

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Extended Study Session

July 24, 2017
6:00 p.m.

Conference Room 1E-113
Bellevue, Washington

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

ABSENT: None.

1. Executive Session

Deputy Mayor Chelminiak called the meeting to order at 6:01 p.m., and declared recess to Executive Session for approximately 20 minutes to discuss one item of pending litigation.

The meeting resumed at 6:30 p.m., with Mayor Stokes presiding.

2. Approval of Agenda

→ Deputy Mayor Chelminiak moved to approve the agenda, and Councilmember Robertson seconded the motion.

→ The motion to approve the agenda carried by a vote of 6-0.

(a) Update from State Senator Patty Kuderer (48th District)

State Senator Patty Kuderer provided an update on the 2017 state legislative session. She said the operating budget was passed, and the legislature adopted a good transportation bill. However, the capital budget was tied in the Senate to a water bill, in response to the First decision by the State Supreme Court. An attempted compromise on that issue failed, and the Senate was unable to achieve a capital budget at this time. Ms. Kuderer noted the loss of \$1.5 million for the Highland Village Apartments. She said the lack of capital funding will result in a loss of jobs and in schools that will not be built.

¹ Deputy Mayor Chelminiak left the meeting at 9:40 p.m.

² Councilmember Wallace arrived at 6:38 p.m.

Senator Kuderer said a major item in the capital budget was education funding related to the McCleary decision. The financial obligation reflected in the McCleary decision was funded primarily through the largest statewide property tax increase in history. She and the other representatives of the 48th District voted against the property tax, which disproportionately affects this legislative district. She said the tax is unsustainable because, as part of the property tax increase, there was a temporary lifting of the one-percent property tax cap at the state level. She said the State will be in the same funding situation in five years and will be vulnerable in terms of whether it has adequately funded public education as required by the McCleary decision. Senator Kuderer noted her strong interest in education issues. As a former prosecutor, she is aware of the direct correlation between incarceration and the lack of education.

[Councilmember Wallace joined the meeting.]

Senator Kuderer was the prime sponsor of two bills that passed this session. Senate Bill 5142 improves the standards for educational sign language interpreters for deaf and hearing-impaired students. Senate Bill 5207 refines public disclosure requirements related to Global Positioning System (GPS) data regarding residential addresses for public employees and volunteers.

Ms. Kuderer acknowledged State Representative McBride's work on legislation to update the Public Records Act. Ms. Kuderer said she is working with a group of legislators who are interested in creating a public infrastructure bank.

Senator Kuderer said she is the sponsor of legislation to be addressed next year to create a public option for a health care plan in the State of Washington.

Ms. Kuderer noted her interest in voter registration and the request from the Presidential Advisory Commission on Election Integrity for voter registration information. She said a number of individuals have cancelled their voter registration due to that request. The letter from the Commission requested social security numbers and other information that goes beyond what is currently considered public under the Public Records Act for voter registration data. Senator Kuderer said she spoke with Secretary of State Kim Wyman, who is committed to releasing only information that is considered public. Ms. Kuderer said there are a number of lawsuits across the country related to the request. She supports legislation introduced by a colleague to designate birthdates as private information, except for the year of birth. That bill will be considered next year.

Councilmember Robinson questioned whether a public bank would affect small business economics. Senator Kuderer said that, in some ways, the proposed bill is a job creation bill because investments in infrastructure create jobs. A second aspect of the bill addresses the lack of internet access in rural areas. The state bank would be allowed to loan funds to public utility districts to facilitate the expansion of internet access. Among other benefits, internet access would allow local governments and businesses to market themselves and their products and services. Ms. Kuderer said she believes it could help to create entrepreneurship in areas currently without internet access.

Councilmember Wallace expressed concern that Bellevue taxpayers will experience a significant increase in property taxes next year due to the impact of the education funding strategy and the

difference in how money will be redistributed to school districts. Councilmember Wallace would like the City to work with the state legislators for the 41st and 48th District to explore what that means for the Bellevue School District and taxpayers.

Senator Kuderer said she requested input from the school districts and how the legislation will affect them. The school districts have reported that they will not lose money. However, they are concerned that taxpayer fatigue, especially for people on fixed incomes, will reduce support for levy measures. Ms. Kuderer said the State funding is intended to fund basic education, while levy funds support extracurricular activities and enhancements.

Councilmember Wallace expressed concern that a portion of funding from the Bellevue School District will be taken and redistributed to other areas statewide. Senator Kuderer noted that many school districts in Western Washington have been subsidizing schools in the rest of the state for a number of years.

Senator Kuderer said a public bank would allow loans to local governments at low interest rates. She said the State is currently paying \$3.2 billion in debt service, while a public bank would generate revenue through interest payments that would benefit taxpayers instead of banks. She said a public infrastructure bank would have avoided the motor vehicle excise tax (MVET) increase that supports the Sound Transit 3 package. She said the public bank model has been used in Europe for many years, and one-third of the states in this country are exploring the creation of their own public banks.

Councilmember Lee questioned the source of funds for establishing a public bank. Senator Kuderer said there are ongoing discussions with a number of stakeholders to explore the funding strategy, which is likely to involve an initial appropriation by the state legislature. She said North Dakota is the only state with a public infrastructure bank, which was established in 1919 and allowed North Dakota to get through the Great Depression and subsequent recessions better than many states.

3. Oral Communications

- (a) Cheryl Jurrus spoke in support of the men's homeless shelter. She is supportive of Congregations for the Homeless (CFH) and believes they have made a considerable impact. The case workers provide assistance and guidance, and many men in the year-round shelter program entered through the emergency shelter. She said that having the homeless men in a shelter is safer for everyone. She said CFH has 10 houses serving 64 men, and each house has a manager. CFH also provides apartments for 12 men who pay a portion of the rent. She spoke in support of the Eastgate location for the proposed shelter and supportive housing. She urged the Council to approve the Eastgate TOD Land Use Code Amendment, with the provision for the permanent emergency shelter.
- (b) Judy Faast spoke in support of the Eastgate men's homeless shelter, noting that she has a brother who is homeless. She works for Hopelink and said the men are always respectful and appreciative of the help they receive. She noted that the homeless are most helped by having a safe place indoors to sleep, study, receive social services, and/or to look for

- jobs. She said the Bellevue Police Department indicates that shelters are better and safer for the whole community. Ms. Faast said CFH has successfully operated an emergency low-barrier shelter on the Eastside for nearly 10 years, with no incidents threatening public safety. She urged the Council to approve the Eastgate TOD Land Use Code Amendment, with the provisions for the permanent emergency shelter.
- (c) Villette Nolon, a resident of the Eastgate area and Executive Director for Imagine Housing, spoke in support of the Eastside men's homeless shelter. She spoke about the housing crisis in this region and commended the City of Bellevue for supporting affordable housing policies. She urged the Council to adopt the Eastgate LUCA allowing a permanent emergency shelter as a permitted use.
- (d) Clark Kramer thank the Council and City staff for their continued efforts regarding the new Neighborhood Mixed Use (NMU) district reflected in the Eastgate LUCA. He noted that his family's RV park business operates under the hotel-motel law. The trailers are all self-contained and guests stay overnight or up to 30 days. He said there are currently no permanent housing units. However, Mr. Kramer said they are proposing a multifamily housing development that would provide a broad spectrum of housing. He encouraged the Council to consider regulations that will make it feasible to provide both market-rate and affordable housing.
- (e) Todd Woosley noted that he serves on Bellevue's Transportation Commission. Speaking as an individual, he expressed support for the Eastgate rezone adding the NMU district. He thanked the Council and staff for the LUCA, which is intended to generate new housing units, including affordable housing. Mr. Woosley noted a letter from Mr. Kramer referencing the transportation study update that would allow a floor-area ratio (FAR) greater than 1.0. He expressed support for the TIFIA loan to help fund transportation investments. He said the regulations in the Eastgate LUCA are workable. However, he expressed concern regarding the ratio of affordable housing units to market-rate units. He requested that no more than 10 percent of affordable housing units be required for a 1.0 FAR project.
- (f) Matt Anderson said he was hired by Mr. Kramer to conduct a financial analysis of his project in the proposed Eastgate NMU district. Mr. Anderson suggested that a 2.0 FAR should be the starting point for a mixed use project. He expressed concern that the proposed regulations will not generate the desired number of affordable housing units. He said it is important to identify the most effective ratio of affordable to market-rate units. He said the multifamily tax exemption (MFTE) program would generate more affordable units, and he encouraged the Council to explore that option further. He thanked the City for considering added flexibility regarding requirements for retail uses.
- (g) Janet Nelson spoke in opposition to the men's low-barrier shelter. She expressed concern regarding previous comments by staff about the potential for losing financing if the shelter project does not move forward now. She expressed concern that homeless individuals will come from Seattle. She expressed opposition to marijuana retail stores.

- (h) Lisa Leitner encouraged more Bellevue residents to become involved in local government. She noted her interest in process, transparency, truth, and public engagement. She looks forward to future efforts by the City and residents to achieve understanding and to reach the best solutions.
- (i) Melissa Harp said the Eastgate LUCA identifying the area as the sole host for future low-barrier shelters does not reflect the intent of the Planning Commission. She said shelters should be allowed citywide and should not be restricted to one area. She said the Planning Commission did not discuss the homeless shelter or development agreements, but commissioners indicated that they wanted maximum public involvement through the conditional use permit (CUP) process. She said City staff inserted transient lodging as a permitted use in the new Eastgate zones. However, the Commission was in favor of the CUP process. She said staff proposed an administrative CUP process, which was rejected by the Planning Commission. Staff subsequently replaced the CUP process for the shelter with a development agreement process. She said the use of development agreements benefits developers, City staff, and the City Council, but does not benefit citizens. She asked that the Eastgate LUCA be sent back to the Planning Commission for a clear definition of “emergency shelter” and for careful consideration of whether a shelter is a good fit for the Eastgate area.
- (j) Linda Nohavec, an Eastgate resident and business owner, spoke in opposition to the proposed men’s homeless shelter. She spoke about the lack of public involvement and transparency. She said staff is recommending the use of development agreements with regard to shelters, which eliminates the conditional use permit (CUP) public process. She said community interest and activity regarding homeless shelters is growing in Bellevue. She said the Eastgate Residents Committee (ERC) is focused on the lack of proper procedure and public disclosure and is not opposed to helping the homeless. Ms. Nohavec said the Planning Commission favors the CUP process. She noted the letter from Richard Aramburu on behalf of the ERC, which was provided to the Council.

4. Study Session

- (a) Council Business and New Initiatives

Linnea Fields, representing the Bellevue Youth Theatre, invited the Council and the public to the Earth Cycles celebration of world music on July 29. She also invited everyone to day camp performances in the amphitheater every Friday at 11:30 a.m. and 2:00 p.m. She said the summer production of Alice in Wonderland will run for three weeks in August.

- (b) Continued Discussion of Eastgate/I-90 Land Use Code Amendment (LUCA) recommended by the Planning Commission

City Manager Brad Miyake introduced continued discussion regarding the Planning Commission’s recommendations for the Eastgate Land Use Code Amendment (LUCA). The most recent Council discussion occurred on July 10. At that time, the Council directed staff to bring back policy information regarding the Neighborhood Mixed Use (NMU) designation and

how affordable housing exemptions work with the multifamily tax exemption (MFTE) program. Additional topics are safe injection sites and the regulations for establishing a homeless shelter use.

Mac Cummins, Director of Planning and Community Development (PCD), presented the Eastgate Land Use Code Amendment (LUCA), noting that shelter-specific issues and regulations would be discussed separately under the next agenda item.

Mr. Cummins recalled the Council's interest in how the 1.0 FAR (floor area ratio) bonus for affordable housing interacts with the MFTE program. The Council questioned whether additional affordable units could be gained if a developer participated in both incentives. He said the agenda memo describes different scenarios to help understand the potential use of both programs.

Councilmember Wallace opined that the proposed 2:1 ratio will not provide a sufficient incentive. He said the BelRed ratio is 4.6:1, and there was discussion when it was established several years about whether it would be sufficient to generate affordable housing. Mr. Wallace suggested a 3:1 ratio for the Eastgate area.

Councilmember Robinson concurred. She said projects must be feasible for developers if there is not going to be mandatory inclusionary housing.

Councilmember Robertson questioned whether the consultant established the Eastgate ratio.

Terry Cullen, Comprehensive Planning Manager, said that A Regional Coalition for Housing (ARCH) staff completed the calculations resulting in the proposed 2:1 ratio. Ms. Robertson said the Downtown ratio is 2.5:1, and she is comfortable with a 3:1 ratio for the Eastgate area.

Responding to Mayor Stokes, Ms. Robertson said her policy objective is to achieve the desired development in the Eastgate area that creates more housing. She expressed concern that, if the FAR is too low, residential development will not occur.

Mr. Cummins said there are multiple policy objectives, including affordable housing if residential units are part of a project. He recalled that the Council vision for the Eastgate area is to have neighborhood-serving uses as part of the redevelopment and growth strategy.

Councilmember Robertson said that housing unit goals were created by the CAC. The Eastgate area was part of the larger land use planning effort during the past decade to preserve stable single-family neighborhoods and to create growth corridors for both commercial and residential development. She said the CAC focused on providing housing for students as well. She observed that the multifamily housing planned for the Eastgate corridor was an integral part of the vision for the area.

Councilmember Simas spoke regarding the increasing cost of construction. He said he would rather make the mistake of having affordable housing units built through incentives instead of offering incentives that are not of interest to developers. He expressed support for the 3:1 ratio in the Eastgate area.

Deputy Mayor Chelminiak said the goal is to create neighborhoods with mixed uses, including affordable housing. He concurred that the incentives must appeal to developers to achieve affordable housing unit.

Councilmember Lee said he is not supportive of mandatory affordable housing, but he supports more housing and mixed-use developments. He expressed support for a 2.5:1 or 3:1 ratio.

Councilmember Wallace said the meeting packet does not provide an analysis of the net operating income produced by the units. The issue with affordable housing is that the operating expenses for a unit stay relatively constant for a project for both affordable and market-rate units. Mr. Wallace said the decrease in net operating income makes it difficult and/or not feasible to build the project. He said that type of analysis would help to determine the appropriate ratio.

Mr. Wallace said the other factor is the affordability level of the units in terms of the percent of median income. He opined that a ratio of 3:1 is more likely to produce affordable units with rents at 80 percent of area median income (AMI). He suggested that the multifamily tax exemption would help this scenario as well.

Councilmember Robertson said she is comfortable moving forward with a 3:1 ratio, which is supported by at least four others on the Council.

Councilmember Robinson would like to see an analysis of the affordability that is achieved at the different ratios (e.g., 2.5:1 versus 3:1), with the layering of the MFTE.

Deputy Mayor Chelminiak said staff wants to prepare the final documents for Council action. He noted that a majority of the Council supports increasing the ratio. He suggested that staff come back with the 2.5:1 ratio as a starting point.

Mayor Stokes said he would like an analysis based on the 3:1 ratio as well.

Carol Helland, Code and Policy Director, said 2.5:1 would be consistent with the approach that was documented for the Downtown Livability Initiative regulations. She said the provisions adopted now for the Eastgate area can be reevaluated in 5-7 years and modified if desired.

Moving on, Mr. Cummins recalled past discussion regarding the neighborhood mixed use (NMU) designation. The Council discussed allowing flexibility in the mixed use requirement to, under certain circumstances, allow standalone residential buildings. Mr. Cummins said staff drafted language that would allow the Council to get to that point based on specific criteria that could be applied by the Director.

Mr. Cullen recalled that the Comprehensive Plan was updated in 2015. The plan included a new land use category called neighborhood mixed use (NMU). Staff noted the need to bridge neighborhood business and community business, which are mostly single-class zoning districts (i.e., largely commercial uses). Mr. Cullen said one objective is to provide a land use mechanism for the redevelopment of aging commercial centers. Mr. Cullen said there is a growing interest in

walking and biking, and in creating “third places” for community gatherings and socializing. The NMU category provides for a mix of residential, commercial, and other non-residential uses. The NMU designation is intended to be used citywide.

Mr. Cullen said a new NMU district was identified in the Eastgate area to implement the intent of the land use planning category developed in the Comprehensive Plan. The City is required to update the Land Use Code to make it consistent with the Comprehensive Plan. The first proposed application of the NMU district is in the Eastgate area, south of I-90. The base floor-area ratio (FAR) is 1.0, and a 1.0 FAR exception is allowed to provide affordable housing.

Mr. Cullen said the original proposal was that residential development must have non-residential uses on the ground floor to create the mixed use neighborhood. He said areas have been identified in which it might not make sense economically to require ground floor, non-residential uses. He recalled that, on July 10, the Council asked staff to explore flexibility in the provisions.

Mr. Cullen said the flexibility proposed by staff is that the Director may allow a departure from the requirements for ground floor uses in the NMU district if the developer can demonstrate an economic hardship that precludes the project’s viability. The hardship is based on three criteria: 1) the project does not have frontage on an arterial, 2) visual and physical access to the required neighborhood-serving uses is limited by topography or other site-specific obstacles, and 3) the required uses would not be visible from neighborhoods, arterial streets, or other development in the NMU district. If a departure is granted, the preferred option is to develop ancillary residential uses (e.g., kitchen, child care center, leasing offices, work/live spaces).

Mr. Cullen commented on the Trailers Inn RV Park property, which fronts SE 37th Street. The east side of the property is adjacent to a dead-end street (156th Avenue SE), and the north side abuts a ridge.

Ms. Helland asked for feedback from the Council about whether to provide the flexibility as described. Mayor Stokes noted a consensus in support of providing the option.

Ms. Helland noted Attachment D in the meeting packet following up on the Council’s previous discussion. She recalled that, on July 10, the Council provided direction on low impact development principles, the use of phasing for the EG-TOD area, and the flexibility to develop auto dealerships in the NMU district.

Ms. Helland said staff corrected one errata regarding hospitals that was raised during previous public comment before the Council. She said hospitals were not permitted in the OLB-2 or NMU districts in the public hearing draft that was previously approved by the Planning Commission.

Ms. Helland referred the Council to the legislative zoning map [Attachment E in the meeting packet], which depicts the areas in which specific districts will be applied.

Responding to Mayor Stokes, Ms. Helland summarized that the materials provided in the meeting packet include Council direction regarding low impact development principles, the land use phasing requirement for the EG-TOD district, and predictability about when residential units

will be required as part of development in the EG-TOD district. The Eastgate LUCA provides that 600,000 square feet of development may occur before residential units are required.

Ms. Helland said the final change was the flexibility amendment to allow auto dealerships in areas in which they were previously allowed.

Councilmember Robinson questioned whether the districts can support the loading of vehicles required by auto dealerships. Ms. Helland said current regulations in the Transportation Code require that the loading and unloading occur on the dealerships' properties.

Moving on, Ms. Helland said staff is requesting Council confirmation that the safe injection site prohibition should be included in the code. Related information is provided in Attachment B of the meeting packet, which depicts that the prohibition will be reflected in a footnote and applied regardless of the name used to describe them.

Councilmember Robertson stated her understanding that the footnote will be added separately for the Downtown Livability code amendment and for other areas. She wants to ensure that the code clearly reflects the Council's prohibition of safe injection sites citywide. She suggested that, since injecting heroin and other drugs is illegal, safe injection sites would not be allowed under the current code. She said the Council could pass a resolution expressing the Council policy that none of the sites are to be allowed, that the Council interprets the code to prohibit such sites, and that the footnotes may be added to the Land Use Code as it is updated. As another option, the Council could adopt a citywide ordinance now prohibiting safe injection sites. If code amendments explicitly banning safe injection sites are to be added incrementally, Ms. Robertson said she wants a bold statement now that the sites are prohibited.

Ms. Helland concurred that the use is illegal and does not need to be included in the Land Use Code to ensure it does not occur.

Councilmember Wallace expressed support for preparing a resolution as suggested by Councilmember Robertson. He opined that the opposition to safe injection sites is not only about the practice being illegal. He said King County passed a resolution stating its intent to locate and fund safe injection sites in cities with City Council support. He observed that the County has taken the position that the practice is legal.

Mayor Stokes noted a Council consensus in support of banning safe injection sites.

Councilmember Lee said he is not interested in further discussion regarding the Eastgate LUCA until the proposed shelter and supportive housing project is fully studied and discussed.

Responding to Councilmember Robinson, Ms. Robertson said her proposal is to adopt the prohibition in the Eastgate LUCA and to create a resolution or ordinance that applies citywide as well.

Deputy Mayor Chelminiak expressed support for the proposal. He noted that King County's intent is to fund safe injection sites in cities willing to accept them. He said it is not necessary to

pass a resolution opposing the sites. However, he is in favor of considering a resolution to clarify the City's position. Mr. Chelminiak requested advice from staff about whether the prohibition should become a specific Land Use Code Amendment.

Mayor Stokes noted his understanding that the Council is in agreement to consider a resolution.

Continuing, Ms. Helland raised the issue of how to describe the shelter use in the code. The Planning Commission recommendation refers to a shelter use as transient lodging, which also includes hotels and motels. She said staff has received feedback from certain Councilmembers that the designation might not be the most transparent way to reflect the shelter use. Ms. Helland said staff researched standard land use classification manuals and proposes the term "permanent emergency shelter" for the shelter use.

Responding to Councilmember Robinson, Ms. Helland said "permanent" refers to the physical shelter structure, and "emergency" is meant to reflect that the shelter serves a transient population in need of emergency shelter. Ms. Helland said the terms are defined in the Comprehensive Plan. In further response, Ms. Helland said the term applies to the shelter and not to the supportive housing component of the project.

Councilmember Robertson said the Land Use Code defines transient lodging as "lodging provided for a fee or a charge in a hotel, motel, boarding house, bed and breakfast, short-term stay use, or other granting of similar license to use real property for a period of less than 30 days." She opined that a homeless shelter does not meet that definition. She said the footnote is not clear or transparent.

Ms. Robertson said she is opposed to using transient lodging as the descriptive term for the shelter land use classification. She noted information she provided for the Council's desk packet. She said there have been concerns from the public about trust and transparency in the way the shelter project unfolded with the Council and staff. She said there are concerns from the proposed social service providers about timing.

Councilmember Robertson said the timing is no longer an issue because the shelter and supportive housing project and capital budget are not ready for grant eligibility. She said the City has the time to design the right project. She recalled that, in the past, when projects have gotten a similar start, it has been hard to regain public trust. In this case, the CAC and Planning Commission looked at the Eastgate corridor without considering a shelter use. However, the recommendations presented to the Council included the proposed shelter project. Ms. Robertson said the proposal allows a shelter in the Eastgate area but does not address the use citywide. She noted the need for a different approach.

Ms. Robertson proposed sending direction to the Planning Commission to draft a Land Use Code amendment addressing homeless shelters and day centers. She opined that "permanent emergency shelter" sounds more like a temporary facility during an unusual event (e.g., using a public facility during a flood). She said the code sounds limited to a cold weather emergency shelter, which is not currently under discussion.

Councilmember Robertson described her proposal provided in the desk packet. She would like code language that creates definitions for temporary/emergency versus permanent homeless shelters. Ms. Robertson would like a definition for the types of day center services to be offered. She would like the Planning Commission to consider the appropriate zones for allowing a shelter.

With regard to the permit process, Councilmember Robertson said she does not like the idea of a development agreement as the only option. The Council might not want to enter into a development agreement. She would prefer to preserve the conditional use permit (CUP) process as the default method. However, if the City is a funding partner in a project, the Council may opt to consider a development agreement.

Councilmember Robertson said she read the CUP code. She noted that Bellevue does not have a general, overall development agreement process in the code. The process is included only in the Land Use Overlay for the light rail project. If development agreements are to be an option, Ms. Robertson suggested adding the appropriate language to the Land Use Code's process chapter.

Ms. Robertson suggested more specific conditions of approval in the shelter code, similar to the approach to marijuana regulations. She said the code should require a buffer from sensitive uses, plans for security, plans for managing excluded patrons, plans for managing exterior garbage on and around the site, plans for a neighborhood committee, and a site/facility design based on crime prevention and reduction. She suggested sending her information to the Planning Commission for further consideration on the shelter issue, while moving forward with the broader Eastgate LUCA.

Ms. Robertson would like to separately create a shelter code that applies citywide. She suggested requesting that the Planning Commission provide its recommendations to the Council in October. She believes her proposed approach will build trust with the community and create greater transparency around the shelter issue. She opined that the average person would not interpret transient lodging to include shelters.

Deputy Mayor Chelminiak noted that Councilmember Robertson's proposal was distributed to the Council shortly before the meeting. However, the topics have been discussed during previous meetings, some of which Mr. Chelminiak suggested.

Mr. Chelminiak questioned whether, if an application for an emergency homeless shelter is received now, it is staff's position that the shelter would be allowed in any district that allows transient lodging. Ms. Helland confirmed that the scenario is consistent with the current code.

Responding to Mr. Chelminiak, Ms. Helland said that, with the current code and a change to the Eastgate TOD, NMU, and OLB-2 districts that requires a development agreement, the Council would have the most hands-on involvement and early participation in siting a shelter in the Eastgate area. In further response, Ms. Helland said the shelter would be a permitted use in the Wilburton area's OLB district. Mr. Chelminiak observed that the proposed code provides an added hurdle for siting a shelter in the Eastgate area.

Mr. Chelminiak questioned whether a private homeless facility is specifically allowed in any part of the city. Ms. Helland said there are locations in which the use is permitted outright (e.g., OLB under the transient lodging classification only). Mr. Chelminiak observed that taking the position that the “transient lodging” category does not apply to shelters would be essentially a veto on shelters. He questioned whether that would be legal. Ms. Helland said that, before the City reached an absolute prohibition, a shelter would likely be characterized as an essential public facility and be processed under a CUP.

Deputy Mayor Chelminiak recalled that his previous comments in support of a development agreement are based on the ability to achieve more influence through that method than through the typical Land Use Code processes. He opined that the majority of items suggested by Councilmember Robertson can be accomplished through a Land Use Code Amendment. However, he suggested that establishing requirements to buffer shelters from sensitive uses will create legal challenges. Mr. Chelminiak recalled that the City was unable to adopt certain requirements in the past applicable to tent cities. He suggested following the precedent of how the Council dealt with tent city regulations.

Mr. Chelminiak said that, if the majority of the Council prefers to send the shelter issue to the Planning Commission, the Council will need advice regarding the legal constraints related to regulations. Given the controversial nature of the topic, Mr. Chelminiak said he favors keeping the matter within the City Council.

Deputy Mayor Chelminiak reiterated his support for the development agreement approach as an option. However, he is not opposed to setting the CUP process as the default process. He believes the Council, as elected officials, should hold the public hearing and retain authority over the shelter issue. He anticipated that the City will not be able to prohibit registered sex offenders from staying at the shelter. Ms. Helland said the latter comment is consistent with legal precedence regarding tent cities and federally regulated group homes.

Councilmember Wallace said there appeared to be Council agreement regarding Items A, B, and C identified by Councilmember Robertson. Mr. Wallace said it could be difficult to establish conditions of approval. However, he supports considering some type of buffering. He opined that the Council should retain the authority to decide whether to use a development agreement.

Councilmember Robinson requested information regarding the financing schedule for the shelter project. She said an important issue is the shelter’s operational requirements and the community’s ability to influence operations, potentially through a development agreement.

Deputy City Manager Kate Berens recalled the materials provided to the Council in June regarding the three potential shelter sites. She said the estimated timeline has been delayed. However, staff’s goal is to move forward with project permitting during the first quarter of 2018. Ms. Berens said staff could provide additional financial information on grants and funding to the Council.

Councilmember Simas said he supports allowing both the CUP and development agreement process for the shelter. Referring to Item D of Ms. Robertson’s proposal, Mr. Simas said those are development agreement items that will be somewhat unique and site-specific, wherever the

shelter is located. Mr. Simas observed that most of the items involve the police and/or community group. He noted the value of maintaining ongoing communications with the public.

Councilmember Lee said he agreed with comments made by Deputy Mayor Chelminiak and Councilmember Robertson. Mr. Lee said the City does not currently know which conditions should be applied to a shelter. He said the issues being raised help to engage the public in providing feedback. Mr. Lee said he is glad to be talking about general principles related to the shelter project instead of making a commitment regarding a specific site.

Deputy Mayor Chelminiak said there is a shelter project wanting to move forward to permitting. He encouraged the Council to take this opportunity to provide protections for the community. He said the Eastgate LUCA provides protections for that area that do not apply throughout the rest of Bellevue.

Mayor Stokes said the Council has been discussing and studying this issue for many months. He said the concerns discussed to date by the public and the Council are the types of issues to be addressed in the development agreement. He said there will be an ongoing community group to work with the shelter operators and the police. Mr. Stokes acknowledged that residents are supportive of providing shelter services. However, they want to be involved in choosing the location and influencing the planning for the facility.

Mayor Stokes said there is generally some opposition to nearly every project. However, the community and City will work together to create the desired conditions of approval for the shelter project. Mr. Stokes thanked Councilmember Robertson for her proposal focusing on defining shelter-related terms, identifying the allowed zones for shelters (EG-TOD, OLB, BR-OR2), and considering both the CUP process and development agreements.

Mr. Stokes suggested moving forward with Council agreement on those three issues now, and later addressing the appropriate conditions for approval of a CUP. He said items remain to be worked through with King County as well.

Councilmember Robertson thanked everyone for their support. She clarified that her proposal identifies the topics she believes should be covered in the code. However, she did not draft a definition for homeless shelter and homeless day services center. She said the conditions listed in her memo are ones she believes should be considered.

Ms. Robertson said she is okay with sending the topic to the Planning Commission or keeping it with the Council, as desired by a Council majority. She wants to ensure a holistic approach to creating shelter codes and regulations. She requested additional feedback, including on how the Council can direct staff to bring the issue back as a process.

Councilmember Robinson concurred with Councilmember Robertson regarding the need for a process. Ms. Robinson expressed concern regarding Mr. Chelminiak's statement that a shelter could currently be located in any district that allows transient lodging (e.g., hotels/motels). She wants to ensure that a shelter cannot be sited anywhere without the Council's and the community's involvement.

Responding to Councilmember Robinson, Ms. Helland said the next steps for the Eastgate plan are to develop the regulations that apply to the new Land Use districts and to adopt the rezone map.

Councilmember Wallace said he favors keeping the shelter topic within the Council's process. He said the Planning Commission has a full work program. He said this is a sensitive issue and he would like it to be handled by the elected officials.

Deputy Mayor Chelminiak said he favors keeping the topic with the Council as well. He believes legal advice will be needed in establishing the shelter regulations, based on the City's past experience with tent city regulations. He said the community has successfully operated homeless shelters with child care centers in the same building. He said it might not be possible to achieve a 1,000-foot separation requirement for child care centers and/or other uses.

Councilmember Wallace expressed support for separating the shelter code regulations from the broader amendments and moving forward with adoption of the Eastgate Land Use Code Amendment (LUCA).

Mayor Stokes concurred with Mr. Wallace.

Responding to the Mayor, Ms. Berens clarified that the homeless shelter code provisions will be handled as a citywide amendment, and the scope of the Land Use Code Amendment will include the items proposed by Councilmember Robertson in her desk packet memo. She will work with legal staff to guide the process going forward.

Ms. Helland said staff will be prepared to bring back the Eastgate LUCA, without homeless shelter regulations, for Council adoption. Mr. Cummins said staff will provide the affordable housing analysis requested by the Council as well.

Responding to Mr. Chelminiak, Ms. Helland clarified that her suggestion to remove the shelter issue from the Eastgate LUCA recommends removing classification 15, transient lodging uses, from the code as a permitted use. Ms. Helland noted the possibility for a legal argument that a shelter is an essential public facility and is therefore required to go through the conditional use process. She stated her understanding that the Council suggested that staff exact transient lodging uses from the Eastgate plan.

Deputy Mayor Chelminiak said he could not support removing the classification for the Eastgate area and leaving it in the code for other OLB districts citywide. Ms. Berens said the Council could support Mr. Chelminiak's suggestion or support disallowing shelters in the Eastgate area only at this time.

Councilmember Wallace said the Eastgate LUCA was studied by the Planning Commission, and there was no discussion of a homeless shelter. Staff concluded that transient lodging was the closest definition to a homeless shelter within the City Code. He noted Council agreement now to use and define the term "homeless shelter." He concurred with Mr. Chelminiak's suggestion to treat shelters the same in the EG-TOD, OLB, and BR-OR2 districts.

Mr. Chelminiak encouraged moving forward with the Eastgate LUCA.

Councilmember Robertson concurred with treating shelter regulations the same citywide. She opined that, if the Council moves forward with the LUCA, and the interpretation of a shelter as transient lodging stands, the Council is creating a problem. She wants to be sure there are Whereas clauses in the ordinance that specifically state that the Eastgate LUCA is not meant to address the homeless shelter topic, and that the Council has concluded that transient lodging in the Eastgate area does not include the definition of a homeless shelter.

Ms. Robertson said an alternative approach would be to amend the current Land Use Code definition for transient lodging to state that it does not include a homeless shelter.

Deputy Mayor Chelminiak said staff's interpretation of the transient lodging classification will continue to apply in the code. He wants to ensure a level playing field citywide. Councilmember Lee concurred.

Moving on, Councilmember Robertson said she would like to participate in the August 7 meeting remotely via telephone.

→ Deputy Mayor Chelminiak moved to allow Councilmember Robertson to participate remotely during the August 7 Council meetings. Councilmember Wallace seconded the motion.

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

(c) Update on the Eastside Men's Shelter and Supportive Housing Projects

Deputy City Manager Kate Berens introduced discussion regarding the Eastside men's homeless shelter and supportive housing projects. She thanked Camron Parker for serving as project manager to date. She introduced Nancy LaCombe, Regional Projects Manager and the new project manager for the shelter and supportive housing efforts.

Ms. Berens presented a table listing the range of tools for homeless support and intervention including outreach, support services, facilities, and enforcement. She said the Council's discussions have focused largely on facilities, specifically the men's homeless shelter and supportive housing project. She said the Council's original priority was to provide stability for a shelter, as an alternative to the seasonal shelter over the past several years.

Ms. LaCombe recalled Council direction to staff on June 5 to come back with several items related to the shelter and homelessness. She noted that safe injection sites and homeless shelter siting provisions have been discussed. The remaining topics are options for stronger vehicle parking/camping and outdoor camping regulations and the need for public information and education materials regarding panhandling.

Ms. LaCombe said the Council also previously expressed an interest in the City conducting due diligence and open discussions with Sound Transit to determine a path forward for a homeless shelter, which could include affordable housing and a day center, in conjunction with the light rail Operations and Maintenance Facility East (OMFE) in the BelRed corridor.

Ms. LaCombe said that code provisions related to vehicle camping and outdoor camping must have clear, specific, and enforceable rules. She said the City's current approach is for the Police Department and/or other City staff to conduct outreach and to try to connect individuals with social services. Items to be considered include the current 24-hour parking limit, trash, waste tank dumping, RV generators, and resource needs for enforcement. Ms. LaCombe said staff will evaluate the use of public property versus a public easement as well.

Ms. LaCombe said staff has been researching panhandling regulations both locally and nationally. In the near term, the City will continue to work with Congregations for the Homeless and other community partners. Ms. LaCombe noted a new interview-style program on BTV called *Bellevue Now*, which will address the issue of homelessness in an upcoming segment. Staff will develop additional web content and a community resource guide throughout the summer.

Ms. LaCombe said City and Sound Transit staff have begun discussions regarding the potential for housing projects at the OMFE.

Ms. LaCombe said staff anticipates returning to the Council in September with a comprehensive briefing on homelessness, Bellevue's response to homelessness, citywide code provisions, and the status of discussions with Sound Transit.

Councilmember Robertson asked staff to perform a cost-benefit analysis on signage, noting that cities have free speech rights. The City of Everett posted signs in areas with significant panhandling activity suggesting that individuals not give money to panhandlers and that people instead donate to social service agencies where it will do the most good. Ms. Robertson referred the public to call 211 to connect with social service agencies.

Councilmember Robinson noted her ongoing concern that panhandling is a distraction to drivers. Ms. Berens said she will work with legal staff to explore that and other safety issues.

Councilmember Wallace thanked staff for the update and noted his longtime interest in addressing panhandling regulations. While he understands there are legal concerns, he said other cities have adopted effective codes and solutions (e.g., Everett, Issaquah, Redmond). He noted his previous submittals to staff of codes from other local governments.

Mr. Wallace expressed concern regarding the RVs parked along the south edge of Factoria shopping center. He is frustrated that nothing has been done to prohibit the practice and to protect the neighbors' quality of life. He said there is a similar situation on 130th Avenue in the BelRed corridor, and the City receives complaints on a weekly basis. Mr. Wallace questioned why the vehicles are not towed away for violating parking regulations.

Councilmember Wallace expressed concern regarding the future potential for the significant level of outdoor camping that is occurring in Seattle. He concurred with the suggestion for signage about panhandling and referring individuals to social services.

Mr. Wallace said he would like the Council to adopt concrete solutions to vehicle and outdoor camping in September. Councilmember Robertson concurred.

Councilmember Simas noted the need for creativity in identifying solutions to the parking and camping problems.

City Manager Miyake said staff will follow up with the Council in September based on the input received this evening.

(d) Regional Issues

Joyce Nichols, Director of Intergovernmental Relations, introduced staff's update on the Eastside Rail Corridor Regional Advisory Council. She recalled that the Council updated its Eastside Rail Corridor Interest Statement in 2016 and identified priorities for staff. She said staff is seeking Council direction about whether to enter into a memorandum of understanding with RAC members.

Kate March, Policy Advisor, Transportation Department, said the Eastside Rail Corridor extends from Snohomish County to Renton, including through Bellevue's Wilburton district. The Regional Advisory Council was convened in 2013, originally only for owners of property and easements along the corridor. The group decided to expand its membership last fall, and the proposed MOU formalizes the broader membership model.

Ms. March highlighted key goals reflected in the Council's ERC Interest Statement: 1) expand RAC membership, 2) uphold the ERC vision, 3) develop a roadmap for the future, and 4) be collaborative and transparent. The MOU expands the RAC's membership, establishes a new leadership structure, supports the ERC vision, and coordinates the ERC's efforts with regard to planning and development, outreach, and funding approaches.

Ms. March said the Eastside Rail Corridor RAC is seeking approval of the MOU from member cities and agencies before its September 15 meeting. Staff will provide an update on ERC activities in the fall.

[Deputy Mayor Chelminiak left the meeting at approximately 9:40 p.m.]

Ms. Nichols said the City of Bellevue did not have an official seat on the advisory council because it does not own land along the rail corridor. However, Bellevue staff has worked with the RAC over the past few years to advocate for expanded membership of the RAC. Ms. Nichols said staff recommends Council approval to authorize the City Manager to sign the MOU.

Mayor Stokes noted his participation in RAC meetings despite the City of Bellevue not having a formal seat. He said the cities of Bellevue, Renton, and Woodinville have worked to achieve

membership in the group. He said seven miles of the corridor/trail run through Bellevue. However, the majority is owned by King County and a small segment is owned by Sound Transit. Mayor Stokes said the trail plans include redevelopment of the Wilburton trestle and the future link to Bellevue's Grand Connection project.

Mayor Stokes thanked staff for their work and recommended moving forward with the MOU.

→ Councilmember Simas moved to provide Council direction authorizing the City Manager to sign the Eastside Rail Corridor Regional Advisory Council memorandum of understanding (MOU). Councilmember Robinson seconded the motion.

→ The motion carried by a vote of 6-0.

5. Council Discussion of Upcoming Items: None.

6. Continued Oral Communications

- (a) Don Marsh, representing the Coalition of Eastside Neighborhoods for Sensible Energy (CENSE), shared two items related to Puget Sound Energy's Energize Eastside project. He said the environmental impact statement (EIS) will not be published until early 2018, which will not meet PSE's stated need for the project to be in place by the summer of 2018. Mr. Marsh read from an article recently published in *The New York Times* regarding Con Edison's use of stored energy to add resiliency during peak energy demand through the use of stationary batteries and mobile banks of batteries that can be moved to areas of need.
- (b) Pamela Johnston raised concerns about the definition of transient lodging. She encouraged the City to make sure that any new definitions consider transitional housing options. She asked the City to analyze the cost of the criminalization of homelessness. She cited Denver and Boulder as examples for researching homelessness and panhandling regulations, noting that she would send links to online information for the Council. Turning to the issue of the Council's quasi-judicial role, Ms. Johnston questioned whether there is a compromise that will satisfy those on both sides of the issue. She asked staff to consider whether there is an alternate method to the quasi-judicial process.
- (c) Heidi Dean urged the Council to adopt legislation to protect Bellevue against safe injection sites. She recalled that the Deputy Mayor previously stated that King County can do what it wants with property it owns within specific cities. She expressed concern about the potential for safe injection sites if the City does not adopt an ordinance explicitly banning the activity. With regard to the development agreement versus conditional use permit (CUP) process for homeless shelters, Ms. Dean recalled Mr. Chelminiak's earlier comment that a development agreement can achieve more than a CUP. She noted a previous issue in Newport Hills in which the community club consulted with an attorney. The residents were told by the attorney that development agreements are written to protect the City and the developer/property owner, while appearing to offer a compromise to citizens. Ms. Dean opined that development

agreements are rarely enforced in the citizens' favor. She urged the Council to maintain the CUP process for homeless shelters in the three Eastgate TOD districts.

- (d) David Bowling expressed support for the Council's continued review and study of homeless shelter issues and code provisions. He said more individuals are becoming homeless on the Eastside. He said it is important to have the participation of those currently experiencing homelessness in drafting regulations. He said the goal should be to reconnect people experiencing homelessness with their community. He thanked the Council for addressing RV camping, outdoor camping, and panhandling. However, he encouraged the City to analyze the potential consequences (e.g., towing vehicles could result in more outdoor camping). Mr. Bowling thanked the Council for addressing affordable housing as well, which is linked to the problem of homelessness.

At 9:57 p.m., Mayor Stokes declared the meeting adjourned.

Kyle Stannert, CMC
City Clerk

/kaw