

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Regular Session

November 18, 2019

8:00 PM

Council Chamber
Bellevue, Washington

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

ABSENT: Deputy Mayor Robinson

1. Call to Order

Mayor Chelminiak called the meeting to order at 8:00 p.m.

2. Roll Call, Flag Salute

All Councilmembers except Deputy Mayor Robinson were present. Councilmember Robertson led the flag salute.

3. Approval of Agenda

Mayor Chelminiak noted that Agenda Item 7(a) was removed from the agenda.

→ Councilmember Stokes moved to approve the agenda, as amended. Councilmember Robertson seconded the motion.

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

4. Oral Communications: None.

5. Reports of Community Council, Boards and Commissions: None.

6. Report of the City Manager

(a) 2019 Bellevue Essentials Class Synopsis

Kate Berens, Deputy City Manager, introduced discussion regarding the 2019 Bellevue Essentials class.

Julie Ellenhorn, Community Relations Coordinator, provided an update on the 2019 Bellevue Essentials class. She noted that the City also recently completed the fifth class for employees. The public alumni group now totals 236 residents and they meet regularly throughout the year for educational, networking, and community service activities. Ms. Ellenhorn said the class graduates have been very positive about their experiences, and they have enjoyed learning about City functions and the community.

Deborah Dutich recalled moving to Bellevue in 1981. She decided to take the Bellevue Essentials class after she retired from a career with the Bellevue School District. She said she has loved learning about local government and meeting a diverse group of people. She thanked the Council for their work and support of the Bellevue Essentials program.

Jun Wu said he is a recent immigrant who moved to Bellevue 16 months ago. He said he learned a lot about Bellevue and local government throughout the class sessions, and he wants to devote his passion to the community. He said he enjoyed meeting people with different backgrounds and perspectives, and he noted the importance of keeping an open mind when working together. He believes that the diversity and adventurous spirit in Bellevue will bring a bright future.

Ms. Ellenhorn noted that a number of cities have requested information about the Bellevue Essentials program.

Mayor Chelminiak thanked Ms. Ellenhorn for her work and the 2019 class for their participation and interest in their community. Mr. Chelminiak said he regrets that he will be out of town and unable to attend the graduation ceremony.

7. Council Business and New Initiatives

There was no discussion.

8. Consent Calendar

Mayor Chelminiak highlighted a number of items including: 1) new traffic poles at 148th Avenue SE and SE 16th Street and at Richards Road and SE 26th Street to implement flashing yellow left-turn signals; 2) \$4 million added to the Capital Investment Program (CIP) for the purchase of property in the BelRed area for a 300-stall Park and Ride lot; and 3) the receipt of federal Community Development Block Grant (CDBG) funds.

→ Councilmember Robertson moved to approve the Consent Calendar, and Councilmember Stokes seconded the motion.

→ The motion to approve the Consent Calendar carried by a vote of 6-0, and the following items were approved:

(a) Council Minutes

Minutes of October 16, 2019 Special Meeting

Minutes of October 28, 2019 Extended Study Session

Minutes of November 4, 2019 Study Session
Minutes of November 4, 2019 Regular Session

- (b) Resolution No. 9676 approving the A Regional Coalition for Housing (ARCH) 2020 Administrative Budget and Work Program as recommended by the ARCH Executive Board.
- (c) Ordinance No. 6483: (1) amending the 2019-2020 General Capital Investment Program (CIP) Fund to increase its appropriation by \$3,997,548; (2) amending the 2019-2025 General CIP Plan to increase the budget for the East Link MOU Commitments project (CIP Plan No. PW-R-181) by \$3,997,548; and (3) amending the 2019-2020 General Fund budget to increase the appropriation by \$1,000,000.
- (d) Motion to award Bid No. 19102 for 2019 Signal Pole Replacements to NPM Construction Co. as the lowest responsible and responsive bidder in the amount of \$441,035.00, plus all applicable taxes (CIP Plan No. PW-R-199).
- (e) Ordinance No. 6484: 1) adopting recommendations for the use of 2020 Community Development Block Grant (CDBG) funds as transmitted by the Human Services Commission; 2) authorizing the City Manager or his designee to submit a proposal to the United States Department of Housing and Urban Development (HUD) for the 2020 CDBG Program; 3) authorizing the City Manager or his designee to accept a grant award contract with HUD; 4) creating a new project series within the Operating Grants and Donations Fund; and 5) authorizing the City Manager or his designee to enter into agreements with grant subrecipients.
- (f) Resolution No. 9677 authorizing execution of a five-year general services agreement with Jon Abood dba Jonny's Truck for caretaking services at the City of Bellevue Marina at Meydenbauer Bay in an amount not to exceed \$216,480, plus all applicable taxes.
- (g) Motion to award Bid No. 19092 for Vuecrest Sanitary Sewer Trenchless Rehabilitation to Insta-Pipe, Inc., as the lowest responsive and responsible bidder, in an amount not to exceed \$1,452,114.00 plus all applicable taxes (CIP Plan No. S-66).
- (h) Ordinance No. 6485 amending the 2019-2020 General Fund Budget adopted on December 3, 2018, as previously amended, is hereby further amended, to increase the appropriation by \$410,651 and authorizing administrative officials to receive and expend said funds on behalf of the East Metro Training Group (EMTG) to provide entry-level and on-going training to fire personnel with Bellevue Fire and the other seven (7) EMTG partners.

- (i) Resolution No. 9678 authorizing execution of an amendment to the agreement with Diamond Parking Services, LLC for citywide parking enforcement and monitoring services in an amount not to exceed a total contract value of \$750,000; plus all applicable taxes.
- (j) Resolution No. 9679 granting authority to the Finance & Asset Management Department Director or his/her designee to approve the execution of a general services agreement for city wide on-call landscape maintenance and irrigation services with Canber Corps for a one-year term with the option to renew for one additional term of two years in an amount not to exceed \$1,500,000, plus all applicable taxes.
- (k) Resolution No. 9680 granting authority to the Finance & Asset Management Department Director or his/her designee to approve the execution of a general services agreement for city wide on-call landscape maintenance and irrigation services with Monarch Landscape WA, LLC for a one-year term with the option to renew for one additional term of two years in an amount not to exceed \$1,500,000, plus all applicable taxes.
- (l) Resolution No. 9681 granting authority to the Finance & Asset Management Department Director or his/her designee to approve the execution of a general services agreement for city wide on-call landscape maintenance and irrigation services with Plantscapes Inc. for a one-year term with the option to renew for one additional term of two years in an amount not to exceed \$1,500,000, plus all applicable taxes.
- (m) Resolution No. 9682 authorizing execution of Amendment 10 to the Agreement for Inmate Housing with South Correctional Entity (SCORE) to 1) extend the expiration date of the Agreement to December 31, 2020, 2) increase the number of guaranteed beds to 25, and 3) approve the annual guaranteed bed rate adjustment to \$128 beginning 1/1/2020.
- (n) Resolution No. 9683 declaring the intent of City of Bellevue to adopt legislation to authorize a sales and use tax for affordable and supportive housing in accordance with Substitute House Bill 1406 (CHAPTER 338, LAWS OF 2019), and other matters related thereto.
- (o) Ordinance No. 6486 amending the Bellevue City Code to impose a sales and use tax credit authorized by Substitute House Bill (SHB) 1406 to receive a portion of the state sales and use tax for affordable and supportive housing; adding a new Section 4.12.028 to Chapter 4.12 to implement the tax credit; providing for severability and establishing an effective date.
- (p) Resolution No. 9684 authorizing the execution of a five-year General Services Contract with KLH Services, LLC in the amount not to exceed \$210,000, plus all

applicable taxes, to provide cleaning and maintenance of the 108th Avenue NE Protected Bike Lanes.

- (q) Resolution No. 9685 authorizing execution of a five-year wireless communications facility site lease agreement with New Cingular Wireless PCS, LLC including a five-year extension option for continued operation of an existing wireless communications facility at the Bellevue Golf Course located at 5500 140th Avenue NE.
- (r) Ordinance No. 6487 amending the Bellevue City Code (BCC) Section 4.09.077 - to adopt the mandatory updates to the Business and Occupation tax Model Ordinance in RCW 35.102.130 Allocation and Apportionment of Income.
- (s) Resolution No. 9686 authorizing and directing the City Manager to execute the Lake Sammamish Kokanee Interlocal Agreement.

9. Public Hearings

- (a) Public Hearing on Temporary Encampment Land Use Code Amendment (LUCA) to amend Land Use Code Chapter 20.30U

Deputy City Manager Kate Berens said the public hearing provides a formal opportunity for the public to share its comments regarding the Temporary Encampment Land Use Code Amendment (LUCA) under consideration by the Council. The LUCA was initiated to replace the consent decree under which the City has been regulating temporary encampments since 2005. The consent decree expires in January. Ms. Berens said the proposed LUCA will eliminate the need to refer to both the Land Use Code and the consent decree for the future administration of temporary encampment permits. She noted that Council action is requested tonight or during a future meeting.

Toni Pratt, Senior Land Use Planner, recalled that on September 9, the Council authorized moving forward with the initiation of the Temporary Encampment LUCA. Three study session discussions have been held since that time, further discussion of the item is slated for November 25, and Council action is scheduled for December 9. The East Bellevue Community Council will consider the LUCA for action on January 7, 2020.

Cindy Lin, Assistant City Attorney, recalled that in 2005, the City adopted Land Use Code Chapter 20.30U to regulate the process for permitting temporary encampments on properties owned by religious organizations. The Temple B’Nai Torah and SHARE/WHEEL applied for a permit in 2005 and filed a lawsuit alleging that some of the City’s conditions violated religious exercise. The lawsuit was settled in January 2006 with the adoption of the consent decree, which outlined how the City would interpret and apply the terms of LUC 20.30U in the permit process. The consent decree has been extended twice since 2006. LUC 20.30U has never been applied as originally enacted by the City Council, and the permitting process has followed the consent decree.

Ms. Pratt presented a map depicting the locations of all temporary encampments in Bellevue since 2006. There have been five hostings at Temple B’Nai Torah, and all except the fourth one went well. There was one encampment at The Episcopal Church of the Resurrection, which is the only hosting within the East Bellevue Community Council’s jurisdiction. The First United Methodist Church hosted encampments twice and those experiences went very well due to effective communication between the operators and the neighbors, and the willingness of the church and operator to make certain accommodations. St. Luke’s Lutheran Church hosted temporary encampments twice and recently opened 63 new affordable housing units on its site.

Ms. Pratt said that City staff reviewed the regulatory requirements of LUC 20.30U, the provisions of the consent decree, and the actual experiences of temporary encampments before engaging with the original signatories of the consent decree and the neighborhood focus group. The signatories indicated that temporary encampments are necessary and they have a right to exist, and the consent decree and LUC 20.30U are outdated. They expressed an interest in a simplified permitting process for religious institutions that had previously hosted encampments. They also stated that temporary encampment regulations should be consistent throughout the region.

The neighborhood focus group was composed of members who live near temporary encampment sites. They indicated an interest in increased accountability for the hosts and operators, enhanced alignment between the consent decree and LUC 20.30U, the incorporation of best practices learned from previous hostings, and a Bellevue-based solution for temporary encampment permitting.

Ms. Lin described the four topical areas for the Council’s consideration: 1) alignment of health standards to the consent decree, 2) neighborhood engagement, 3) encampment location and duration, and 4) permit process. The proposed regulations are designed as a package to regulate the permitting of temporary encampments without interfering with religious exercise.

Ms. Pratt said the two issues related to neighborhood engagement are a request from residents to remove the litter cleanup requirement from the Land Use Code and the establishment of an optional post-permit issuance informational meeting between the encampment host and the neighborhood. She said the Director may make the informational meeting a requirement if necessary.

Ms. Lin said that staff recommends an encampment duration of 120 days and a requirement for a 12-month gap between deployments in Bellevue. Certain stakeholders commented that 120 days is the maximum they would consider for a host in good standing with the neighborhood. Ms. Lin said the recommendations are consistent with regulations in neighboring jurisdictions. She noted that there has been only one temporary encampment in Bellevue per year to date.

Regarding the recommended streamlined permitting process, Ms. Lin said staff recommends a five-year temporary encampment permit as an option for those who have previously hosted and whose previous permit was not subject to revocation. The initial permit application process will follow the existing framework. However, if a religious institution wishes to host another encampment on the same site with no changes or only minor modifications to its operations, the

subsequent permit application would be streamlined. The LUCA requires the submittal of a safety and security report and periodic operations reports to monitor compliance with the permit conditions.

Ms. Pratt said the City informed the relevant community stakeholders of potential changes to LUC 20.30U, and the Council set tonight's public hearing. She said the public engagement plan includes adding the topic to Hot Topics on the City's web site and creating a mechanism for submitting comments.

Responding to Councilmember Lee about what the City can do if permit conditions are not met, Ms. Lin said the Land Use Code allows the City to revoke permits if the requirements are not met.

Responding to Mayor Chelminiak, Mr. Lin confirmed that a church that previously hosted and did not have its permit revoked would be able to use the streamlined permitting process for the next hosting.

Responding to Councilmember Zahn, Ms. Pratt said that if a second permit application was received within less than a year of a current or previous hosting, the applicant would not be able to host during that calendar year.

Responding to Mayor Chelminiak, Ms. Pratt said the two encampments that have operated in Bellevue are Camp Unity and Tent City 4.

- Councilmember Stokes moved to open the public hearing, and Councilmember Robertson seconded the motion.
- The motion carried by a vote of 6-0.

The following individuals came forward to comment:

- (1) Kalameli Paulo said she lives in Auburn and works at The Sophia Way in Bellevue. She has worked with the homeless population over the past three years. She said that homelessness is caused by the lack of affordable housing. She said there are no shelters in Bellevue for families. She encouraged the Council to not limit the number and frequency of encampments.
- (2) Angela Jernejcic said she lives near Temple B'Nai Torah. She read from a flyer that went out to the neighborhood before their 2014 encampment. She expressed concern regarding the use of drugs and alcohol, drug trafficking, rape allegations, assaults, prostitution, and other issues. She expressed concern about an encampment operator's rule that encampment residents cannot call 911 themselves. She noted a drug overdose death in an encampment and the lack of cooperation by the operator with the Police Department. She submitted written information for the Council's review.

- (3) Dr. Greg Glockner said that he, his wife, and his son have volunteered at tent cities a number of times. He encouraged the City to minimize the burden on encampment residents and volunteers.
- (4) Karen Morris submitted written information regarding problems with previous temporary encampments. She said that neighbors have previously provided information to the City and they have tried to work with the hosts over the years to resolve issues. She said the enforcement of encampment regulations has been lacking and the neighborhood engagement efforts were not meaningful. She said the LUCA does not address residents' concerns. She said that City staff should have included more cities in its comparison of regulations. Ms. Morris expressed concern that the neighbors of tent cities are ignored.
- (5) Cliff Cantor said he was speaking for the Temple B'Nai Torah rabbi who was sick. He thanked the Council for taking a leadership role in addressing the issues involving individuals experiencing homelessness. He said that religious exercise should not be limited, and he expressed concern regarding the provision for a 12-month gap between encampments.
- (6) Samuel Basta said he is a native of Bellevue and he has always found the City Council and City staff to be fair. He has been volunteering for many years with the homeless population in both Seattle and Bellevue. He said that faith-based organizations are the major provider of housing and shelter, and it is important to be able to walk alongside individuals to help them solve their problems. He said that homelessness is a problem across the country and churches provide hope.
- (7) Colleen Laing, a resident of the Lake Hills neighborhood, said she is a Bellevue native and participates with the Eastside Human Services Forum and the Eastside Interfaith Gathering. She said the Bellevue School District counted approximately 300 homeless students this year, and one-third of Bellevue residents earn the minimum wage. She said that tent cities are important due to the lack of low barrier shelters and the lack of places for families, couples, and their pets to stay together. She said that stable living conditions are needed to help individuals get their lives back on track.
- (8) Karen Studders noted that she is the faith representative on the Eastside Human Services Forum work group and she serves as the interfaith coordinator under contract with the Church Council of Greater Seattle. She commented on the critical need for encampments and shelter, noting that it is disruptive for tent city residents when they have to move every few months. Ms. Studders recalled that a congregation sued the City of Bellevue in 2009. In that case, the Washington State Supreme Court held that city zoning restrictions must be narrowly tailored to achieve a compelling government interest and to allow religious organizations to exercise their rights. She referenced a court ruling in Idaho that cities cannot prosecute individuals for sleeping on the street if shelter beds are not available. She said she recently provided the Council with a list of 12 recommendations previously identified by the Church Council of Greater Seattle. She said that none of the recommendations are included in the proposed LUCA. She thanked the City for its successful effort to help preserve the Highland Village affordable housing units.

- (9) Michael Ramos, Church Council of Greater Seattle, noted his work through the Eastside Interfaith Gathering and urged the Council to allow more time to consider the LUCA in order to ensure that the City does not impose an undue burden on religious exercise. He said he has worked with seven tent cities and he repeatedly hears about the difference that they make in individual lives. He said it is important to uphold the dignity of both housed and unhoused residents equally and equitably.
 - (10) Joel Jackman said he lives next to Temple B’Nai Torah. He opined that the claim that temporary encampments have been successful ignores a number of problems and actual experiences. He said that accountability is needed and success should be defined as the degree to which a host and operator adhere to the permit requirements and neighborhood agreements.
 - (11) Brian Schuster said he chaired the logistics committee for Temple B’Nai Torah and signed the first permit for a temporary encampment. He said the residents are people like everyone else. He said his children have volunteered at the tent cities. He said he appreciates all of the City’s efforts to address homelessness and the need for housing options. He acknowledged that tent cities are not an ideal solution, but they are part of the solution. He encouraged the Council to avoid restricting religious exercise.
 - (12) Arnie Goldstein said he volunteers at Tent City 4 and works in community gardens that provide food for Hopelink clients. He concurred with Mr. Schuster that the encampment residents are no different than the rest of us. He said it has been rewarding to see encampment residents find their way to more stable housing and to rebuilding their lives.
- Councilmember Stokes moved to close the public hearing, and Councilmember Robertson seconded the motion.
- The motion carried by a vote of 6-0.

Responding to Mayor Chelminiak, Ms. Lin said the deadline for submitting comments for the public hearing was 5:00 p.m. However, individuals may continue to submit comments until the Council makes its decision on December 9. Mr. Chelminiak said it is important for the process to be as transparent as possible. He encouraged Councilmembers to submit any proposed amendments for enclosure in the relevant Council meeting packets.

Responding to Councilmember Lee, Mayor Chelminiak concurred that a decision is not absolutely required on December 9.

Councilmember Robertson said she would like further discussion on November 25 regarding the duration of encampment stays and insurance requirements. She said she believed the 2009 lawsuit was against the City of Woodinville and not the City of Bellevue. She expressed an interest in also discussing the history and potential mitigation of criminal activity related to tent cities.

Councilmember Stokes said he does not want Bellevue to be like Seattle. He wants to have a proactive approach that provides safety for everyone while providing the opportunity for the greatest public benefit and religious exercise. He believes the City can protect the neighborhoods and he would like to hear about the legal implications and limitations of the proposed Land Use Code provisions.

Councilmember Lee said he would like to talk more about the duration of stay and encampment frequency issues during the next discussion. He said it is important to ensure both free religious exercise and public safety.

Councilmember Zahn suggested a preamble in LUC 20.30U that outlines the purpose and goals of the LUCA. She shares her colleagues' interest in discussing the duration and frequency of encampments. Responding to Mayor Chelminiak, Ms. Lin said staff will include language regarding the rationale in the ordinance if directed by the Council to prepare an ordinance.

Councilmember Nieuwenhuis expressed an interest in information that addresses which encampment duration has been the most effective for tent city residents. He requested additional discussion regarding police reports and information submitted by the public regarding criminal activity in and near encampments.

Mayor Chelminiak said the Land Use Code limits most temporary uses to 90 days. He opined that the City would never revoke a permit short of a catastrophe of some type. He said the revocation of a permit should not be the sole factor in deciding whether to allow a permit applicant to use the streamlined permit process for repeat encampments.

Councilmember Robertson opined that the City Council needs to take action on December 9 in order for the East Bellevue Community Council to consider the matter before the consent decree expires.

Mayor Chelminiak thanked the faith community for their work with the City. He reiterated that he wants to ensure that the LUCA process is as transparent as possible.

10. Land Use: None.
11. Other Ordinances, Resolutions and Motions: None.
12. Unfinished Business: None.
13. Continued Oral Communications: None.
14. New Business: None.
15. Executive Session: None.

16. Adjournment

At 9:49 p.m., Mayor Chelminiak declared the meeting adjourned.

Charmaine Arredondo, CMC
City Clerk

/kaw