

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Study Session

October 3, 2016
6:00 p.m.

Council Conference Room
Bellevue, Washington

PRESENT: Mayor Stokes, Deputy Mayor Chelminiak, and Councilmembers Lee, Robertson, Robinson, Slatter, and Wallace¹

ABSENT: None.

1. Executive Session

At 6:02 p.m., Deputy Mayor Chelminiak opened the meeting and declared recess to Executive Session for approximately 45 minutes to discuss one item of potential litigation and one item of pending litigation.

The meeting resumed at 6:46 p.m.

2. Study Session

- (a) Marijuana Permanent Regulations; Interim Regulations Scheduled to Expire November 9, 2016.

City Manager Brad Miyake recalled that the Council adopted an interim ordinance regulating retail marijuana businesses, which is scheduled to expire on November 9, 2016. A public hearing was held on June 20, 2016. Staff is seeking Council direction about whether to pursue permanent regulations and hold a public hearing.

Trisna Tanus, Legal Planner, Development Services Department (DSD), provided background information on state and local marijuana regulations. The Council established interim zoning controls through the adoption of Ordinance No. 6253 in August 2015. Based on those regulations, three marijuana retail stores have opened (BelRed, Downtown, Wilburton), and two retail stores are in the development phase (Eastgate, Factoria).

Ms. Tanus said three state marijuana bills became effective January 1, 2016. The Cannabis Protection Act allowed four additional retail licenses for Bellevue, medical marijuana co-ops, and the ability to impose civil penalties regarding certain issues. House Bill 2136 reduced certain

¹ Councilmember Wallace arrived at 7:14 p.m.

separation distances between retail stores and other land uses, and House Bill 5121 allowed marijuana research uses.

The Council adopted revised interim controls through Ordinance No. 6286 which added a 100-foot separation between marijuana retail stores and residential zoning, and established a maximum of six retail stores in Bellevue (versus the eight allowed by the State). Ms. Tanus described a map comparing potential marijuana retail store sites under the ordinance versus the previous interim regulations. One store is allowed in each of the six districts referenced in the ordinance. The revised interim regulations effectively eliminated six parcels (4 Downtown, 2 BelRed) for retail stores due to separation distances.

Interim Ordinance No. 6296 banned medical marijuana co-ops, which would otherwise be allowed in residential areas, and medical research uses. The ordinance approved the use of certain civil penalties and abatement measures related to marijuana as well.

Ms. Tanus recalled past policy questions and decisions to balance the will of voters, medical needs, and broader community interests. While the Council supports maintaining access to marijuana stores, the number of stores is limited to six and appropriate buffering to residential districts is required. The Council determined to ban marijuana research uses until there is more certainty in state law regarding that use. Imposing certain civil penalties and abatement measures will enable the City's Code Enforcement to respond to certain types of complaints.

Ms. Tanus described the effects of the interim ordinances over the past few months. The current Downtown location is not affected. She said there would likely be no stores in the Crossroads area due to current land uses and the separation requirement related to residential districts. She noted that land use approval for a marijuana retail store is site-specific and cannot be automatically carried to another site.

Responding to Councilmember Robinson, Ms. Tanus described a map comparing the acreage of the Downtown Subarea (413 acres) and the BelRed Subarea (930 acres).

Responding to Councilmember Slatter, Ms. Tanus said there have not been any changes in state law regarding marijuana research since the most recently adopted interim ordinance.

Councilmember Robertson expressed concern that there are few potential downtown sites for a marijuana retail store. She said the existing store will be displaced soon for redevelopment. She questioned whether requirements could be changed, for example setbacks or buffers, to provide more site options. She would be interested in having staff address that issue and propose alternatives for Council consideration. She said the Downtown has higher density development and a market demand, noting that the Downtown store has one of the highest total sales in the state.

Catherine Drews, Assistant City Attorney, said the Downtown is challenging for locating stores due to separation distances from parks, schools, child care centers, etc. She said Reilly Pittman,

Associate Planner, could work to explore possible modifications to address Ms. Robertson's concern.

Councilmember Robinson suggested it would be helpful for patients to have a store near the hospitals in the Medical Institution District.

Deputy Mayor Chelminiak said if changes are considered for the Downtown, he would want them to apply citywide. He expressed support for moving forward with the current interim regulations, noting that the state legislature is anticipated to make additional ongoing changes to state law. He is not opposed to more than one store per subarea. However, he believes there should be an equal application of regulations across the city.

Councilmember Slatter said the Wilburton store will be displaced by light rail construction. She questioned whether, in situations where a store must move for reasons beyond their control, there could be options for relocating to another site. She observed that the Downtown and BelRed corridor are reasonable options in that situation. She would consider allowing two stores each in the Downtown and BelRed areas. She expressed support for allowing a store in the Medical Institution District. She would be interested in considering alternatives when there are land use issues beyond a store owner's control.

Councilmember Lee noted that he personally is opposed to marijuana legalization. However, he acknowledged that the voters have spoken and the law needs to be accommodated. He would like to limit the number of stores as much as possible. He observed that interim zoning controls are working well at this point, and he supports continuing with the current regulations.

Mayor Stokes said this has not been an easy issue to address. He concurred with Mr. Chelminiak that marijuana regulations will continue to change. Mr. Stokes said the voters approved legalizing marijuana, there is a market for it, and the City has adopted responsible regulations. He is open to considering allowing two stores each in the Downtown and BelRed areas, while maintaining the limit of one for the other identified subareas. He said the businesses are not causing problems. He would prefer to proceed with option 2 provided by staff in the presentation: Prepare regulations with modifications to bring forward for a public hearing and final action.

Deputy Mayor Chelminiak observed that it is very difficult for retailers to find tenant space to lease. However, that is not an issue for the City to solve. He stated his preference to adopt the interim zoning controls as permanent regulations and to review them in two years as state law continues to evolve. He observed that the current marijuana businesses in Bellevue have not generated any problems.

[Councilmember Wallace arrived at 7:14 p.m.]

Councilmember Robertson said it sounded like there were four Councilmembers who are open to revising the interim regulations before adopting them as permanent. She observed that downtown zoning is not causing an obstacle for retail stores. However, given the separation requirements

and buffers, store locations are limited to two sites. She concurred with Mr. Chelminiak that it is not the City's problem to solve if landlords will not rent space to the businesses.

Councilmember Robertson said she would like to see whether code amendments could open up more potential downtown store locations. She is open to considering one or two downtown stores. Following up on Councilmember Robinson's suggestion, Ms. Robertson said she would support two stores in the BelRed Subarea, if one is located in the Medical Institution district.

Councilmember Robinson clarified that her interest is in making medical marijuana available closer to the hospital to be more easily accessible to individuals who need it.

Councilmember Lee noted that cigarette smoking has decreased significantly over the past decades and we are not certain about the health affects of marijuana. However, he acknowledged that medical marijuana should be available for those who benefit from it. He concurred with Deputy Mayor Chelminiak to keep the current regulations in place as state law continues to change.

Responding to Councilmember Slatter, Ms. Drews said a public hearing has been noticed for October 17. Ms. Drews said she would like to consult with the City Clerk and the Land Use Director about how modifications to the interim zoning controls could be addressed. Ms. Drews said it is possible that staff could have alternatives prepared for consideration during a public hearing on October 17. Councilmember Robertson concurred that it would be beneficial to have specific proposals prepared for the public to respond to and comment on during the public hearing.

Mayor Stokes concurred with holding the public hearing and presenting Councilmember Robertson's and Councilmember Robinson's suggestions to consider amendments addressing the Downtown and the BelRed Subarea/Medical Institution District.

Deputy Mayor Chelminiak said that, if revisions are considered, he would like staff to analyze the implications for all applicable subareas. He said the only way he will be willing to support any changes is if the revisions apply equally across the community. He would rather not make any changes at this time, however.

Mr. Chelminiak said he travels around Washington fairly frequently, and he sees what has happened in cities that did not proactively establish regulations. He feels Bellevue has been smart in addressing zoning and land use regulations.

Councilmember Wallace noted that he remains opposed to the sale of marijuana in Bellevue. If marijuana continues to be sold in Bellevue, the City must be vigilant in protecting neighborhoods and youth. He encouraged the majority of the Council to have a much less cavalier attitude about regulating marijuana sales. He does not see the need for more stores at this time.

Mayor Stokes said he does not believe that any Councilmembers are advocating lax regulations. He suggested moving forward with the public hearing, with the consideration of potential amendments.

Councilmember Slatter cautioned against using the word “cavalier.” She said the Council has been listening to the community, and the public has been actively providing feedback and input. Ms. Slatter said she would be interested in a legal understanding regarding the ability to designate one, two, or no stores per subarea, as well as the ability to establish regulations that effectively do not allow stores (e.g., Crossroads and most of the Downtown) due to separation requirements and/or other issues.

(b) Scheduled Visit by King County Councilmember Reagan Dunn

King County Councilmember Reagan Dunn said the County Executive released his balanced budget. However, it reflects a \$40 million shortfall in terms of where the County would like to be for operating expenses. He said the air unit and marina unit are funded for one more year, but operations will be discontinued in 2017 unless there is a regional solution. He said alternatives to incarceration programs received significant budget reductions.

With regard to transit, Mr. Dunn said Bellevue is served by 25 Metro routes and four Sound Transit routes. The new budget provides 300,000 hours of new service, with nine routes slated for more hours and/or more trips. The Metro Connects long-term strategy anticipates 850,000 new residents to the region by 2040. Metro’s goals are to provide 70 percent more service throughout the region and to double ridership. Councilmember Dunn said he is working with County Councilmember Claudia Balducci on transit issues. Improvements under consideration include expanded service, more transit police officers, cameras on buses, and an expanded base capacity.

Councilmember Dunn said the new Factoria solid waste transfer station is a great facility. However, he expressed concern that the Houghton transfer station is anticipated to close. He noted that 90 percent of the traffic from Houghton and Kirkland come to the Factoria station. He said there are traffic impacts to Factoria Boulevard, Coal Creek Parkway, freeway access points, and the Eastgate area frontage roads. He said it is difficult to site a transfer station. If stations are closed, he said it is unlikely one could be reopened.

Councilmember Dunn said there have been suggestions to close the Renton Highlands station. If that occurs, more users will come to the Factoria station. He would prefer to keep the Renton station open. He said there will be a study in March to analyze a broad range of issues, including traffic impacts. He referred to County Councilmember Jane Hague’s past position on the Houghton transfer station and observed that he does not believe the majority of the County Council supports that position.

Deputy Mayor Chelminiak questioned whether the TIP fee at the landfill will increase. Mr. Dunn said he would follow up with more details.

Responding to Mayor Stokes, Mr. Dunn said he supports the NE King County transfer station if it could successfully be sited. However, if Houghton stays open, it might not be necessary. Mr. Dunn said it would be nice if all of the stations could have the more attractive appearance of the Factoria Station. However, he acknowledged the impacts to the roads. Mayor Stokes observed that, as a resident of Woodridge, most people probably do not even realize the Factoria station is there. He likes the design of the new station, and it is convenient to have the stations within communities. Mayor Stokes expressed concern that, if the Renton station closes, there will be increased traffic impacts along I-405, Coal Creek Parkway, and Factoria Boulevard.

Moving on, Councilmember Dunn said there is not much activity related to the Eastside Rail Corridor at this time. He said that he and King County Councilmembers Claudia Balducci and Kathy Lambert are working on this issue. He said there are a number of surface and above-grade crossings. The King County Council's state legislative agenda will advocate for expedited funding for those features.

Councilmember Dunn said the flood control district has completed nearly \$500 million in infrastructure throughout King County. The district receives a clean audit every year from the State, and 94 percent of the district's revenues are used for constructing projects. He said \$600,000 will be used for the Factoria Boulevard storm conveyance system. He noted a \$8 million project to address Lower Coal Creek flooding. Mr. Dunn expressed support for the option chosen for the Willowmoor project at Lake Sammamish, which he believes is the best solution for both flood reduction and fish habitat. He noted that Councilmembers Balducci and Lambert have worked with him on this issue as well.

Mayor Stokes said the Willowmoor project provides benefits for the region. Mr. Dunn concurred and said it will provide secondary salmon migration channels to help during flood events.

Responding to Councilmember Slatter, Councilmember Dunn said the U.S. Army Corps of Engineers is involved in the Willowmoor project design. However, the Corps does not have permitting jurisdiction.

Referring back to the Eastside Rail Corridor, Councilmember Robinson said it is important to fund an over-crossing at NE 8th Street. She observed that the City and County will need to put pressure on Sound Transit to complete that project. Mr. Dunn said it is a priority for him and Councilmembers Balducci and Lambert as well.

Responding to Councilmember Wallace, Councilmember Dunn said staffing is reduced for the Sheriff's office, in addition to the marine unit and helicopter unit. The budget for the King County Prosecuting Attorney's Office was reduced by \$2 million. Councilmember Dunn said there is an ongoing issue with a General Fund shortfall for a number of basic services. He said there are ways to increase the general levy authority. However, other levies compete for funding as well.

Councilmember Wallace said he has heard for a number of years that King County is allowing roads and bridges to fail because there is not a funding source to repair or replace infrastructure.

He said the County's funding sources for public safety and roads/bridges are the sales tax, car tab tax, and property tax, which are the same revenue sources identified in the Sound Transit 3 ballot measure for November.

Responding to Mr. Wallace, Councilmember Dunn said there has been little discussion about solving the funding issues related to public safety and roads/bridges and to the overall General Fund shortfall. Mr. Dunn said it is a question of prioritizing government services. His perspective of the order of priorities is emergency services, law enforcement, and infrastructure. While he likes and uses parks, Councilmember Dunn said parks programs have received significant funding increases over time, and it is important to balance priorities.

Councilmember Wallace said it is frustrating that the King County Executive has not been addressing roads and bridges for many years. Mr. Wallace said there is a need for a countywide solution. Councilmember Dunn reiterated the challenge of competing levies, most recently with the Best Starts for Kids levy, which has pushed the County to the upper limit of its property tax capacity.

Responding to Councilmember Slatter, Councilmember Dunn said many of the county roads were logging roads that were ultimately paved, and new development has helped to provide some infrastructure. However, there is insufficient funding to maintain the infrastructure.

In further response to Ms. Slatter, Mr. Dunn said King County received authority approximately seven years ago to create the Mental Illness and Drug Dependency program funded through a one-percent sales tax. He supports continuing to fund that program.

Concluding his presentation, Councilmember Dunn said he is pleased that the KidsQuest Museum is opening soon. He expressed condolences regarding the passing of Lourdes Salazar, a longtime City of Bellevue employee who had a broad impact in the region.

Councilmember Lee thanked Councilmember Dunn for his report. Mr. Lee suggested that the County work more closely with cities to determine how to solve some of the funding challenges for solid waste services, public safety, roads, transportation, and the General Fund.

Councilmember Robertson thanked Mr. Dunn for updating the Council. She said she appreciates the City's collaboration with King County on a number of issues. She supports development of the Eastside Rail Corridor, which is the only King County park property in Bellevue. Ms. Robertson said she will be following the Best Starts for Kids programs, and she noted that Bellevue has many children and families in need. She is pleased with the flood control district projects and strongly supports the Willowmoor project alternative. She said continued maintenance, which has not been consistent, will be critical to continue to control flooding.

Councilmember Robertson said she is pleased to hear that Councilmember Dunn supports keeping both the Houghton and Renton Highlands transfer stations open. She would like the NE transfer station to be preserved in the long-term capital plan. She said it is important to monitor

the usage of the Factoria transfer station, especially if other stations are closed, to manage impacts including traffic volumes, damage to roads, and traffic/pedestrian safety.

Ms. Robertson said she would like to work closely with Councilmember Dunn on the Regional E-911 Strategic Plan. She noted that both of them are on the committee. She wants to be sure that the County understands NORCOM's and the City of Bellevue's position on that initiative.

Councilmember Dunn thanked everyone for the discussion.

At 8:01 p.m., Mayor Stokes declared recess to the Regular Session.

Kyle Stannert, CMC
City Clerk

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