publicly opposed to ST3, and the Mayor and Deputy Mayor have publicly expressed their support for the package. Ms. Robertson said it is most appropriate to avoid taking a Council position while allowing individuals to continue to support either side of the ballot measure.

Councilmember Lee expressed support for Councilmember Robertson's comments. The ST3 project is not a City ballot measure, and there is wisdom in not taking a formal position. However, he believes the Council does have an appropriate role in providing a forum for educating the public about the package and the arguments in favor of and against the ballot measure. Mr. Lee said he does not see how taking a Council position would benefit or influence the public. He supports allowing Councilmembers to continue to advocate their individual preferences with their constituents. He is willing to go with the Council majority on this issue. However, he would prefer to not use Council time for discussion and formal action.

Councilmember Robinson said Bellevue figures prominently in the ST3 system plan, and she believes the Council should take a position. She said that taking a position will open a dialogue within the community. She believes that information on both sides of the issue should be heard.

Councilmember Wallace said he understands both sides of his colleagues' comments. He noted that four Councilmembers appear to be in favor of taking a formal position. He said he has debated the ST3 package publicly with the Mayor and with King County Councilmember Claudia Balducci. He observed that there can be a Council discussion without it becoming a contentious issue. He said it is an opportunity for the public to learn more about the ballot measure.

Mayor Stokes noted that light rail is already underway for Bellevue under the ST2 program. However, Sound Transit's light rail is a regional system and the more it expands, the greater the benefits for the entire region. He said this is an opportunity to educate the public. He concurred with Councilmember Robertson that the Council has a very aggressive work plan this year. He said it is up to the Council to determine how much time it wants to spend on public comments and discussion before taking a vote. Mr. Stokes said there will be dissenting opinions but the Council will move on and continue to work together.

- Deputy Mayor Chelminiak moved to add under Agenda Item 11 on September 19, two resolutions, one supporting and one opposing the ballot measure. The pro and con campaigns will be allowed 10 minutes each for a presentation, followed by additional time for up to five speakers (three minutes per speaker) on each side of the issue. The comment period shall comply with the applicable state law. Councilmember Wallace seconded the motion.

Councilmember Wallace questioned whether the Council is allowed to accept written/emailed comments for the purpose of the public comment period. Mayor Stokes said emails may be accepted.

Deputy Mayor Chelminiak said that, under state law, following the 10-minute presentations, an equal additional number of speakers will be allowed for each side of the ballot measure. He said there must be a 1:1 balance in the number of speakers.

Councilmember Robertson estimated that the public presentation and comment period, followed by Council deliberation and action, could take up to three hours. Responding to Ms. Robertson, City Clerk Kyle Stannert said the Council would not ask questions of the individual participants.

Deputy Mayor Chelminiak said the Council could set a time limit on each Councilmember's comments as well.

Councilmember Lee said it sounds like a relatively straightforward plan for discussion. However, he has not yet made his decision and has questions. Responding to Mr. Lee, Mayor Stokes said the format of the public presentation and comment period is dictated by state law. However, Councilmembers may choose to limit their discussion if desired.

Councilmember Slatter expressed support for the motion and said she appreciated the clarification regarding emails.

With regard to emails, City Attorney Lori Riordan opined that the Council would not likely have time to consider all written comments, if the Council intends to take a vote the same evening.

Deputy Mayor Chelminiak said the public may write to the Council at any time. With regard to taking a position on a ballot measure, state law governs the oral public comment period and requires presentations on both sides of an issue. He would like to allow additional speakers as well, even if it is not required by state law.

Councilmember Slatter agreed that it is important to have both sides presented.

→ The motion carried by a vote of 6-1, with Councilmember Robertson dissenting.

(b) Status of Property Acquisition for Fire Station 10

City Manager Brad Miyake introduced staff's update on the plan for property acquisition related to the new Downtown Fire Station.

Fire Chief Mark Risen recalled several previous discussions with the Council regarding Fire Station 10. The station is necessary to address the existing gap in coverage, improve vertical response, and to strengthen the fire and medical emergency response network. Chief Risen said the Council provided land acquisition funding in the 2015-2021 Capital Investment Program (CIP).

Chief Risen highlighted the site selection criteria: 1) response time and geographic coverage, 2) site access and traffic impacts, 3) Medic 1 freeway access, 4) cost to acquire, develop and operate the station, 5) site configuration, and 6) land use impacts. He described maps showing the current four-minute travel time from all fire stations and the improved coverage distribution with the new Downtown station. He said the station will improve response times to the Downtown, Northtowne, and new office and residential development in the Spring District in the BelRed corridor.

Nora Johnson, Director of Civic Services, said staff sent letters to the six property owners of the nine parcels affected by the property acquisition. The City will pay fair market value for the properties, and there are no impacts to McCormick Park. The City will work with property owners to negotiate the purchase of their properties.

Chief Risen said public outreach will be conducted over the next several years including personal contacts with adjacent residents and businesses, meetings with neighborhood and business groups, and information on the City's web site. He said it will be several years before the station is built.

Responding to Mayor Stokes, Chief Risen said occupancy is anticipated in 2021. In further response, Ms. Johnson said the home owners would be able to remain in their homes for approximately the next two years.

Responding to Councilmember Robertson, Ms. Johnson said several of the homes are leased. The two owner-occupied homes are in the center of the site. In further response, Chief Risen said it would not be possible to shift the footprint of the station to allow the two homes to remain. He said a number of options were considered and this is the best solution. He acknowledged that staff will need to work with the homeowners.

Mayor Stokes encouraged looking at both the tangible and non-tangible impacts of the acquisitions.

Councilmember Robertson said she knows it has been a longtime goal of the Council to add the Downtown Fire Station. However, she does not feel good about taking the homes. She would

like to explore whether other options would be possible. She said the City must be respectful and gracious in dealing with the property owners. Chief Risen said the City has been talking about the need for an additional fire station for many years, and call volumes continue to increase.

Councilmember Slatter thanked Councilmember Robertson for her comments and noted that she had similar questions about the building placement. Chief Risen said the architects have provided the needed square footage. The Fire Department is trying to make the footprint as small as possible, which will likely result in a two-story structure. However, no design work has been completed. Ms. Johnson said the City needs to do a site assessment of the full nine parcels.

Councilmember Slatter said she would like to find a way to mitigate the impacts to residents. However, she acknowledged that the population is growing and the City has an obligation to provide the appropriate public safety and emergency response.

Ms. Slatter observed that people appear to be surprised by the project. She suggested it is important to provide background information to them and to help them understand the City's needs and the site selection process. She questioned whether there are innovative precedents in how jurisdictions have handled displacing property owners, especially older adults.

Councilmember Lee said the need for a Downtown Fire Station is overdue. He questioned whether it is necessary to retain the adjacent park. Ms. Johnson said she would research that issue further. Mayor Stokes said there are legal constraints on benefitting a private individual for a public use. Mr. Lee noted that property owners will have time, up to two years, to plan for moving to another home.

Councilmember Robinson thanked Mr. Lee for asking about the possibility of removing the park. She noted that she previously served on the Parks and Community Services Board. The ideal solution would be one that does not displace owner-occupied homes. However, she acknowledged that this is a good location. She observed that Downtown residents will be concerned about noise and other impacts related to a fire station. Chief Risen said those issues will be addressed later during project design and mitigation work.

At 7:42 p.m., Mayor Stokes declared a short break. The meeting resumed at 7:55 p.m.

(c) Bellevue Police Department Prescription Drug Disposal Program

City Manager Miyake introduced discussion regarding the new prescription drug disposal program initiated by Police Chief Mylett.

Chief Mylett said prescription drug disposal programs are a safe way to dispose of expired and/or unwanted medications. He noted that flushing drugs into the water system is detrimental to the environment and water system. In 2013, responding to federal mandates, the King County Board of Health passed a set of rules and regulations to create a structure drug take-back system for King County. The regulations require pharmaceutical producers to develop a product stewardship program to finance and manage the collection, transportation, and disposal of unwanted medicine. In 2015, King County established the King County Medicine Education

Disposal (MED) Project to operate the program. In 2016, the City entered into two contracts with the King County MED Project, which allows Bellevue to serve as a law enforcement drop-off site. The delivery of the secure kiosk for disposing of drugs, to be located in the Police lobby, is scheduled for October. Chief Mylett said the drugs are taken to an incinerator by the vendor.

Councilmember Robertson noted that she had spoken with Chief Mylett about this type of program in the past, and she is pleased to see that it is being implemented. Ms. Robertson said a web site listing places for the disposal of expired or unwanted drugs indicates that the only places currently on the Eastside are in Bothell and Issaquah (<http://www.takebackyourmeds.org>). She suggested that the Bellevue Police Department add its program to the web site. Responding to Ms. Robertson, Chief Mylett said the program could be expanded to the substations. He said the vendor and City anticipate a community event as well to provide the opportunity to dispose of drugs. Ms. Robertson said the disposal of medications could be promoted along with periodic recycling events encouraging residents to clean out their homes of unwanted items.

Councilmember Robertson expressed concern about privacy considerations because a prescription medication label has an individual's name and other information. Chief Mylett confirmed that laws require that prescription drugs be carried in the original bottles. He said the Police Department can provide black markers and/or something to scrape off the labels with the kiosk.

Councilmember Slatter thanked Chief Mylett for his leadership in initiating the drug disposal program and noted that she had spoken with him about this concept in the past. She concurred that privacy is important and said she believed there is a method for addressing the labels. She said pharmaceutical companies have provided money for the program, and incinerating the drugs is less harmful than releasing them into the water. She said drug overdoses in Washington are the leading cause of accidental death, and 12 percent of teens in the state use prescription pain medicines to get high. More than three of five teens say they were able to get pain relievers from their parents' or grandparents' medicine cabinets. She said the drug disposal program is a good way to protect the environment and to protect youth by removing one easy way for obtaining the drugs.

Chief Mylett concurred that protecting youth is one of the most important reasons for the programs. He said youth often take their first opioids from a medicine cabinet in their home. He said drugs are stolen from homes in other ways as well, including individuals posing as potential homebuyers to gain access to a medicine cabinet. Councilmember Slatter said hospitals have strict protocols for destroying outdated medications.

Councilmember Lee thanked Chief Mylett for his work. Responding to Mr. Lee, Chief Mylett said pharmaceutical companies are mandated to cover the costs of the King County MED program. Melissa Chin, Police Legal Advisor, said that 237 pharmaceutical companies participate in the King County program.

Councilmember Robinson expressed appreciation for the program and concurred with the importance of removing outdated and unnecessary drugs from households.

Mayor Stokes thanked Chief Mylett for his leadership.

(d) Draft Complete Streets Ordinance and Transportation Commission Recommendation

City Manager Miyake said staff is seeking Council direction to bring back an ordinance on the September 19 Consent Calendar to formally adopt the Complete Streets approach.

Transportation Director Dave Berg said the ordinance is consistent with the City's current practices. However, it would adopt a new Complete Streets section of the Transportation Development Code to continue to plan the multi-modal network. Mr. Berg said that adopting the ordinance will make the City eligible for an award from the Washington State Transportation Improvement Board (TIB).

Scott Lampe, representing the Transportation Commission, said a subcommittee met with staff to draft the Complete Streets ordinance, which would direct the City to develop complete streets to the extent possible. Complete streets are a corridor or transportation network that is scoped, planned, designed, built, operated and maintained to enable safe access for all users. This does not necessarily mean that all streets must accommodate all travel modes, however. The complete streets concept is cited in RCW 47.04.320(1) and is already embedded in the City's practices. Mr. Lampe said an ordinance and policy framework would help to organize, prioritize, and coordinate efforts.

Kevin McDonald, Senior Transportation Planner, said Complete Streets is national movement adopted and implemented by more than 899 state and local governments. There are 66 Complete Streets jurisdictions in Washington. Mr. McDonald described the Complete Streets Award Program introduced by the Washington State Transportation Improvement Board (TIB) to encourage jurisdictions to adopt and implement Complete Streets policies. A jurisdiction must demonstrate an integrated and sustained ethic of planning and building streets using context-sensitive solutions to accommodate pedestrians, transit riders, bicyclists, and motorists.

Mr. McDonald said staff is seeking Council direction to prepare a Complete Streets ordinance for adoption on September 19 to meet the City's eligibility for an award. Staff is working with award sponsors on a proposal to submit to the TIB by the October 21 deadline. Award recipients will be announced on January 27, 2017.

Councilmember Robinson expressed support for staff's proposal and questioned how it relates to the Vision Zero initiative. Mr. Berg said the goal of Vision Zero is to eliminate fatalities. The Complete Streets approach provides infrastructure and facilities for all types of transportation modes. However, there will be a coordinated effort to incorporate Vision Zero concepts into the design of street projects.

Councilmember Lee said he always likes to ask about costs and benefits. He said he read the ordinance, which indicates that the City already follows the intent of the program.

Councilmember Wallace questioned whether the ordinance will change how the City currently designs and constructs projects. Mr. Berg said no changes are anticipated. However, referring to

Mr. Lee's previous question, he said the benefits are that a financial award could accelerate the completion of a project. Mr. Wallace expressed support for adopting an ordinance.

Deputy Mayor Chelminiak thanked Commissioner Lampe and the Transportation Commission. He spoke in favor of directing staff to prepare a Complete Streets ordinance for adoption. He said legislation will formalize the City's ongoing commitment to provide Complete Streets where possible. Mr. Chelminiak noted that all travel modes will not be able to be accommodated on every street.

Councilmember Robertson expressed support for the project, which she said is consistent with the City's existing practices. She thanked staff and the Transportation Commission for working on behalf of Bellevue residents.

Mr. McDonald introduced Lei Wu, the new Transportation Commissioner.

- (e) Critical Areas Overlay (CAO) Update for consistency with Growth Management Act [RCW 36.70A.040]

City Manager Brad Miyake recalled that, on August 1, the Council directed staff to develop a narrowly tailored Critical Areas Overlay Update to maintain consistency in the City's development regulations with the state Growth Management Act (GMA). He reminded the Council that the update is needed to maintain the City's eligibility for grant funding for transportation and utilities capital projects. Mr. Miyake said staff is seeking Council direction to schedule a public hearing in early October on this matter.

Kate Berens, Deputy City Manager, introduced Sarah Sandstrom of The Watershed Company. Ms. Berens said the Council is aware that the City is waiting for the Department of Ecology's (DOE) review of Bellevue's Shoreline Management Program (SMP). That review involves certain provisions of the City's Critical Areas Ordinance for consistency and compatibility with the shoreline work. Ms. Berens said the Department of Commerce reviews the CAO update and is responsible for certifying the City's compliance with the Growth Management Act. She said the City's intergovernmental relations staff and technical staff are working with both state departments to try to streamline the two review processes.

Carol Helland, Land Use Division Director, recalled that the Council adopted the Comprehensive Plan Update on August 3, 2015. The Council adopted Resolution No. 9094 on May 2, 2016 to document GMA compliance for all development regulations except for the Critical Areas Code update. A June 16, 2016 letter from the Department of Commerce acknowledged the City's completion of its Comprehensive Plan Update and noted that the Critical Areas Update still needed to be completed.

Ms. Helland said she and the City's consultant, The Watershed Company, have been working to update the Best Available Science work completed for the original Critical Areas Ordinance and to create a Code Update package. Under Land Use Code Section 20.25H, critical areas include streams, wetlands, geologic hazardous areas, habitats associated with species of local importance, and frequently flooded areas.

Ms. Sandstrom provided an update to the 2005 Best Available Science review. She said that current science indicates that stormwater runoff is a cause of pre-spawn mortality in Coho salmon. She said stormwater treatment in the form of low impact development techniques have been found to be highly effective in eliminating that mortality.

Ms. Sandstrom said the 2005 BAS review seemed to adequately cover buffer requirements. However, the data indicates that site-specific conditions affect effectiveness and densely vegetated buffers are the most effective. In urban areas, debris is often removed from undersized culverts. Replacing the culverts with streams has had a significant positive impact on salmon.

Ms. Sandstrom said most of the BAS changes apply to wetlands. The City follows the delineation method outlined in the federal manual and regional supplement. The State Department of Ecology revised the rating system in 2014 to change certain criteria and the scoring system. The DOE reviewed buffer widths in 2013 and did not make any changes.

Ms. Sandstrom noted changes to the list of species of local importance. Species without specific management recommendations are the Osprey, Green Heron, Red-Tailed Hawk, and Western Toad.

Ms. Sandstrom said cities and counties are required to ensure that their development standards meet the minimum requirements of the 2008 Biological Opinion by the National Marine Fisheries Service relating to the effects of floodplain development on salmonids and southern resident Killer Whales.

Responding to Councilmember Wallace, Ms. Helland said the presentation is intended to provide background information for the CAO Update. Moving to the last items, geologic hazardous areas, Ms. Helland said the location of the Seattle fault zone has moved farther north in Bellevue than previously mapped, which will inform code amendments. She said critical aquifer recharge areas were addressed in the 2005 BAS review but are not referenced in the current code. The City has several emergency wells that are not currently used for potable water, and intends to use Wellhead Protection Plans to address its wells.

Ms. Helland presented the gap analysis outlining the amendments needed to comply with the new state regulations. She noted a set of clarifying amendments to demonstrate consistency with the Comprehensive Plan with regard to fish and wildlife habitat conservation areas, frequently flooded areas (replaces “special flood hazard” terminology), critical aquifer recharge areas, and critical areas buffers and structure setbacks. Recommendations related to uses and development in the Critical Areas Overlay District update the culvert design guidance document and revise language applied to trails on single-family lots. Trails must be located in the outer 25 percent of the fringe of wetlands and stream buffers.

Ms. Helland said most of the recommendations regarding streams are not mandatory. However, the City must update its regulations regarding buffers on eroding stream banks within five years.

Councilmember Slatter questioned whether properties will be grandfathered in terms of those future regulations. Ms. Helland referred the Council to pages 9 and 10 of Attachment C in the

meeting packet for information on wetlands, which have the most substantive regulatory changes. She said existing native growth protection areas and native growth protection easements have specifically been identified to be grandfathered.

In further response to Ms. Slatter, Ms. Helland said the City attempted an assessment to identify properties with wetlands that might be affected by a regulatory change. There are approximately 100 properties in public ownership and 50 in private ownership. The City believes that some percentage of the latter have already identified native growth protection easements or native growth protection areas for Critical Areas Land Use Permits.

Mayor Stokes encouraged focusing on the required Critical Areas Overlay amendments at this point. Ms. Helland reiterated that more details on wetlands are provided on pages 9 and 10 of the meeting packet. With regard to geologic hazard areas, Ms. Helland said seismic hazard areas in critical areas must be disclosed in real estate information.

Ms. Helland said staff is requesting direction to schedule a public hearing for October 3 regarding the proposed Critical Areas Code amendments. The amendments will be forwarded to the Department of Commerce and to the Department of Ecology for their reviews related to GMA consistency and inclusion in the Shoreline Master Program.

Responding to Councilmember Robertson, Ms. Helland said that Best Available Science reviews in 2003 and 2005 were used to support the original adoption of the Critical Areas Ordinance.

Ms. Robertson said the Council is addressing low impact development techniques, and it makes sense to tie those to critical areas regulations. She questioned whether the LID regulation update is considered a portion of substantial compliance with the Growth Management Act. Ms. Helland said yes, and that information has been noted in several areas.

Ms. Robertson recalled a study in recent years which demonstrated favorable fish survival in one stream and not in another. She questioned whether the reason for the difference was determined by the study. Ms. Sandstrom said that result was documented in the BAS update, but the reason for the difference was not identified. Ms. Helland said there are no recommendations for changes to stream regulations.

Ms. Robertson questioned whether the CAO regulations contained in the Shoreline Master Program were sent to the Department of Commerce. Ms. Helland said yes, the Department of Commerce received the entire resolution adopted by the City Council.

Councilmember Robertson referred to the linkage between updating CAO regulations and maintaining grant eligibility. She questioned why this did not come to the Council earlier, given the urgency about grants. Ms. Berens said there were a number of factors. There are different ways that agencies score their grants, and there is increasing formality around the Department of Commerce's guidelines on consistency amendments to the Comprehensive Plan, as well as on a jurisdiction's own review of its development regulations. She recalled that this involved the Council's adoption of a resolution documenting that the City had reviewed its development regulations. The funding agencies are becoming more disciplined in requesting that information from the City and Department of Commerce. Ms. Berens said there are also internal workload issues related to competing priorities. She said staff continues to work with the funding agencies

to determine the realistic impacts on grants and the ways the City may demonstrate its work toward compliance.

Ms. Robertson said the Council needs to determine the pace, process and transparency of the CAO Update. She needs to be fully informed regarding how substantial compliance works, whether the LID regulations and SMP package represent substantial compliance, and the risk of losing the grants.

Councilmember Robertson said she does not support a public hearing at this point because she does not understand all of the impacts on property owners. She said it is unfair to the Council and the public to hold a public hearing on something that is not clear and transparent. She would like staff to create explanatory documents, including a table comparing existing and proposed regulations and indicating the number of affected properties. If residents are required to conduct certain studies, she wants to know what those are and how that requirement differs from the current permit process. She wants to understand the impacts and costs for property owners.

Ms. Robertson would like a map of affected properties in Bellevue, including information on the impacted buffers. She suggested delaying the public hearing for two to three weeks after more information is available. She wants full details on the grant and the risk of losing grants. That information should be balanced with the benefits of slowing down the update process.

Ms. Helland said the grant funding issue was initially raised by the Utilities Department in June with regard to the increased rigor around the analysis of whether the City's development regulations comply with the Comprehensive Plan Update. She said the Council adopted the resolution documenting compliance except in the area of critical areas regulations, and the resolution was forwarded to the Department of Commerce to maintain grant eligibility for the utilities grant.

Ms. Helland said the current issue regarding grants relates to the Transportation Department's request for \$10 million from the State Transportation Improvement Board (TIB). In mid-October, the TIB will contact the Department of Commerce to determine whether the City is in compliance with the Growth Management Act. City staff are unsure what the funding agency will do with that information if the answer is no because the City has not yet submitted its documentation.

Ms. Berens said the purpose of staff's coordination with the Department of Commerce and Department of Ecology is to discuss the proposed approach of incorporating the limited CAO amendments into the SMP package for the DOE's review, and to request that the State accept that work as sufficient for indicating that the City is in compliance with the GMA with regard to grant funding. Staff has not received a clarification on that issue. Ms. Berens said more information could be provided before the public hearing. Maps might not be detailed but they can provide an order of magnitude for affected properties and how the grandfathering of regulations works.

Responding to Councilmember Robertson, Ms. Helland said the staff report with background scientific information and the annotated code documents are available for review. She said

Bellevue City Councils have never funded comprehensive mapping of every critical area in the city. The City does not have the precise information Ms. Robertson is requesting. However, there is generalized mapping. When a property owner initiates development work, a site-specific analysis is required.

Ms. Robertson wants the public to understand how properties might be impacted. She questioned how long it would take for staff to prepare a general map of impacted properties and a table comparing the existing and proposed regulations. Ms. Sandstrom said the comparison chart could be prepared relatively easily. With regard to mapping, there are no wetland ratings and staff would not be able to specify which properties might have new buffer requirements. Ms. Sandstrom said it would be a large task to inventory and rate every wetland.

Mayor Stokes observed that the current question is whether the City should proceed with the review and study. He said the public is already commenting on this topic, and additional comment during a public hearing will help the Council and staff to focus on areas of concern for the amendments and to continue to pursue grant eligibility. Mr. Stokes said he would like to move the process forward.

Ms. Berens said that, if the public hearing is set for October 3, the staff report would be available this Thursday, September 15. She suggested that the table comparing existing and proposed regulations could be provided the week before the hearing. While citywide mapping is not possible, Ms. Berens said staff could come up with specific scenarios to demonstrate potential impacts of the regulatory changes.

Councilmember Robertson reiterated that she would like more definitive information on the grant issue. She would prefer to not rush the CAO update if it is not necessary.

Responding to Deputy Mayor Chelminiak, Ms. Helland said the October 3 date was requested by the Transportation Department due to the anticipated review of the City's grant application in mid-October. In further response, Ms. Helland said the most substantive changes relate to how wetlands are delineated. However the buffers are not changing.

Ms. Sandstrom said the 2016 updated DOE guidance equates buffers to the wetlands ratings. In further response to Mr. Chelminiak, Ms. Sandstrom said she anticipates that the DOE would question the City if it does not follow the agency's most recent guidance. She confirmed that the recommendations regarding wetlands regulatory changes are intended to bring the City into compliance with state regulations.

Councilmember Robinson questioned whether property owners affected by wetlands could be identified and contacted. Ms. Helland said staff is currently following the standard protocol for a code amendment. In the past, 4,000 shoreline property owners and stakeholders received paper mailings from the City. However, there is not an electronic way to do that. In further response, Ms. Helland said the City would need to identify critical areas, apply a buffer to them, and then identify property owners within those buffer spaces. Ms. Helland did not have an estimate of how many properties might be affected by critical areas regulations. Councilmember Robinson said she was not comfortable moving forward without identifying and contacting property owners who will be affected by the regulations.

Responding to Councilmember Lee, Ms. Helland said the Transportation Department applied for two grants totaling \$10 million.

Responding to Mayor Stokes, Ms. Helland said the DOE's wetlands guidance is one of the most direct mandates. Staff is seeking Council adoption of code amendments on October 3 or October 17, to be immediately transmitted to the Department of Commerce for GMA compliance, as well as to the Department of Ecology for the SMP review. In further response, Ms. Helland said staff is following the Council's direction of August 1 to prepare a narrowly focused update needed to comply with the mandatory state requirements.

Councilmember Wallace observed that the majority of the changes relate to terminology and definitions. However, the more substantive issues that affect property owners' rights to use their properties need to have outreach, transparency, and a clear understanding of the impacts. He does not want to rush the process due to the grant issue. He said he continues to be frustrated that the DOE has not yet reviewed the City's SMP package. He suggested separating the minor amendments from the more substantive ones. He questioned whether the Department of Commerce will review the CAO Update information in a timely manner.

Councilmember Slatter concurred with Mr. Wallace's suggestion to split the minor and major issues. Responding to Ms. Slatter, Ms. Helland said the transportation grant applications are for the 124th Avenue NE project (Spring Boulevard to NE 18th Street) and the Newport Way project (Somerset Boulevard to 150th Avenue).

In further response to Ms. Slatter, Ms. Helland said Attachment 6 is what staff considers the minimum code amendments necessary to demonstrate compliance with state law. Ms. Slatter said the grants apply to two very important projects. She would like to see a way to submit the more minor amendments and to take more time on the other issues. Ms. Berens said staff will address that option with the State. However, it is not consistent with staff's current understanding.

Councilmember Robertson recalled that, on August 1, staff reported that no cities in King County had completed their critical areas updates. Ms. Robertson opined that the State is not going to find all King County cities to be out of compliance. She questioned whether moving forward with the public hearing and continued discussions would suffice as substantial compliance.

Councilmember Robertson questioned the public outreach plan. Ms. Helland said staff is using the standard methods (Blue Permit Bulletin and Council packet materials) for noticing the code update. Ms. Helland said the amendments are required by state law. While property owners might not like the implications for their properties, City staff has done its best to mitigate the consequences by grandfathering the existing wetlands delineation and characterization for a property versus the development on the property. This will allow property owners to maintain their existing buffers.

Ms. Helland said staff does not believe there are heritage or bog wetlands in Bellevue, and those are the wetlands most affected by the new regulations. Councilmember Robertson reiterated that more public outreach is needed.

Councilmember Robinson expressed support for submitting the minor amendments and conducting further outreach with regard to the substantive amendments. She opined that the City would be less compliant with the GMA if the City does not conduct a robust public outreach process. Ms. Helland said most of that robust outreach occurred with the major Comprehensive Plan Update process over a two-year period.

[Councilmember Wallace left the meeting at 9:44 p.m.]

Responding to Ms. Robinson, Ms. Berens said staff is conducting the normal City process for citywide code amendments. She does not want there to be an impression that staff has truncated the normal process. Identifying specific properties and contacting property owners directly would be a more robust public process.

Responding to Mayor Stokes, Ms. Berens said it would be best for the Council to take action by October 17 with regard to the grant applications.

Responding to Councilmember Lee, Ms. Helland said City staff, including Joyce Nichols, Director of Intergovernmental Relations, will continue to discuss options with the state agencies. Councilmember Lee suggested that the agencies should be understanding of the City's need for more time and process.

Deputy Mayor Chelminiak said the Council and staff previously agreed to avoid an expansive review of the CAO for this update. He prefers keeping a narrow focus on the state mandates. He observed that individuals provide better input if they have something to react to, and he suggested moving forward with the October 3 public hearing. He would like to see the comparison table suggested by Ms. Robertson, including the identification of the changes that would impact the development of a property. Mr. Chelminiak said the input would help the Council's discussion on October 17.

Mr. Chelminiak said the City never identifies specific property owners who might be affected by a citywide Land Use Code Amendment. He suggested continued discussions with the state agencies to outline the City's process and anticipated completion date. Councilmember Chelminiak said he is hearing from staff that the proposed amendments are necessary to comply with state law.

Ms. Robertson suggested setting the public hearing for October 10.

Ms. Helland said the City is requesting expedited review of its CAO Update.

Mayor Stokes noted general agreement to hold the public hearing on October 10.

5. Discussion of Upcoming Items: None.

6. Continued Oral Communications: None.

Mayor Stokes declared the meeting adjourned at 9:56 p.m.

Kyle Stannert, CMC
City Clerk

/kaw