

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Study Session

April 16, 2018
6:00 p.m.

Council Conference Room
Bellevue, Washington

PRESENT: Mayor Chelminiak, Deputy Mayor Robinson, and Councilmembers Lee, Nieuwenhuis, Robertson, Stokes, and Zahn

ABSENT: None.

1. Executive Session

The meeting was called to order at 6:03 p.m., with Mayor Chelminiak presiding. There was no Executive Session.

2. Study Session

(a) Shoreline Master Program (SMP) Update and Periodic Review

City Manager Brad Miyake introduced discussion regarding the Shoreline Master Program (SMP) review and update. He noted that City staff drafted alternate language in response to the State Department of Ecology's (DOE) required changes to maintain the intent of the code previously adopted by the City Council. An agreement, in principle, has been reached regarding how to address the required changes.

Mr. Miyake said staff is seeking Council direction to schedule a public hearing regarding the SMP Update.

Carol Helland, Code and Policy Director, said the DOE has indicated that it is ready to issue formal approval of the City's SMP. She noted the letter and materials from the DOE included in the meeting packet [Attachment A]. She recalled that the SMP was adopted by resolution in 2015, and updates to the Critical Areas Overlay were adopted by resolution in 2016. The DOE issued conditional approval of the resolutions and code amendments in July 2017, noting 16 required changes and 19 recommended changes. She said many jurisdictions are faced with hundreds of changes, and she credited the thorough review by the Planning Commission and the City Council in addressing this topic.

Ms. Helland said that all of the City's required changes relate to the topics of the greatest concern to shoreline property owners: 1) nonconformities, 2) shoreline setbacks, 3) ordinary high water mark (OHWM) measurement, 4) dock standards, and 5) shoreline stabilization (bulkheads). Staff worked with the DOE to ensure that the City's response was consistent with the Council's adopted resolutions. A meeting was held in January 2018 with DOE staff and shoreline property owners, and agreement was reached regarding how to address the DOE's changes. Staff worked through February and March to revise and finalize the SMP language and to keep stakeholders informed throughout the process.

Ms. Helland said the City's changes to its SMP have been informally accepted by the DOE. The City received the DOE's consent to use the SMP Update to satisfy the requirements for the next periodic review due in June 2019, if a public hearing is scheduled now and public notice of the hearing is issued. The City will not be required to reopen its Shoreline Master Program again for an update for a period of eight years. If conditions change, the City may choose to review its SMP program.

Ms. Helland said final adoption of the SMP Update requires City Council action on related Comprehensive Plan amendments, Land Use Code amendments, technical documents, and maps, as well as formal final approval by the DOE Director.

Ms. Helland said staff recommends that the Council hold a public hearing. If the Council chooses to not hold a public hearing now, the Council could move to adopt the Shoreline Master Program and to hold a public hearing later to meet the periodic review obligations.

Responding to Councilmember Robertson, Ms. Helland said the public hearing could be held as early as May 7, in which case public notice of the hearing would be published this week. The Council could take action on May 7 or during a later meeting. In further response, Ms. Helland said the periodic review would be limited to any changes made since the resolutions were passed in 2015 and 2016.

Councilmember Stokes said this has been a somewhat contentious issue, and he appreciates the community, staff, and Council working together to come up with good solutions. He said the SMP process also supported regional efforts to implement related improvements affecting the Sammamish River and Lake Sammamish. He said it was important to work with the community to identify and consider options. Mr. Stokes expressed support for moving forward with a public hearing.

Councilmember Robertson concurred with Mr. Stokes, noting that the long process resulted in a balanced approach of ensuring a high level of ecological function without putting an unfair burden on shoreline property owners. She said she appreciates the work of the Planning Commission, City Council, stakeholders, and staff in developing the SMP. She highlighted the significance of achieving informal approval from the DOE with relatively few changes and recommendations. She expressed support for moving forward now with a public hearing.

Councilmember Lee complimented staff for their work and thanked the stakeholders for their involvement and engagement. He credited everyone's diligence in producing a product that has

been favorably received by the DOE. Mr. Lee expressed support for holding the public hearing as soon as possible.

Councilmember Nieuwenhuis spoke about this being a monumental step and thanked staff for all of their work.

Speaking on behalf of Deputy Mayor Robinson, who had laryngitis, Mayor Chelminiak complimented staff, including Mike Brennan, Director of the Development Services Department (DSD); Carol Helland, Code and Policy Director; Heidi Bedwell, Environmental Planning Manager; and Catherine Drews, Assistant City Attorney, as well as the Planning Commission.

Mayor Chelminiak expressed support for moving forward with the public hearing in May. He recalled that, in 2007, the City received funding from the DOE to be the model city for developing regulations under the Shoreline Master Program. He thanked all of the stakeholders who worked with the City over a number of years to produce a good outcome.

Mayor Chelminiak noted a Council consensus to move forward with the May public hearing.

(b) Puget Sound Energy (PSE) Electrical Franchise Agreement

Mr. Miyake said the Puget Sound Energy (PSE) franchise agreement grants the right to provide facilities in the City's rights-of-way for the distribution of electrical power. The current franchise agreement expires in May and staff has been negotiating the next agreement with PSE for some time. Staff is seeking Council direction regarding their recommendations for granting a new agreement. If directed to do so, legislation could be presented for formal Council action as early as May 7.

Mark Poch, Assistant Director of Transportation, said the PSE franchise agreement grants certain uses to PSE of the public street right-of-way, which is important in terms of how electrical power is delivered to the community.

Brian Rodan, Franchise Manager, noted that PSE is Washington state's oldest energy utility providing electric and gas service. The current franchise agreement has been in place since 1953. PSE is located in Bellevue and is owned by Puget Holdings LLC, which includes Macquarie Group LLC based in Australia. Under state law, both the City and the Washington Utilities and Transportation Commission (WUTC) have jurisdiction over PSE within Bellevue. The WUTC is authorized to regulate rates, services, facilities, and practices, as well as the design of PSE systems and system expansions. The City is authorized to regulate the use of the right-of-way.

Mr. Rodan noted that, if the City requires the undergrounding of existing facilities, it must be financed by the City through tariffs set by the WUTC. However, for new facilities, undergrounding is required for facilities operating at 34.5 kV or lower, on an individual project basis.

Under RCW 35A.47.040, the City grants PSE the right to install, operate, and maintain facilities in the rights-of-way to distribute and sell electrical energy. Ordinance No. 5443 adopted in 2003

established a 10-year franchise agreement, which was extended for an additional five years in May 2013. The current franchise expires on May 13, 2018, and a 10-year term is proposed for the franchise renewal.

Mr. Rodan said the 2003 franchise agreement included four memoranda of understanding to address vegetation management, electrical performance and reliability, records of installation, and utilities relocation. The franchise agreement protects the City in the areas of permitting, the relocation of PSE's assets caused by the City's infrastructure, underground and shared excavations/trenches, and vegetation management.

Staff reviewed the franchise agreement consistent with the criteria required in Bellevue City Code 14.20.080, including PSE's service and safety record, the nature of the proposed facilities and services, and the extent to which the needs and the interests of the public are met. Mr. Rodan said the franchise review indicates that PSE reports its electrical reliability data annually to the WUTC and the City. He noted that electrical reliability in Bellevue is better than that experienced systemwide. He said Bellevue's power outages are less frequent and shorter in duration. He recalled that, in 2011, the Council approved an independent Electrical Reliability Study conducted by the City's consultant, Exponent. He said staff monitors how the City is following up on the recommendations from that study.

Mr. Rodan said the current review concluded that no substantive changes to the franchise agreement are needed. However, it resulted in a recommendation to update the vegetation management and electrical reliability MOUs to better serve the public and to reflect current procedures. Since 2003, City and PSE staff developed additional processes and procedures, including those related to vegetation, critical areas, programmatic permits, and emergencies. The proposed revisions to the vegetation management MOU will document those practices.

Also since that time, the City and PSE enhanced the annual review and reporting practices related to electrical reliability. Mr. Rodan said staff recommends a new MOU to track and improve the timeliness of the removal of poles when they are replaced. He noted, however, that poles often contain equipment installed by multiple carriers and not just by PSE.

Ms. Rodan said staff is seeking Council direction to continue working on revisions to the MOUs as outlined during the presentation and to present the franchise agreement for formal approval on May 7. He requested concurrence that staff present the related ordinance to the Council before May 7.

Responding to Mayor Chelminiak, Mr. Rodan said that some of the MOU revisions could be completed by May 7, or before the franchise agreement expires on May 13, including those that apply to the records of installation. Mr. Rodan said the revisions to the electrical reliability MOU are essentially complete. He said the newly proposed MOU regarding pole removal likely cannot be completed before May 7. In further response, Mr. Rodan said further revisions to the MOUs could be considered and made before May 7 and/or be adopted at a later date.

Mr. Poch said the Council will approve the franchise agreement. However, the MOUs are signed by the City Manager.

Mr. Chelminiak noted that state law requires the introduction of the legislation during a meeting before Council action is scheduled for a subsequent meeting. He invited the public to provide input on the franchise agreement before formal action is taken.

Councilmember Robertson asked that the public be able to see the franchise agreement and all of the MOUs. Responding to Ms. Robertson, Mr. Rodan confirmed that state law requires a franchise fee. In further response, he said the PSE gas franchise was renewed in 2016. He confirmed that the City charges a five percent utility tax on electrical power and a five percent tax on gas service.

Ms. Robertson said the City Code requires a public hearing only if the City is not going to renew a franchise agreement. Based on staff's recommendation to renew the franchise agreement, a public hearing will not be held unless directed to do so by the Council.

Ms. Robertson said the City received a request for stakeholder meetings. Responding to Ms. Robertson, Mr. Rodan said staff is willing to meet with members of the public who have questions about the franchise.

Councilmember Robertson expressed support for moving forward to finalize the franchise agreement renewal before the current agreement expires.

Councilmember Lee concurred with Ms. Robertson about the importance of allowing members of the public to meet with staff with their questions.

Responding to Mr. Lee regarding the franchise review criteria required in BCC 14.20.080, Mr. Poch noted the information in the presentation regarding PSE's service record. Mr. Poch said the criteria of adequately meeting the needs of the public is addressed through the MOUs. With regard to the nature of the proposed facilities and services, Mr. Poch said the renewal of the franchise agreement applies to existing facilities and services.

Councilmember Lee suggested that staff provide, for the public, additional details on the nature of PSE's proposed facilities and services and on addressing that the public's needs and interests are adequately served. Mr. Poch said all of the documents will be available to the public.

Responding to Councilmember Zahn, Mr. Rodan said the franchise agreement is the substantive document that outlines PSE's obligations. The MOUs are more procedural documents and they are available to the public.

Ms. Zahn said she has heard requests for the undergrounding of utilities from residents. She questioned whether the preservation of the tree canopy is addressed in the vegetation management MOU. Mr. Rodan said the undergrounding of utilities is addressed in the City Code and by the WUTC with regard to related tariff rates. He said vegetation management is addressed in the franchise agreement and in the related MOU. He noted that vegetation management can be complicated in terms of balancing the reliability and safety of electrical service with the desire to

preserve the natural environment. He said PSE has an ongoing three-year rotation of tree pruning.

Councilmember Zahn suggested advance notice to property owners regarding pruning and observed that sometimes the pruning does not appear to be consistent with arborists' practices. She is pleased with the proposed MOU to encourage the more timely removal of poles that are no longer used (i.e., orphan poles).

Mayor Chelminiak noted that the franchise agreement addresses the procedures applied to contractors and others involved in work related to undergrounding facilities in the City's ROW. However, if citizens are interested in undergrounding utilities within a certain neighborhood, they would be required to pay for that cost. Mr. Rodan confirmed that the agreement relates to how the work is done versus whether undergrounding is to occur. Councilmember Zahn thanked the Mayor for the clarification, which is helpful for the public as well.

Councilmember Nieuwenhuis concurred with Councilmember Zahn's interest in vegetation management and retaining the tree canopy.

Responding to Mr. Nieuwenhuis, Mr. Rodan said the proposed MOU to address pole removal is intended in part to count the number of orphan poles. However, PSE has a total of more than 8,000 poles in Bellevue. Mr. Nieuwenhuis thanked staff for their willingness to meet with the public to address questions.

Councilmember Stokes expressed support for moving forward. He suggested enhanced public education regarding the scope of the franchise agreement and its relationship to PSE's overall system and to the Energize Eastside project. Mr. Rodan said the Energize Eastside project travels through multiple jurisdictions, including Bellevue. Most of the alignment is on private easements held by PSE, while the franchise agreement applies only to public ROWs. He noted that the Energize Eastside Environmental Impact Statement (EIS) was published earlier in the year. Mr. Rodan said the cities along the route will govern the land use review of the impacts of the project. He said the details of the Energize Eastside project and the design of PSE's overall system are separate from the franchise agreement applied to the use of public ROWs. In further response to Mr. Stokes, Mr. Rodan confirmed that the City does not have authority under state law to regulate the business operations of utilities.

Deputy Mayor Robinson suggested providing information for the public regarding the location of the public ROWs affected by the franchise agreement. She said some members of the public are interested in whether there are electrical facilities through school or other properties. She noted that new technologies for electrical power have emerged since 2003. She said the public is interested in why the franchise agreement does not address renewable power sources, storage, and energy conservation.

Councilmember Robertson stated her understanding that the franchise agreement applies only to the public ROW. Electrical facilities on school properties or parks are on private easements and are not subject to the franchise agreement. Staff confirmed that clarification.

Responding to the Deputy Mayor's second question, Mr. Rodan said state law requires utilities to complete periodic Integrated Resource Plans, which address renewable power sources, conservation, and related topics.

Deputy Mayor Robinson suggested that objectives related to those topics could be addressed in the Council's legislative agenda as well. Mr. Poch concurred, noting that the City does not have the ability to dictate how the energy is produced. The City's main option would be to lobby for laws regarding the usage of renewable energy sources by utilities.

Councilmember Zahn questioned whether there are any public easements in Bellevue that are not on a public ROW. Mr. Rodan said there typically are not. However, there are public utility easements that cross through private properties (e.g., drainage, water, or sewer utilities).

Responding to Mayor Chelminiak, Mr. Rodan confirmed that there are situations in which PSE can choose to underground utilities, which would be paid for by PSE's overall rate base. Mr. Chelminiak said PSE's Integrated Resource Plan reflects a project to underground utilities in the Bridle Trails area in 2021. The cost of that project will be paid by all ratepayers based on PSE's decision to implement undergrounding to maintain and enhance electrical reliability.

Mayor Chelminiak summarized that the PSE franchise agreement is essentially a ROW agreement. He invited the public to provide input and feedback via emails, letters, and oral comments. He noted a general Council consensus to move forward. He would prefer to have the MOU revisions in place when the Council takes action on the franchise agreement renewal.

Noting the time available, Mayor Chelminiak suggested taking up items from the Regular Session agenda.

3. Report of the City Manager *[Regular Session Agenda Item 6]*

(a) City of Bellevue Annual Report

Lenka Wright, Chief Communications Officer, said this is the second year in which the City produced an annual report. She said copies of the report have been provided to the Council and are available for the public in print and online. She recalled that the previous year's annual report was nationally recognized by the City-County Communications and Marketing Association (3CMA) with an award of excellence.

Ms. Wright said the report highlights significant accomplishments, initiatives, and milestones during the past year. The report summarizes the biennial budget and the major investments made by the City in the community. It was produced by communications staff in collaboration with staff from all departments, and the art direction and design were provided by the Information Technology Department's graphic services division.

The report will make its official debut on April 24 for the State of the City presentation hosted by the Bellevue Downtown Association (BDA). Ms. Wright said the report helps build trust in

government by highlighting how the Council vision is being realized as well as the services and programs delivered daily to the community.

City Manager Miyake commended Ms. Wright and staff for their hard work on the report.

(b) STAR (Sustainability Tools for Assessing and Rating) Community Rating System Certification

Mr. Miyake said the City was recently awarded a 4-STAR Certification through the STAR Community Rating System, a program that evaluates the livability and sustainability of U.S. communities.

Jennifer Ewing, Environmental Stewardship Program Manager, said that, over the past several months, Planning and Community Development (PCD) staff led an effort with other City departments and external partners to assess Bellevue's sustainability using the STAR Community Rating System. The STAR certification program helps jurisdictions evaluate their strengths and weaknesses in the following areas: 1) built environment, 2) climate and energy, 3) economy and jobs, 4) education, 5) arts and community, 6) health and safety, and 7) natural systems. The rating system addresses outcomes as well as the actions and strategies underway by a city to enhance local sustainability.

Ms. Ewing said Bellevue was awarded a 4-STAR Certification and is the 72nd local government in the country, and the fourth in Washington state, to achieve certification. The other local governments are Seattle, Tacoma, and King County. She said a report summarizing the results of the assessment will be available soon. She highlighted the primary strengths identified in the assessment including access to parks and open space, partnership with Puget Sound Energy to reduce energy use and increase the use of green energy sources, public schools, the growing economy, and the impact of the City's diversity initiative. Bellevue's human services program and funding were also highlighted for ensuring that the community welcomes the world and provides access for all residents to services and opportunities to succeed.

The STAR rating system will be used in the update of the City's Environmental Stewardship Initiative (ESI) strategic plan, to support neighborhood area planning, and as a resource for departments in developing their diversity plans. Ms. Ewing thanked all of the staff and partners who contributed their time and expertise to this effort.

Councilmember Stokes highlighted two items in the assessment: 1) the Diversity Advantage Initiative's comprehensive approach to increasing equity, celebrating diversity, and building cultural competency; and 2) access to and support for arts and cultural amenities in Bellevue and the region. He said it is interesting that the STAR certification program addresses environmental issues as well as the broader areas that reflect what makes a great city.

Councilmember Zahn noted cities that received a 5-STAR Certification, including the City of Seattle. She said the program is a good way to think holistically about what makes a sustainable community. She thanked staff for their hard work.

Moving on, City Manager Miyake noted the passing of Jeanette Woldseth, a former Bellevue firefighter and the first female firefighter in Washington state. She began her career with the Bellevue Fire Department in 1977 and rose to the rank of Captain, retiring in 2002. Mr. Miyake noted that she is the great-great-granddaughter of pioneer Aaron Mercer, who settled in Bellevue in 1869. The Mercer Slough Nature Park is named after the family.

Mayor Chelminiak noted that he attended NORCOM's annual meeting. NORCOM handled 307,290 calls for 911 service last year. Throughout northeast King County, there were 107,899 calls in which police units were dispatched and 65,789 calls for fire and emergency medical services. He noted that seven babies were born with assistance from NORCOM dispatchers.

3. Council Discussion of Upcoming Items: None.

At 7:35 p.m., Mayor Chelminiak declared recess to the Regular Session.

Kyle Stannert, CMC
City Clerk

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