

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Study Session

May 21, 2018
6:00 p.m.

Council Conference Room
Bellevue, Washington

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

ABSENT: Councilmember Lee

1. Executive Session

The meeting was called to order at 6:09 p.m., with Mayor Chelminiak presiding. There was no Executive Session.

2. Study Session

- (a) Permanent Homeless Shelter Permitting Land Use Code Amendment (LUCA) - Meeting 4

Mayor Chelminiak introduced the Council's ongoing discussion regarding the homeless shelter permitting Land Use Code Amendment (LUCA). The public hearing regarding the amendments is tentatively scheduled for June 11. The Council has received numerous comments regarding the noticing requirements related to the siting of a shelter and the makeup of the Good Neighbor Agreement (GNA) Advisory Committee. Mr. Chelminiak said there are areas of disagreement among the Council including issues related to setback requirements and the potential handling of warrant searches for shelter residents. He noted that staff would provide copies of additional Council desk packet materials on the shelter topic for the public during the meeting.

City Manager Brad Miyake said the goal of tonight's meeting is to complete the Council policy discussion and to receive final direction regarding the draft Land Use Code Amendment (LUCA) to be presented for public comment during the public hearing tentatively scheduled for June 11.

Mike Brennan, Director of the Development Services Department (DSD), noted that the meeting objective is for the Council to provide direction to staff on policy issues related to the homeless shelter permitting LUCA. He highlighted the process schedule, noting that Council adoption of the final ordinance is tentatively set for June 25. He clarified that the LUCA addresses permitting requirements for a homeless shelter, but it does not consider a specific shelter or site.

Carol Helland, Code and Policy Director, noted that the definitions section describes terms that are used in the LUCA to ensure the consistent administration of the code and to decrease misunderstandings. Responding to previous Council direction, the code drafting refinements since the last draft removed and replaced references to “the homeless” with “people experiencing homelessness.” The word “vehicles” was added to the definition of places not meant for human habitation. Also responding to previous Council direction, staff is seeking further discussion about whether the citywide prohibition on safe injection sites should be referenced specifically within the draft homeless shelter permitting LUCA.

Responding to Mayor Chelminiak, Ms. Helland said the reference to safe injection sites, if added, would be placed in the definitions section and would be reflected as a prohibition from the supportive services definition.

Councilmember Robertson reiterated her suggestion to add the specific language regarding medically supervised consumption centers (safe injection sites). She acknowledged that they are prohibited in Bellevue and that creating the sites as a supportive service violates federal drug laws. However, she would like specific language that would enable the City to pull a shelter permit if King County or another party provides safe injection services within a shelter in Bellevue. She said it is important to connect the prohibition to the shelter permits.

Responding to Councilmember Zahn, Ms. Helland said there are permit revocation provisions in this code and in the general conditional use permit (CUP) code. The code references those provisions and staff advises the applicant that the use being permitted may not extend beyond the scope of the permit or be inconsistent with local laws. In further response, Ms. Helland said that duplicating the language in the shelter permitting LUCA is not necessary. She acknowledged, however, that a similar duplication of language has occurred in the code for other topics. She said land use permits require applicants to demonstrate that they comply with all code provisions.

Mayor Chelminiak suggested adding language to address the issue in the code of conduct section. His approach is not to specify safe injection sites but to address the illegal use of drugs at the shelter, regardless of who is administering the injection. He said King County recently announced it is no longer moving forward to establish a safe injection site at this time. Mr. Chelminiak said he does not want methadone treatment or the use of Narcan (naloxone) to be banned, but he also does not want to allow the illegal use of drugs.

Councilmember Stokes observed that including or not including the language does not make a difference legally because safe injection sites have already been prohibited. He believes that adding the language is redundant.

Councilmember Nieuwenhuis expressed support for Councilmember Robertson’s suggestion. He sees no harm in adding the language, especially with the potential for a homeless shelter site on King County-owned property in Bellevue.

Deputy Mayor Robinson said she was not opposed to adding the language. She wants to encourage ways to help, rather than enable, individuals suffering from addiction.

Mayor Chelminiak recalled that Councilmember Lee was in favor of including the language in the draft LUCA.

Mr. Chelminiak directed staff to include the policy language in the draft LUCA for the public hearing.

Mr. Stokes suggested providing information about the pros and cons for including the language.

Moving on, Ms. Helland said the submittal requirements section describes the information that is needed to enable the City's review of a shelter permit application and to facilitate public input. The code of conduct section was revised in response to the Council's interest that the code not be perceived as criminalizing homelessness.

Mr. Brennan noted that information summarized on the yellow page in the Council's desk packet is also provided in the meeting packet. It was provided separately to facilitate tonight's discussion. Mayor Chelminiak thanked staff for distributing copies of that page to the audience.

Referring to the code of conduct section, Ms. Helland said staff typically is not in favor of enumerating specific items to avoid the perception that items not listed were purposely omitted.

Referring to revisions suggested by the Council, Councilmember Robertson said she liked Mayor Chelminiak's suggestion that the description of the management of shelter uses will reference disruptive behaviors including confrontations, fighting, illegal drug use, excessive alcohol use, theft, and other issues. She agreed with Mr. Chelminiak that the success of the shelter depends on the safety of the occupants.

Councilmember Robertson said the code of conduct is important because it provides accountability for the shelter operator under the permit requirements. She suggested it might not be possible to pull a permit for violations of the code of conduct if there is not a specific provision in the shelter LUCA and permit.

Ms. Robertson said she preferred the initial draft of the code of conduct, with the Mayor's suggested revision. She said the language can be removed later if desired by the Council.

Ms. Robertson questioned the meaning of one revision in the code of conduct suggested by staff: "Shared commitment to maintaining the Homeless Services Use and preserving the site aesthetics." Ms. Helland said the previous version said "no littering." The intent was to broaden the concept of littering to include other site aesthetic issues as well.

Mayor Chelminiak said it is important to not criminalize homelessness in the code. He noted his previous suggested revision about prohibiting entry into surrounding private properties.

Councilmember Zahn said that some items in the code of conduct apply to shelter residents, while other statements apply to expectations of the shelter operator. Responding to Ms. Zahn, Ms. Helland said the language for shelter operators could be moved to the section on standard operating procedures, if directed by the Council.

Deputy Mayor Robinson said she would like to see language regarding the consequences for behavior that infringes on the safety of the occupants of the shelter. She would like King County to identify the appropriate facility for referring shelter residents who cannot comply with the rules. Ms. Robinson concurred with Mr. Chelminiak's suggestion to use the language "disruptive behavior" as well as the language she suggests.

Ms. Helland suggested that staff revise the code of conduct to restore the language regarding entry into surrounding private properties. She said staff could remove the language discussed earlier by Councilmember Robertson regarding "Homeless Services Use" and site aesthetics, or revise it to provide greater clarity. Ms. Helland acknowledged Deputy Mayor Robinson's suggested revision regarding disruptive behavior and the safety of shelter residents.

Mayor Chelminiak referred to the policy question reflected in the meeting materials: Should a Community Services Program be included that requires operator and occupant participation?

Deputy Mayor Robinson said a housing professional at the Bellevue College public meeting commented on the need for involving the community that will be served by the shelter. Representatives of Congregations for the Homeless agreed it would be a beneficial program. Ms. Helland suggested it would be more appropriate to address that topic in the section regarding the Good Neighbor Agreement.

Mr. Brennan said the GNA Advisory Committee could be asked to address the topic. Mr. Chelminiak suggested wording to "encourage" versus "require" that the shelter establish a Community Services Program.

Mayor Chelminiak recalled Councilmember Robertson's earlier suggestion to use the original code of conduct in the draft LUCA for the public hearing. He questioned staff's rationale for striking certain language in the code of conduct section. Ms. Helland said that, if courts are reviewing regulations in the future, they may look at the specificity of a list of items and conclude it was meant to exclude certain items. Following the Council's concerns to avoid criminalizing homelessness, Ms. Helland said staff determined that the code should not presuppose that persons experiencing homelessness are more likely to engage in the listed behaviors (e.g., urinating in public, lewd conduct, etc.) than other individuals. As a result, staff removed that language.

Mr. Chelminiak suggested, as part of the security plan section, encouraging a handout for individuals with information regarding relevant laws and the shelter. He would like persons experiencing homelessness to receive information about the danger of sleeping in trash and recycling containers and the potential for being injured or killed when the receptacles are emptied into trucks.

Councilmember Stokes expressed concern about using language that is unnecessarily specific.

Councilmember Zahn suggested adding the word “safety” to the title of the security plan section. With regard to the code of conduct, she suggested a focus on education with shelter residents.

Mayor Chelminiak suggested that staff revise the code of conduct language, for the public hearing draft LUCA, to incorporate his preference to remove the detailed list of disruptive or prohibited behaviors.

Councilmember Robertson suggested that “including but not limited to” could be added to any statements with lists, to avoid the appearance that other items were purposely omitted. She concurred with Ms. Zahn’s suggestion to move certain items in the code of conduct to the section on standard operating procedures. Ms. Robertson suggested moving certain code of conduct language to the safety and security plan section.

Moving on, Ms. Helland noted memory book items previously raised by the Council. She questioned whether shelter operators should be encouraged to collect personal information from people seeking access to Homeless Services Uses, in order to maximize the opportunities to secure public funding.

Mayor Chelminiak spoke in favor of attempting to collect personal information and of entering the information into the regional Homeless Management Information System (HMIS).

Ms. Helland requested feedback on the question: Should consent to a warrant search be included as part of the security plan for granting access to a permanent shelter?

Noting that the Council has not received legal advice on that issue, Mayor Chelminiak suggested referencing it as an item for which the Council is seeking input during the public hearing. He feels that warrant checks are important at some point in the process, and he is satisfied with the approach used by Congregations for the Homeless. He estimated that 90 percent of the warrants will be for a failure to appear in court.

Deputy Mayor Robinson acknowledged the legal and practical implications of the issue.

Moving on to the permit process, Ms. Helland highlighted code refinements to the previous draft related to: 1) expanding the notice mailing radius from 500 feet to 600 feet; 2) expanding the GNA Advisory Committee selection radius from 500 feet to 600 feet; and 3) revising certain GNA Advisory Committee provisions in response to previous Council discussion (i.e., member composition and commitment).

Referring to additional memory book items, Ms. Helland questioned whether the notice mailing radius should be expanded beyond 600 feet. Mayor Chelminiak noted that the majority of the Council is likely to support expanding the distance to 1,000 feet.

Ms. Helland questioned whether the participation radius for the GNA Advisory Committee members should be increased beyond 600 feet. A previous Council suggestion was to expand the selection radius to one-half mile (2,640 feet).

Councilmember Nieuwenhuis expressed support for expanding the radius as suggested.

Moving on, Ms. Helland questioned whether the Council's interest has been met regarding the number of members on the committee and the range of representation.

Deputy Mayor Robinson suggested listing the criteria to be met by the committee's membership versus identifying specific types of members (e.g., residents, members of the faith community, business representatives, etc.). She said it is possible that one individual could meet multiple criteria in terms of the experience and expertise they bring to the committee. Ms. Robinson said she would like to include a member of the faith community based on their extensive experience working with individuals experiencing homelessness.

Councilmember Zahn recalled that previous Council discussion identified up to five residents. However, the current proposal reflects four residents on the GNA Advisory Committee. Ms. Helland said the Council expressed concern regarding the total number of members on the committee. Staff proposes three residents in the vicinity of the project and one at-large resident representative, as well as the addition of three business representatives.

Ms. Zahn said she would like to see more residents than business representatives. She questioned whether preference should be given to the residents closest to the proposed shelter. Ms. Helland said the level of member commitment might ultimately dictate the number of individuals available for the GNA Advisory Committee. She noted that the meetings will be open to the public. Ms. Zahn said it would be helpful to have an individual who is experiencing homelessness on the committee.

Councilmember Stokes opined that the Mayor's previously recommended makeup of the GNA Advisory Committee reflects more representatives from the community.

Councilmember Robertson concurred with Ms. Zahn's suggestion to include more residents than business representatives, and spoke in favor of giving preference to neighbors closest to the project. In the interest of reducing the size of the committee, Ms. Robertson suggested designating the three City staff positions as ad hoc members. They will be a resource but they would not be voting on issues.

Referring to Deputy Mayor Robinson's earlier comments, Councilmember Robertson suggested language indicating that a person could potentially have the expertise to fulfill more than one of the types of representatives intended for members 8-12. Ms. Helland noted that Councilmember Lee supported that concept as well.

Councilmember Robertson supports involving the GNA Advisory Committee in considering a Community Service Program and in creating the metrics for evaluating the success of the shelter.

Councilmember Nieuwenhuis recalled that he suggested including five residents on the committee. While he likes the idea of an at-large resident member, he believes that closeness to the facility is very important.

Mayor Chelminiak noted there might not be many residents within one-half mile of a shelter site. He likes the addition of a Fire Department representative. He expressed concern regarding the position designated for the school superintendent or designee. He suggested instead designating a person with “special knowledge of the schools,” which could include a PTSA member.

Rather than designate one staff person with subject matter expertise from All Home, Mr. Chelminiak suggested revising the language to identify an individual with broader regional experience working on issues related to homelessness. He said it might be difficult to fill the position designated for a representative of the population experiencing homelessness. He suggested the position could be filled by a person who has past or current experience in being homeless.

Councilmember Stokes does not want to limit the school representative to a person living or working in the schools closest to the shelter. Deputy Mayor Robinson concurred.

Ms. Robinson said she would like to see up to five residents on the committee. She suggested changing the at-large position, to be appointed by the Council, to anyone who might be an asset on the committee, whether or not they are a Bellevue resident.

Mayor Chelminiak noted a consensus to select up to five residents for the GNA Advisory Committee and to appoint the at-large member based on the Council’s decision.

Moving on, Ms. Helland referred the Council to Attachment B in the meeting packet: Homeless Shelter Permitting LUCA Topic Discussion Guide. The use charts describe where a Homeless Services Use is allowed to locate subject to permit approval. Staff recommends not allowing the use in residential and light industrial districts. However, the LUCA does not limit Homeless Services Uses to the Downtown and BelRed areas or to one per subarea. Ms. Helland said the code states that Homeless Services Uses cannot be located within one mile of each other. She highlighted the map of permitted land use districts.

Responding to Mayor Chelminiak regarding churches in residential areas, Ms. Helland said churches may site temporary encampments on their property and/or may shelter individuals, under state law, within the walls of the church. However, a church could not site a permanent shelter in a residential area.

Continuing, Ms. Helland said the use requirements include regulations that are specific to Homeless Services Uses. They do not require proximity to the Police Department or State Patrol, proximity to job retraining, or proximity to 24-hour health care. With the exception of the 1,000-foot separation, buffers or separation from “sensitive uses” are not required. Ms. Helland questioned whether the concept of buffers or separation distance should be included in the public hearing draft LUCA.

Councilmember Robertson said the draft that she and Councilmember Nieuwenhuis previously proposed stated certain separation provisions that are consistent with the regulations for marijuana retail shops (i.e., 1,000-foot separation from R-1 through R-30 land and from K-12 schools). She said high-rise residential development, which tends to be more secure buildings, is not included. However, the proposed separation applies to single-family homes, townhomes, and low-rise apartment buildings.

Mayor Chelminiak said the 1,000-foot separation from residential districts eliminates three of the sites previously under consideration (both Eastgate sites and the site by Children's Hospital). It could also eliminate the Sound Transit Operations and Maintenance Facility East (OMFE) site in the BelRed area, if it is within 1,000 feet of a site that has been purchased for an elementary school. He said there are publicly owned sites that could be suitable for a homeless shelter, day center, and potentially supportive housing. He noted that Congregations for the Homeless has identified the first three sites as their preferred locations for a permanent shelter. He said the facility should not be compared to a marijuana retail store. Mayor Chelminiak said he is not in favor of including the suggested separation requirement in the draft LUCA because it could raise people's expectations.

Councilmember Stokes concurred with Mr. Chelminiak, noting that 1,000 feet is an arbitrary distance. Mr. Stokes does not want to require a buffer that will rule out sites that have been previously discussed. He said a number of Bellevue residents support a shelter at those sites. Residents anticipate that the City will appropriately mitigate any impacts, and he does not want to treat persons experiencing homelessness as criminals.

Councilmember Nieuwenhuis said the intent is not to criminalize homelessness but to address ways to mitigate the impacts of a shelter. He spoke in favor of including the 1,000-foot separation in the draft LUCA to be presented for the public hearing. He concurred with Mr. Stokes that Bellevue residents support a shelter and want to help individuals experiencing homelessness.

Responding to Councilmember Zahn, Ms. Helland said a map highlighting the 1,000-foot buffer is available on the shelter permitting draft LUCA website.

Deputy Mayor Robinson said she does not endorse the idea of creating buffers from certain types of people. She noted the challenge of knowing where to draw the line in such an approach.

Mayor Chelminiak observed that a majority of the Council does not currently support the proposed 1,000-foot separation. However, he wants to ensure that a buffer requirement could be added later if desired by a majority of the Council. Mr. Brennan said staff will include the use of buffers in the public hearing materials.

Mayor Chelminiak thanked staff and the Council for their hard work on this topic. He noted that the discussion would continue later in the Regular Session.

3. Council Discussion of Upcoming Items: None.

At 8:03 p.m., Mayor Chelminiak declared recess to the Regular Session.

Kyle Stannert, CMC
City Clerk

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