

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Extended Study Session

September 10, 2018
6:00 p.m.

Council Conference Room
Bellevue, Washington

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

ABSENT: Councilmember Robertson

1. Executive Session

The meeting was called to order at 6:04 p.m., with Mayor Chelminiak presiding. There was no Executive Session.

2. Approval of Agenda

Mayor Chelminiak noted a Councilmember request to pull Consent Calendar Item 5(b) for discussion.

→ Deputy Mayor Robinson moved to approve the agenda, amended to pull Consent Calendar Item 5(b) for discussion. Councilmember Lee seconded the motion.

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

(a) National Drive Electric Week Proclamation

Mayor Chelminiak read the proclamation recognizing September 8-16 as National Drive Electric Week in Bellevue. He noted that Bellevue has one of the highest electric vehicle ownership rates in the state and country.

Steve Marshall, Transportation Technology Partner Manager, said the City will host an event on September 11 at the Downtown Park for residents to learn about the benefits of driving electric from other owners and residents. He said he has had an electric vehicle for five years, and the only maintenance needed has been to replace two tires. He noted that electric vehicles benefit both the environment and the car owners.

3. Oral Communications

- (a) Pamela Johnston questioned whether it is reasonable to publish the Council's agenda packet on the Friday before a Monday night Council meeting. She questioned whether that allows sufficient time for Councilmembers and the public to prepare for the meeting. She proposed cancelling tonight's meeting and duplicating the agenda for next week.
- (b) Alex Zimmerman, representing StandUP-America, expressed concerns regarding the Police Department and spoke to the importance of freedom of speech.
- (c) Norm Hansen, a Bridle Trails resident, thanked City staff for meeting with residents over the summer regarding the renewal of the Puget Sound Energy (PSE) franchise agreement. He noted his interest in involving the public in electrical infrastructure planning. He said residents would like to work with both the City and PSE.
- (d) Jennifer Keller spoke regarding the PSE franchise agreement renewal, noting that she watched the Council's discussion in July on this topic. She said she appreciated comments by Deputy Mayor Robinson and others regarding an interest in updating the load forecasting. Ms. Keller noted that Seattle City Light's forecasting is more accurate than PSE's projections. She encouraged the use of Seattle's load forecasting approach.
- (e) Tom Saxton, representing Plug In America, thanked the Council for the earlier proclamation and for the City's support of electric vehicles and charging stations at public facilities. He invited everyone to the National Drive Electric Event the following day at the Downtown Park.

4. Study Session

- (a) Council Business and New Initiatives

There was no discussion.

- (b) Proposed Revision to the Rules of Procedure for Appeals before the City Council

Deputy City Manager Kate Berens said the Council's Rules of Procedure for appeals were most recently discussed during the July 16 Study Session. She said staff is seeking direction to finalize the resolution for future Council action.

City Attorney Lori Riordan recalled that the Council discussed this topic on July 16. The draft resolution in the meeting packet addresses issues raised by Councilmembers during that meeting: 1) language has been further modernized and streamlined to provide greater clarity, 2) sections have been reordered to provide parties with a clear timeline for processing appeals, and 3) staff analyzed whether the rules should also include provisions to prevent parties from having to file intervention motions. Ms. Riordan summarized the appeals process reflected in the revised draft resolution.

Ms. Riordan said Councilmember Robertson asked staff to analyze the former appeal of a planned unit development (PUD) application. Ms. Riordan said the applicant must meet certain criteria for the City to grant the PUD permit. One of the criteria is that the person reviewing the permit needs to consider whether the perimeter of the PUD is compatible with the adjacent properties and with properties directly across the street. The Hearing Examiner agreed with the neighbors opposed to the PUD and denied the permit, and the applicant subsequently appealed.

Under the Land Use Code provisions for Process I permit applications, the code provides that anyone who participated before the Hearing Examiner may appeal a decision to the Council. However, the code does not permit every person who participated to also participate in the appeal hearing before the Council. The code requires the applicant and the City to participate in the appeals process, and assumes that the appellant will participate. However, that does not necessarily mean that the appellant is the applicant. The code is unclear about how to handle a situation in which a party other than the applicant prevails before the Hearing Examiner. In this case, the Council heard a motion for intervention from residents who lived next to and across the street from the project site. Under the PUD criteria in the Land Use Code, the person reviewing the permit is required to consider residents' interests. Ms. Riordan said the Council granted the motion for intervention and allowed the residents to participate in the appeal process.

Ms. Riordan said she did not recall any other past circumstances similar to the PUD case. She said it is important to allow a broad array of interested parties to participate before the Hearing Examiner, and anyone may appeal a decision. However, individuals are not granted the right to participate in an appeal hearing before the City Council if they are not an appellant. She proposed, instead of addressing this issue in the Council Rules of Procedure, amending Land Use Code section 20.25.150.A.1. In that case, the issue would be added to the Planning Commission's docket for review and a recommendation.

Ms. Riordan said the proposed approach is consistent with the Land Use Petition Act (LUPA) and the Growth Management Act. It would clarify the process, including who is allowed to participate in appeals before the Council. She said an amendment to the Land Use Code would keep the Council from having to function as professional judges in entertaining motions for intervention.

Responding to Councilmember Lee, Ms. Riordan confirmed that she discussed her proposal with Councilmember Robertson, who expressed support for the recommendation.

Responding to Councilmember Zahn, Ms. Riordan said the only individuals who have commented on previous resolutions regarding appeals are attorneys who have made general comments about the rules being archaic and confusing. Ms. Riordan said she has not received any comments about this particular issue, except from the parties involved in the PUD appeal described above. At that time, it was determined that the matter would be handled through a motion for intervention.

Deputy Mayor Robinson questioned whether the revisions make it any easier for the public to file an appeal. Ms. Riordan said the resolution does not change the right of the public to appeal.

Councilmember Nieuwenhuis thanked Ms. Riordan for the presentation and for speaking with Councilmember Robertson before she left on her trip. Mr. Nieuwenhuis expressed support for the revised resolution and proposed Land Use Code amendment. Councilmember Stokes concurred.

Responding to Mayor Chelminiak, Ms. Riordan confirmed that the PUD case was known as Kimberlee Park. Mr. Chelminiak expressed support for forwarding the issue to the Planning Commission for further study as a Land Use Code amendment.

In further response, Ms. Riordan said the Hearing Examiners are currently working to revise their rules of procedure, which were last updated in the 1980s. She noted that times have changed, and the parties are now almost always represented by attorneys. One goal of revising the Hearing Examiner's procedures is to make them more understandable to a lay person.

Mayor Chelminiak noted a Council consensus to proceed with: 1) finalizing the resolution for Council action, 2) the Planning Commission's review of a Land Use Code amendment, and 3) Council review of the Hearing Examiner's updated Rules of Procedure.

(c) 2019-2020 Biennial Budget Process

Deputy City Manager Berens introduced staff's update regarding the 2019-2020 Biennial Budget process.

Finance Director Toni Call provided an overview of the budget process. A budget workshop was held on March 26, and public hearings were held on June 4 and August 6. The City Manager's preliminary budget will be released in October and weekly study session discussions will be held through November, with the third and final public hearing tentatively set for November 19. Budget adoption is anticipated on December 3.

Council actions included in the approval of the budget are:

- 2019 Development Services Fee Ordinance
- 2019-2020 Utilities Rates Ordinances
- 2019 Property Tax Banked Capacity Resolution
- 2019 Property Tax Levy Ordinance
- 2019-2020 Biennial Budget Ordinance
- Human Services and Block Grant Ordinances, and
- Substantial Need Resolution (if needed).

Ms. Call said the City is continuing to use the Budget One model initiated for the 2011-2012 budget process, which is structured around outcomes related to programs and services. She noted there are a number of opportunities for public engagement through Council public hearings, Council meetings, community surveys, and meetings of the Boards and Commissions. Information is provided on the City's website at <https://bellevuewa.gov/budget>, and individuals may email Council@bellevuewa.gov or staff at FinanceDepartment@bellevuewa.gov.

Responding to Councilmember Nieuwenhuis regarding the potential for holding a fourth public hearing, Ms. Call said state law requires one public hearing, to be held following the release of

the City Manager's preliminary budget. She said the Council may hold a fourth public hearing if desired.

Councilmember Zahn noted that November 19 is the week of the Thanksgiving holiday and questioned whether another date might be better for the public hearing. Ms. Call said staff would review the budget schedule to consider another date. She noted it is important to have as much budget information available to the public as possible before the public hearing. Councilmember Zahn thanked Ms. Call for meeting with her to provide an individual briefing on the budget process.

- (d) Introduction of Puget Sound Energy (PSE) Franchise Ordinance and related Memoranda of Understanding (MOUs); Community Interest Group Outreach

Deputy City Manager Berens recalled that the Puget Sound Energy (PSE) franchise agreement renewal and related Memoranda of Understanding (MOUs) were discussed during the July 16 Study Session.

Rick Logwood, Right-of-Way Manager, said staff explored options related to three requests from the Council in July: 1) review termination and carryover provision, 2) explore timeline and publication of materials for annual electrical reliability workshop, and 3) evaluate load forecasting and reporting. As part of the negotiations with PSE, staff offered an additional meeting for interested citizens. However, they were unable to schedule a meeting before tonight's discussion.

Brian Rodan, Franchise Manager, said staff discussed the franchise renewal with the Council in April and July. He noted that the Washington Utilities and Transportation Commission (WUTC) regulates rates, services, and facilities as provided through RCW 80.01.040. The City's role is to regulate the use of the right-of-way as outlined in RCW 35A.47.040.

Mr. Rodan said the franchise renewal includes updates to the 2003 franchise agreement, as well as minor changes to four MOUs: vegetation management, electrical reliability and performance, records of installation, and relocation. A change to the franchise agreement allows the extension of the agreement beyond the 10-year term, if needed to allow for negotiations. Mr. Rodan said that all of the MOUs have been revised to reflect the same duration for the agreements, and definitions have been updated. A new MOU addresses the removal of utility poles that are no longer used for electrical services.

Changes to the electrical reliability MOU, based on Council direction, indicate that the annual reliability workshop will be held in the fall, and materials will be shared with the public in advance of that meeting. Mr. Rodan said City staff met with community stakeholders with an interest in the franchise agreement and MOUs in April and July. The MOUs were revised, to the extent possible under state law, to reflect the public's input.

Nicholas Matz, Senior Planner, said the annual electrical reliability workshop will be held on September 21. Based on Council direction, the City will ensure that the public will be allowed to attend. He noted there is extensive information on the electrical facilities web page of the City's

website. Mr. Matz said the reliability workshop is a reporting tool, and the purpose is to provide access to PSE's information.

Mr. Matz said the City continues to work with Exponent, the consultant who conducted the original electrical reliability study for the City, for an independent review of PSE's information and its consistency with the City's electrical reliability study and the Comprehensive Plan. He noted that Exponent staff typically attend the workshop. However, they will call into the meeting this year. Mr. Matz clarified that the workshop serves a reporting function and is not to be considered a negotiation. Staff will ask Exponent to analyze PSE's work and responsibilities under state law and to consider how that affects the City.

This year, Exponent will be asked to look at how PSE's circuit-based system provides information about electrical reliability. Exponent will be asked to review the performance of individual circuits and to determine the effect of projects proposed by PSE to address reliability issues. Exponent will also review how PSE's long-range forecasting performs within the utility's federal regulatory framework. Mr. Matz said the Comprehensive Plan's Utilities Element has been successful in addressing issues related to electrical facilities and reliability.

Mr. Rodan summarized that the franchise ordinance and MOUs comply with RCW 35A.47.040 and Bellevue City Code 14.20, and the MOUs advance the City's Comprehensive Plan policies. He noted that certain community interests involve a broader policy or legislative approach. Mr. Rodan said staff recommends Council adoption of the franchise ordinance on October 1 and requests authorization to the City Manager to execute the MOUs.

Councilmember Stokes thanked staff for the presentation and acknowledged the need to strike a balance between the City's role and the authority of other regulatory bodies. He expressed support for the proposed franchise ordinance and MOUs. He said he appreciated the revisions requested by the Council, including rescheduling the annual electrical reliability workshop to the fall.

Councilmember Zahn said she appreciated that City staff spent time working with the community and exploring varying interests. She recalled her previous inquiry for a better understanding of power outages and neighborhood reliability, and questioned whether Exponent will review circuit performance.

Mr. Matz said the Comprehensive Plan provides the ability for the City to consider the geographic distribution of electrical infrastructure. He said the City has already been working with PSE to understand circuit performance as well as how PSE's projects address reliability issues. Mr. Matz said Exponent will not duplicate PSE's work, but will review it from the City's perspective based on Comprehensive Plan policies. He anticipates that Exponent will complete its report by the end of the year.

Councilmember Zahn expressed support for the franchise renewal and MOUs. She noted that she was pleased with the revisions rescheduling the reliability workshop to the fall and requesting the release of public information well in advance of the meeting.

Ms. Zahn said she would like to see continued opportunities for residents' advocacy and for partnering with PSE to advance the City's Environmental Stewardship Initiative by exploring alternative energy technology. Mr. Matz said ESI staff participate in the annual workshops, and the City partners with PSE in the Smart Grid program on an ongoing basis.

In further response to Ms. Zahn, Mr. Matz said Bellevue is the only local government that engages in annual workshops with PSE, as well as the only city that attends the Integrated Resource Plan (IRP) meetings. He clarified that the electrical reliability MOU is not specifically associated with the execution of the franchise agreement. Rather, the MOU is a product of the City's long-term relationship with PSE in monitoring the electrical reliability implementation study completed in 2011, consistent with Council direction.

Deputy Mayor Robinson noted that PSE has been providing reliable electric power for Bellevue for approximately 60 years. She thanked staff for serving as advocates for the City and its residents with PSE. She said residents would like to see a more reliable forecast, equitable levels of service throughout the community, and the formation of an advisory group with residents, City staff, and PSE staff. She noted that technology will continue to change, and everyone needs to grow together to address the changes and continue to receive reliable power.

Ms. Robinson said she hopes PSE has an emphasis on strong customer service. She noted it took PSE six months to reply to a request for information from her, as a Councilmember, and she expressed concern about overall customer service. She suggested that perhaps an advisory group would make it easier to share information.

Councilmember Lee expressed general support for the agreements and complimented staff's work with PSE. He concurred with Ms. Robinson about the importance of customer service and public participation. Mr. Lee said he is pleased that the MOUs provided the opportunity to address a number of issues.

Councilmember Nieuwenhuis thanked staff for their work with PSE and community stakeholders. He likes that Bellevue does not necessarily accept the status quo and is willing to ask questions and pursue changes as appropriate. He encouraged continued engagement with the public.

Noting the requirement to delay action on the franchise ordinance until five days following the Council's discussion of the ordinance, Mayor Chelminiak questioned whether Councilmembers will be able to make any further changes when the ordinance comes back for Council action. Mr. Rodan suggested that a legal opinion would determine whether a change would be allowed, depending on the content of the revision. Ms. Berens confirmed that the ordinance is presented tonight in final form, and staff is requesting direction to return for formal adoption.

Mayor Chelminiak recalled that the Exponent report addressed issues with specific circuits. He said he has never been approached by a resident advocating for equitable neighborhood electrical reliability. Mr. Chelminiak said the concept of equitable can become problematic. For example, some neighborhoods have underground power lines. However, that benefit is reflected in property taxes.

Deputy Mayor Robinson summarized that the MOUs achieve seeking a more accurate load forecast. She has heard from residents who are concerned about neighborhood equity, and she would be interested in seeing PSE's data on that issue. She reiterated her request for strong customer service from PSE.

Councilmember Lee said the topics of technology, efficiency, and reliability are all important to address. He questioned whether PSE has a timeline for addressing alternative technologies. He suggested that the reliability workshop is an opportunity to review electrical performance and ongoing needs. He said it would be helpful to have a timeline and more data from PSE.

Councilmember Zahn reiterated her interest in information related to neighborhood equity in the delivery of electrical power service. She concurred with Mr. Lee that more data will help the City focus its ongoing efforts. Ms. Zahn said she is pleased that the public will have better access to information and to the annual workshop with PSE.

Councilmember Stokes said it is important to have the community involved in discussions and to have a broad range of opinions and perspectives. If an advisory group is formed, it will be important to represent different viewpoints. He said there is a City interest in ensuring that all neighborhoods have comparable service levels whether one is talking about electrical reliability or garbage service.

Councilmember Nieuwenhuis concurred that it would be helpful to review PSE's data to be able to compare neighborhood electrical reliability.

Mayor Chelminiak said PSE is a large utility with a constrained capital budget covering a large geographic area. If an advisory group is formed, it is necessary to clearly define the purpose and anticipated outcome of the group's efforts. He said the City cannot control or direct PSE's activities because it is a separate, private agency. He believes that Bellevue has good, reliable electric power.

Deputy Mayor Robinson said a majority of the Council is interested in staff pursuing responses to Councilmembers' suggestions and inquiries. While the City cannot direct PSE's activities, the Council and staff can continue to advocate on behalf of Bellevue residents.

Deputy City Manager Berens said the franchise ordinance and the MOUs create a number of ways for the City to obtain and share information from PSE. Staff has worked more closely with PSE since approximately 2007 and became involved in their Integrated Resource Plan process. She said the budget supports City staff's involvement in the annual reliability workshop and the Integrated Resource Plan efforts. The City will continue to refine how it engages Exponent to understand information that already exists.

Ms. Berens said it is relevant to the City and its engagement with PSE to understand whether the forecast is driving good decision making. Exponent previously determined that PSE's load forecasting methodology is within industry standards. However, the City will continue to work with Exponent to determine whether the assumptions used in PSE's model are resulting in

accurate forecasts. Ms. Berens said the intent is not to evaluate the methodology but to study trends in actual usage and how they compare to PSE's forecasts.

With regard to the suggestion to form an advisory group, Ms. Berens said the intent was not for the City to be involved in organizing the group. The City will share the suggestion with PSE as something for them to consider within the context of customer service. Ms. Berens noted that PSE representatives were in the audience.

(e) Proposed Updates to City Council Rules of Procedure

Deputy City Manager Kate Berens introduced discussion regarding the City Council Rules of Procedure. She said the proposed updates to the rules are in response to comments from the Council over the past couple of years.

Kyle Stannert, Assistant City Manager, noted there is not a proposed schedule for returning to the Council on this topic. He said the Rules of Procedure must be consistent with the Open Meetings Act, which provides the framework for how the Council operates related to public meetings, legal notices, how discussions take place and decisions are made, and other factors to facilitate transparency. Mr. Stannert said tonight's discussion is centered around RCW 35A.12.120, which states that the Council shall determine its own rules and order of business, and that the Council may establish rules for the conduct of Council meetings and the maintenance of order.

Mr. Stannert said the rules were last revised in 2015, when Section 6E was added to address remote participation during Council meetings. The other four topics for discussion are the election of the mayor, Board and Commission appointments, Council order of business, and rules for public participation.

Mr. Stannert said the Council Rules do not dictate a specific process for the election of the Mayor and Deputy Mayor. As a result, the Robert's Rules method served as the default process for many years. He noted that the Council agreed to use an alternative process for the past three elections. Under Robert's Rules, the Temporary Chair solicits nominations from the floor, and the Council votes on candidates in the order of the nominations. If a Councilmember prefers a second or later nominee, the only way to consider those nominees would be to vote against the first nominee.

The process that has been used for the past three Mayor and Deputy Mayor elections begins with nominations, and paper ballots are issued to all Councilmembers, who may vote for any of the candidates. The votes are tallied by the City Clerk and the Mayor announces the results of the Teller's Report, publicly noting each Councilmember's vote. Balloting continues until a candidate receives a majority vote. Mr. Stannert said staff proposes formalizing this process in the Council Rules of Procedure.

Responding to Councilmember Lee, Mr. Stannert said the Council Rules prohibit abstaining from voting in general. Mayor Chelminiak acknowledged that failing to vote is counted in the affirmative. However, in electing the Mayor and Deputy Mayor using the ballot method, there

are multiple candidates versus an approve/disapprove vote. Mayor Chelminiak opined that abstaining from voting by not completing a ballot would be allowed. However, under the Robert's Rules method in which separate votes are held for each nominee, failing to vote would be counted in the affirmative.

Mayor Chelminiak expressed a preference for the ballot method and asked Councilmembers to consider whether they would like to allow the submission of a blank ballot. Councilmember Nieuwenhuis expressed an interest in the process followed in other jurisdictions.

Responding to the Mayor, the Council indicated a consensus to add the ballot method to the Council Rules. Councilmember Stokes said everyone should be obligated to complete a ballot. Mayor Chelminiak concurred and suggested including a provision that requires every Councilmember to complete a ballot.

Mr. Stannert said the second topic is Board and Commission appointments. During the Council's retreat in January, there was an interest in discussing term limits. He noted that this issue would be addressed as a revision to the City Code. However, staff proposes revising the Council Rules to reflect the step of notifying the Council of the recommended candidate one week in advance of the Council's vote.

Responding to Councilmember Stokes, Mr. Stannert confirmed that appointments to Boards and Commissions are mayoral appointments with the concurrence of the Council.

Mayor Chelminiak said the procedures manual indicates that the Council liaison to the Board or Commission recommends who will participate in interviewing the candidates.

Deputy Mayor Robinson said the proposed language implies that a person will be automatically reappointed to a Board or Commission if they want to continue serving. She opined that reappointments should go through a thoughtful process without assuming that an incumbent will be reappointed. Mr. Stannert said he would draft language to address her suggestion.

Councilmember Zahn concurred, noting that a number of individuals in the community are interested in serving on Boards and Commissions.

Responding to Councilmember Lee, Mr. Stannert said the Council liaison to a Board or Commission recommends an individual. However, the Mayor makes the appointment with the concurrence of the Council.

Mayor Chelminiak expressed support for including language that requires submitting the recommendation to the Council one week before formal action on Board and Commission appointments. He noted that would be consistent with the Council's usual practice.

Councilmember Zahn suggested adding a step to reflect that the interview team discusses the candidates before the Council liaison forwards the recommendation to the Council.

Responding to Councilmember Stokes, Mayor Chelminiak said he did not recall a situation in which the Mayor disagreed with a recommended appointment. Deputy Mayor Robinson expressed support for the language as drafted.

Councilmember Lee opined that the Mayor's appointment should align with the Council's vote. He noted that the Mayor does not have veto power. Mayor Chelminiak concurred. Councilmember Stokes observed that the current practice has worked well for the City.

Moving on, Mr. Stannert described a proposed change to the Extended Study Session agenda to hold oral communications before an Executive Session, if applicable. He said the Council made that change for two meetings this year, and the public appreciated moving oral communications to the beginning of the meeting.

Councilmember Nieuwenhuis expressed support for the proposed change.

Councilmember Zahn expressed concern that the public must wait for the meeting to begin if there is an Executive Session. Responding to Ms. Zahn, Mr. Stannert said Executive Sessions are reflected in meeting agendas.

Mayor Chelminiak said another option would be to hold Executive Sessions at the end of meetings, which is not ideal given the lateness of the hour at that point. Also, those sessions often involve outside legal counsel who would be paid to wait for the Executive Session. Mr. Stannert noted that the Council has the flexibility to adjust a specific meeting agenda as needed.

Mr. Stannert noted a proposed change to add Honors and Proclamations as an agenda item following Approval of Agenda. There was general Council support for the change.

Moving on, Mr. Stannert referenced the June 1, 2015 meeting minutes capturing the Council's discussion about adding continued oral communications at the end of meetings. At that time, there was a Council consensus to add the second opportunity for public comment, allow the Mayor to determine whether the second opportunity would be limited to individuals who signed up at the beginning of the meeting, and to ensure a balance between opportunities for public comment and the Council's need to conduct necessary business.

Mr. Stannert requested Council direction about whether to: 1) retain continued oral communications on both the Extended Study Session and Regular Session agendas, 2) allow continued oral communications beyond 10:00 p.m., 3) limit the speakers to individuals who signed up earlier in the evening, 4) limit individuals to one opportunity to speak per meeting, and 5) continue with the rule of allowing three speakers on either side of an issue.

Deputy Mayor Robinson recalled that she initially raised the issue of continued oral communications after the Parks and Community Services Board added the agenda item. The intent was to provide an additional opportunity for speakers who signed up at the beginning of the meeting. She opined that the Mayor should determine whether to add a second opportunity for public comment based on the number of individuals who signed up to speak.

Councilmember Zahn suggested adding language regarding the purpose and goal of public testimony. She suggested that, if a member of the audience wants to comment following the Council's discussion, they should be allowed to speak at the end of the meeting.

Councilmember Lee expressed support for retaining the second opportunity for oral communications. He opined that a person should be able to speak twice, especially if no one else wants to speak, and that individuals who signed up earlier in the evening should be given priority. Mr. Lee spoke in favor of continuing to limit communications to three speakers on either side of an issue. Responding to Mr. Stannert, Mr. Lee confirmed his interest in allowing mayoral discretion related to oral communications.

Councilmember Nieuwenhuis noted the need to balance public comment opportunities with the Council's handling of City business. He favors continuing to provide a second opportunity for oral communications during both the Extended Study Sessions and Regular Sessions. He supports allowing speakers beyond 10:00 p.m. if they did not speak earlier. He is open to allowing more than three individuals on either side of an issue if time permits. Mayor Chelminiak confirmed that the Council has allowed additional speakers on a couple of occasions.

Councilmember Stokes expressed concern regarding the appropriate balance between time for public comment and time for the Council to conduct its business meeting. He opined that 10:00 PM is not an ideal time for the public to provide oral communications. He said the public may provide input in writing and/or by speaking with Councilmembers at any time outside of the Monday night meetings.

Mr. Stokes spoke in favor of retaining the 30-minute block for oral communications and limiting public comment to three speakers on either side of an issue. He expressed concern that the Council often does not have sufficient time for discussing the meeting's agenda items.

Mayor Chelminiak concurred with Mr. Stokes, noting that oral communications sometimes extended up to one hour in the past. Mr. Chelminiak spoke in favor of allowing a total of three speakers on either side of a topic in any given meeting. He said the current practice appears to be working because most of the time the meeting is able to accommodate those interested in speaking within the 30-minute block of time. He opined that speaking to the Council beyond 10:00 PM is the least effective way to provide input.

Mr. Chelminiak favors allowing public comment only by individuals who signed up to speak. He would rather not have the expectation that meetings will be extended to accommodate additional public comment. He suggested allowing the Mayor to manage the meeting to end at a reasonable hour. As an option for consideration, Mr. Chelminiak suggested that speakers during continued oral communications at the end of the meeting could be limited to two minutes each.

Mayor Chelminiak summarized his understanding that the Council wishes to retain continued oral communications on both the Extended Study Session and Regular Session agendas. He said he heard support for granting the Mayor, with the concurrence of the Council, the ability to manage the extent of continued oral communications. Mr. Chelminiak noted there are differing opinions about whether to restrict the speakers to individuals on the sign-up sheet and whether to limit public comment to a total of three people on either side of a topic per evening.

Mr. Stannert said he will draft proposed language for further consideration by the Council. He said staff is developing a glossary to be published with meeting agendas, which provides the opportunity for clarifying the purpose of continued oral communications.

Councilmember Lee concurred with the Mayor's recommendation for moving forward and acknowledged the need for adequate time to conduct City business. However, he said listening to the public is a high priority as well. He said the burden is on the Mayor to manage the meetings for the proper balance in the usage of time.

Councilmember Nieuwenhuis expressed concern about requiring speakers to sign up on the list. He noted that an individual might not be able to make the beginning of the meeting, but is willing to stay until the end for the opportunity to speak. He would like to allow speakers, even if they did not sign up. However, he supports limiting a person's communications to once per evening.

Responding to Councilmember Stokes, Mayor Chelminiak suggested that speakers who do not sign up would be allowed early in the meeting, but not during continued oral communications at the end of the meeting.

Mr. Stokes reiterated his concern about ensuring there is adequate time for the Council to discuss City business. He said many individuals are not able to attend meetings, and they email or find other ways to contact the Council with their input. He said a written communication provides a better opportunity to review and respond to the input. Mr. Stokes noted that Councilmembers are available to speak to individuals in person as well.

Deputy Mayor Robinson said the Council values oral communications, and the intent of tonight's discussion is to make it as effective as possible for the speaker and everyone else at the meeting. She suggested there should be a way for an individual who arrives late to the meeting to sign up to speak. She noted there have been times when a member of the public commented at the end of a meeting regarding the Council's discussion that evening, and they later revised their input after learning and thinking more about the issue. She said there are a number of ways for the public to contact the Council including emails, phone calls, in-person discussions, and written communications. Ms. Robinson wants oral communications to be effective, and she favors allowing the Mayor to determine how to manage the meeting.

Moving on, Mr. Stannert described the current rules applicable to a Councilmember's remote participation during a meeting: 1) must be approved in advance, 2) limited to four times per year for non-medical reasons, and 3) no more than two Councilmembers may participate remotely during the same meeting.

Councilmember Zahn expressed concern regarding the examples of reasons for remote participation, including "agenda item is of high importance" and "important for all Councilmembers to participate in a key policy decision." She does not want the Council to think that any topic is not important. With regard to limiting remote participation to four times per

year, Ms. Zahn expressed concern that if she reaches four absences due to travel, she does not want to be prevented from participating remotely for more meetings.

Councilmember Stokes said there is tremendous value in face-to-face conversations, for the Council and for the person participating remotely.

Mayor Chelminiak said there was some resistance to allowing remote participation, except for medical reasons, for many years. The rationale was that if a person is elected to the Council, he or she should be able to attend regularly. The intent was that remote participation should be a rare occurrence. He said the role of a City Councilmember is to be present for meetings on Monday nights.

Councilmember Lee said he participated remotely only once, and that was following surgery. He concurred that the intent was to use remote participation only for urgent or critical situations. He agreed with the value of being present at Council meetings.

Councilmember Zahn acknowledged that, while the person participating remotely can see the Council, the Council cannot see that person. She suggested that, given the structure of the meetings and modern technology, it is reasonable to participate remotely.

Councilmember Lee noted that an absent Councilmember can watch the meetings online if their interest is primarily to hear the Council's discussion.

Mayor Chelminiak concurred that technology has improved. However, he does believe it is important for the Council to be able to interact with each other and with members of the public who attend meetings. He suggested that perhaps the maximum of four meetings could be increased. However, he said it is important for the public to see Councilmembers in meetings. He does not want to deny a Councilmember the opportunity to vote.

Councilmember Stokes spoke in favor of maintaining the maximum limit of four meetings. Deputy Mayor Robinson and Councilmember Lee concurred.

Councilmember Nieuwenhuis suggested increasing the limit to six meetings.

Deputy Mayor Robinson introduced the topic of signs in the audience of Council meetings. She expressed concern that the signs can block views and potentially be used as weapons. Also, the signs have been used to make personal attacks by naming individuals. She said the signs do not provide a benefit to the Council's decision-making process and she would prefer to ban them.

Mayor Chelminiak said it might not be legally possible to ban signs. He said this became an issue in Seattle when members of the public began showing up with large, sometimes professionally printed, signs. He said the First Amendment prohibits limiting the content of the sign. However, it is possible to limit the size, type, and manner of using the signs. He suggested limiting signs to 8.5" x 11" and to 60-80 pound paper instead of cardboard or other heavier materials.

Councilmember Stokes said he would like a legal opinion on the usage of signs and how the King County Council handles signs. He said they are distracting, do not accomplish a purpose, and are giving some people in the room more voice than others. He suggested it could be challenging to regulate specific restrictions, and it would be better to either allow or ban signs outright.

Councilmember Nieuwenhuis said he would like a legal opinion as well. He is not a fan of signs but he understands the freedom of speech issue and feels the public should be allowed to have signs. He suggested that perhaps the Council could ban sticks and other objects/materials that could potentially be used as weapons.

Councilmember Zahn said she does not want to limit free speech and would like a better understanding of the legality of banning signs and of the implications for public safety.

Mr. Stokes said it is difficult to regulate how people use their signs. He noted they can interfere with the rights of others by blocking views and distracting from the Council's discussions.

Mayor Chelminiak concurred with seeking a legal opinion. Mr. Stannert said staff would consult with the City Attorney's Office on the sign issue.

Moving on, Councilmember Zahn asked for a clarification of the practice for pulling an agenda item from a Consent Calendar as a result of public testimony. Reading from page 6 of the resolution, Section 7C, Mr. Stannert stated that a Councilmember may request the removal of an item if public testimony raises "unforeseen Councilmember concerns or questions." However, the normal practice is that a request to pull an idea from the Consent Calendar should be submitted by noon on Monday.

Councilmember Zahn expressed concern about the rule for oral communications giving preference to speakers on issues "anticipated to come on the agenda within a month." Mr. Stannert acknowledged that meeting agendas are not published one month in advance. However, the public is generally aware of topics that will be coming before the Council based on ongoing discussions by the Council, Boards, and Commissions, and through other communications by the City and Councilmembers.

Councilmember Stokes asked how the Council would make a determination about "unforeseen Councilmember concerns or questions." Mayor Chelminiak said the intent is to provide some leeway for Councilmembers along with the discipline of requiring a request to pull an agenda item by noon on Monday, if possible. In further response, Mr. Chelminiak said that any Councilmember may ask for more information about a request to pull an item following oral communications. Mr. Stannert said he would draft revised language to clarify the process.

5. Mini Consent Agenda

→ Deputy Mayor Robinson moved to adopt the Consent Calendar, amended to pull Agenda Item 5(b) for discussion. Councilmember Stokes seconded the motion.

→ The motion carried by a vote of 5-0, with Councilmember Lee temporarily out of the room, and the following item was approved:

(a) Council Minutes

Minutes of July 16 Study Session
Minutes of July 16 Regular Session
Minutes of July 23 Extended Study Session
Minutes of August 6 Study Session
Minutes of August 6 Regular Session

Consent Item Pulled for Discussion:

- (b) Resolution No. 9456 authorizing execution of a three-year professional services agreement, with an option to renew for two additional years, with Azose Commercial Properties for the management and leasing of the City's Lincoln Center property, in an amount not to exceed \$1,500,000, plus all applicable taxes.

Mayor Chelminiak noted that Councilmember Lee requested pulling the item for Council discussion.

Deputy City Manager Kate Berens introduced Nathan McCommon, Deputy City Manager, and Ira McDaniel, Real Property Manager, to discuss Resolution No. 9456, which authorizes the execution of an agreement with Azose Commercial Properties for the management and leasing of the City's Lincoln Center property.

Mr. McCommon recalled that this item was postponed from a previous Consent Calendar to allow time for staff to respond to questions from the Council.

Mr. McDaniel recalled that the Council authorized the purchase of Lincoln Center in June 2008 for a number of future public uses. The building has housed commercial tenants, the Impact Hub small business incubator, and the men's homeless shelter. He said the new contract primarily follows the current contract's terms and process. The contract covers the management of the existing leases, the leasing of vacant spaces to new tenants, and the management of the building's operations, maintenance, and repairs.

The property manager receives \$2,500 per month, or four percent of the gross rent, whichever is greater. They cover maintenance and repair costs and are reimbursed by the City. Mr. McDaniel said one of the buildings was removed in recent years for the Sound Transit light rail project. Rental income does not reach the four-percent threshold and the property manager receives \$2,500 per month. The property manager is eligible for commissions at a rate of five percent on the gross value of new leases and two percent for lease renewals.

Responding to Deputy Mayor Robinson, Mr. McDaniel said the occupancy rate is approximately 35 percent. Ms. Robinson said the facility is in poor shape and she is concerned about further investments in the property. In further response, Mr. McCommon said the lease proceeds go into

the City's land purchase revolving fund. Revenue above \$2,500 per month is applied to maintenance costs.

Deputy Mayor Robinson noted that she spoke with Deputy City Manager McCommon about offering affordable office space for startup businesses. While the building and parking lot are in bad shape, Ms. Robinson suggested that startup businesses would be interested in affordable space and the opportunity for a Bellevue address. She questioned the cost of attracting local startups into the office space. Mr. McDaniel said the property manager advertises available space to the general market. However, they are not targeting startup tenants.

Deputy Mayor Robinson suggested involving economic development staff in considering the potential for affordable office space for startup businesses.

→ At 9:54 p.m., Councilmember Lee moved to extend the meeting to 10:15 p.m. Deputy Mayor Robinson seconded the motion.

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

Councilmember Lee noted his concern regarding the benefit of the contract to the City. He said that he and Mr. McCommon spoke about the value of preserving the asset. However, Mr. Lee said he is concerned about the benefits in return for the costs, which have totaled \$3 million over the past four years. One of the costs of maintaining the facility is continuing to contract with a property manager. Councilmember Lee said revenues total \$816,000 over the past four years, and the management fee equates to 12 percent. The contract provides additional fees as well. Mr. Lee noted his concern about the significant number of vacancies, especially given the fees paid to the property manager. He expressed concern that the property manager receives a five-percent fee for managing maintenance and construction contracts on the Lincoln Center site. He questioned how the property manager continues to receive payments for a property that is not making money for the City.

Mr. Lee expressed support for tenants that provide a community benefit, such as the seasonal homeless shelter operated by Congregations for the Homeless.

Councilmember Nieuwenhuis said it would be difficult to market the office space, even to startup businesses. He said the City pays approximately \$11.98 per square foot for property management, while the rate for a typical Class A building is \$10 per square foot. He concurred with his colleagues' concerns regarding the costs related to the property manager.

Councilmember Zahn suggested it would be helpful to publish the questions and answers given to the Council in the July 31 email, if disclosable to the public. She observed that 20 percent of the space is used by Congregations for the Homeless, and 15 percent of the office space houses 6-8 tenants. The revenue is \$240,000 annually and the estimated cost for property management is \$300,000 annually, plus an emergency repair contingency. Ms. Zahn said the email states: "We estimate that the building's gross revenue will be approximately \$20,000 per month."

Councilmember Zahn expressed concern that the City is taking a loss on the property and the building continues to degrade. She noted the proposal to spend \$1.3 million over five years to continue the men's homeless shelter at Lincoln Center. Responding to Ms. Zahn, Mr. McDaniel said the City received two proposals in response to the Request for Proposals (RFP) for the property management contract.

Responding to Councilmember Stokes, Mr. McDaniel said that, if the contract renewal is not approved, the City could issue another RFP or consider managing the property itself. Deputy City Manager Berens opined that the market has not changed since the original RFP. She suggested that the better alternative would be to reconsider whether the City continues to lease the building or whether the City should self-manage the building. Mr. McCommon said the City does not currently have staff with expertise in commercial property leasing and management. Mr. McDaniel concurred, noting that City staff is focused on the acquisition of property interests for public projects.

Mayor Chelminiak recalled that the City bought the property with plans for demolition for a transportation project. There was no intent to save the buildings or to provide office space. He said the problem with leasing space is that new tenants identify maintenance issues, costing the City more money for repairs. Responding to Mr. Chelminiak, Mr. McDaniel said the management company receives a five-percent fee for improvements exceeding \$5,000 over the course of one year. However, they must first give the City the option to self-manage the project. Mr. McDaniel said Azose Commercial Properties has never completed a project above that level and has therefore not received the five-percent fee.

Mayor Chelminiak said the only reason for the continued operation of the building has been to house the seasonal homeless shelter. He said the best solution is to build a new shelter. Responding to Mr. Chelminiak, Mr. McDaniel noted that the current contract expires on September 13. Mr. Chelminiak suggested further discussion with the property manager to consider ways to increase revenue, perhaps by reducing rental rates.

Mayor Chelminiak summarized that the City's options are to approve the contract, extend the contract and continue to negotiate, or to self manage the property.

Deputy Mayor Robinson said the men living in the Congregations for the Homeless shelter have been maintaining the outside of the building. She suggested exploring whether that could be expanded.

Responding to Councilmember Stokes, Ms. Berens confirmed that the City could try to extend the current contract and continue to negotiate with the property manager. She cautioned against letting the contract expire, noting that the City does not currently have the expertise or capacity to immediately take over the management of the property.

Responding to Ms. Berens, Mayor Chelminiak confirmed Council direction to extend the contract and continue to negotiate, and to also explore other options.

6. Continued Oral Communications: None.

At 10:15 p.m., Mayor Chelminiak declared the meeting adjourned.

Kyle Stannert, CMC
City Clerk

/kaw