

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Regular Session

December 2, 2019
8:00 PM

Council Chamber
Bellevue, Washington

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

ABSENT: None.

1. Call to Order

Mayor Chelminiak called the meeting to order at 8:01 p.m.

2. Roll Call, Flag Salute

All Councilmembers were present. Councilmember Lee led the flag salute.

3. Approval of Agenda

Mayor Chelminiak noted the addition of Agenda Item 6(a), Advanced Metering Infrastructure (AMI) Contract Amendment, and requested moving Agenda Item 10(a), Ordinance No. 6494, to the end of the meeting.

→ Deputy Mayor Robinson moved to approve the agenda, as amended. Councilmember Stokes seconded the motion.

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

4. Oral Communications

(a) Emmanuel Solis asked the Council to reconsider the recommendation of the Planning Commission regarding proposed modifications to the Comprehensive Plan Amendment (CPA) process. He opined that very few CPA proposals have been withdrawn and there is no reason to be concerned with the current process.

(b) Randy Gaddy expressed opposition to a planned unit development (PUD) in the Lakemont area (File No. 19121109-LL) and noted the historical value of the former coal

mining area. He said an attempt at development on nearby property in the 1990s did not move forward due to the old coal mine shafts and stream corridors. He said the PUD proposes 35 homes. He expressed concern regarding the environmental, historic, and traffic impacts. He said there are no sewers in the area and that his and nearby houses are served by septic systems.

- (c) Dana Gaddy said the site of the PUD mentioned above is critical for wildlife habitat. She noted a petition signed by 250 individuals in the area who are opposed to the PUD. She expressed concern regarding traffic and environmental impacts as well as impacts on the historic coal mining area.
- (d) Heidi Dean said she was pleased to hear the discussion regarding the City's Economic Development Plan during the earlier Study Session. She said she appreciates the attention to small businesses and retail activity. She said Bellevue is experiencing a loss of essential services. She expressed concern regarding small businesses in the BelRed corridor given the current redevelopment. She suggested that the medical technology sector might provide opportunities for Bellevue.

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

6. Report of the City Manager

- (a) Advanced Metering Infrastructure (AMI) Contract Amendment

City Manager Brad Miyake introduced discussion regarding the proposed amendment to the Advanced Metering Infrastructure (AMI) contract [Agenda Item 8(g)].

Utilities Director Nav Otal recalled that the Council previously approved the implementation of Advanced Metering Infrastructure (AMI) in the 2017-2018 budget. The Council approved the vendor contract in December 2018. In working through the details with the vendor, staff learned that the project cost and schedule would need to be adjusted, largely due to the expanded scope of the communications network needed to implement AMI and the permit requirements for the installation of the network.

Ms. Otal said the City and vendor identified an alternative using cellular technology, which was not considered a cost-effective solution when it was initially studied by the City in the past. However, it would now be more cost-effective than the AMI option previously selected by the Council. Ms. Otal requested a contract adjustment from \$20.2 million to \$21.1 million for the cellular technology option. That amount includes \$500,000 in contingency funds, which was not included in the original project budget. Ms. Otal said a contract amendment is required whether the City continues with its current plan or chooses to implement the cellular technology. She said both options will have a positive net present value as anticipated in the original business case analysis. She noted that staff discussed the options with the Environmental Services Commission.

Ms. Otal said staff recommends the cellular technology option, which is less expensive, forward-compatible, and does not require the City to build and maintain its own communications network.

Councilmember Nieuwenhuis, liaison to the Environmental Services Commission, thanked staff for their work and for their ability to shift to a different technology solution. He thanked the Commission for its thorough review and support as well. He expressed support for the cellular technology option, which eliminates the need to install equipment throughout Bellevue.

Councilmember Zahn said she wanted to highlight staff's ability to reconsider the project and to identify a better solution for the City.

Responding to Councilmember Lee, Ms. Otal said the cellular option uses technology that is newer than installing the City's own network, and it will maximize the return on investment in the AMI system. She said the batteries now last up to 20 years, which results in additional cost savings.

7. Council Business and New Initiatives

Councilmember Lee recognized the recent retirement of Steve Poole after 40 years as a weather forecaster and reporter in the area. Mr. Lee commended Mr. Poole's active involvement in community events and philanthropic activities and wished him well.

Councilmember Zahn noted that the Chinese-Americans who served in World War II were recognized during the recent Seahawks game. She recalled that Councilmember Lee initiated a proclamation earlier this year to honor the veterans.

8. Consent Calendar

→ Deputy Mayor Robinson moved to approve the Consent Calendar, and Councilmember Stokes seconded the motion.

→ The motion to approve the Consent Calendar carried by a vote of 7-0, and the following items were approved:

(a) Council Minutes

Minutes of November 12, 2019 Extended Study Session

Minutes of November 18, 2019 Study Session

Minutes of November 18, 2019 Regular Session

(b) Resolution No. 9687 authorizing execution of a General Services Agreement with Premier Properties of Washington, LLC for a five-year term in an amount not to exceed \$500,000, plus all applicable taxes, to manage rentals and operate the Robinswood House.

- (c) Resolution No. 9688 authorizing execution of a General Services Contract with Plantscapes, Inc. for a five-year term in an amount not to exceed \$143,522.50, plus all applicable taxes.
- (d) Resolution No. 9689 authorizing execution of a General Services contract with Total Landscape Corporation for an initial two-year term in an amount not to exceed \$94,748.81, plus all applicable taxes, including an option to renew for an additional two years in an amount not to exceed \$94,748.81, plus all applicable taxes and any State-mandated prevailing wage increase and/or City-approved special or unanticipated market condition that does not exceed the Consumer Price Index (CPI-U, Seattle-Tacoma-Bellevue) for the most recently completed calendar year.
- (e) Resolution No. 9690 authorizing execution of a two-year contract with PPC Solutions, Inc. for uniformed security guard services at City Hall and Bellevue Service Center with an option to renew for an additional three years, for a total contract amount including contingency funds, not to exceed \$1,059,028.53, plus all applicable taxes.
- (f) Resolution No. 9691 authorizing execution of a five-year professional services agreement with First American Title Insurance Company for Title and Escrow Services for an amount not to exceed \$300,000, plus all applicable taxes.
- (g) Resolution No. 9692 authorizing amendment of a contract with Itron, Inc. for equipment and service for development and implementation of an Advanced Metering Infrastructure (AMI) system to increase the contract amount by \$900,000 to \$21.1 million plus all applicable taxes.
- (h) Ordinance No. 6488 updating the school impact fee schedule for Issaquah School District No. 411 and Renton School District No. 403; amending Section 22.18.100 of the Bellevue City Code; and establishing an effective date.
- (i) Resolution No. 9693 authorizing execution of a General Services contract with Canber Corps for an initial two-year term in an amount not to exceed \$73,296.96, plus all applicable taxes, including an option to renew for an additional two years in an amount not to exceed \$73,296.96, plus all applicable taxes and any State-mandated prevailing wage increase and/or City-approved special or unanticipated market condition that does not exceed the Consumer Price Index (CPI-U, Seattle-Tacoma-Bellevue) for the most recently completed calendar year.
- (j) Resolution No. 9694 authorizing execution of a General Services contract with Signature Landscape for an initial two-year term in an amount not to exceed \$53,609, plus all applicable taxes, including an option to renew for an additional two years in an amount not to exceed \$53,609, plus all applicable taxes and any State-mandated prevailing wage increase and/or City-approved special or

unanticipated market condition that does not exceed the Consumer Price Index (CPI-U, Seattle-Tacoma-Bellevue) for the most recently completed calendar year.

- (k) Resolution No. 9695 authorizing execution of a General Services contract with Badgley's Landscape for an initial two-year term in an amount not to exceed \$98,688, plus all applicable taxes, including an option to renew for an additional two years in an amount not to exceed \$98,688 plus all applicable taxes and any State-mandated prevailing wage increase and/or City-approved special or unanticipated market condition that does not exceed the Consumer Price Index (CPI-U, Seattle-Tacoma-Bellevue) for the most recently completed calendar year.
- (l) Resolution No. 9696 authorizing execution of a General Services contract with Canber Corps for an initial two-year term in an amount not to exceed \$503,563.96, plus all applicable taxes, including an option to renew for an additional two years in an amount not to exceed \$503,563.96 plus all applicable taxes and any State-mandated prevailing wage increase and/or City-approved special or unanticipated market condition that does not exceed the Consumer Price Index (CPI-U, Seattle-Tacoma-Bellevue) for the most recently completed calendar year.
- (m) Resolution No. 9697 authorizing execution of a General Services contract with Monarch Landscape LLC DBA Signature Landscape Services for an initial two-year term in an amount not to exceed \$71,600, plus all applicable taxes, including an option to renew for an additional two years in an amount not to exceed \$71,600 plus all applicable taxes and any State-mandated prevailing wage increase and/or City-approved special or unanticipated market condition that does not exceed the Consumer Price Index (CPI-U, Seattle-Tacoma-Bellevue) for the most recently completed calendar year.
- (n) Resolution No. 9698 authorizing execution of a General Services contract with Bagley's Landscape for an initial two-year term in an amount not to exceed \$83,828.80, plus all applicable taxes, including an option to renew for an additional two years in an amount not to exceed \$83,828.80 plus all applicable taxes and any State-mandated prevailing wage increase and/or City-approved special or unanticipated market condition that does not exceed the Consumer Price Index (CPI-U, Seattle-Tacoma-Bellevue) for the most recently completed calendar year.

9. Public Hearings

- (a) Public Hearing and action on Resolution No. 9699 authorizing the execution of documents necessary to release two existing sewer easements located at 8426 Overlake Drive West, Medina which have been declared surplus to the City's needs and are no longer required for providing continued public utility service; the granting and recording of such release being deemed in the best interest of the public.

Patti Ebert, Senior Real Property Agent, described the proposed release of a surplus sewer easement located at 8426 Overlake Drive West in Medina to accommodate the construction of a tennis court. A new sewer line has been installed and the private easement has been recorded.

- Deputy Mayor Robinson moved to open the public hearing, and Councilmember Stokes seconded the motion.
- The motion carried by a vote of 7-0.

Ben Thorn, representing the property owner, encouraged Council approval of the sewer easement release. He thanked the City for its expeditious handling of this matter.

- Deputy Mayor Robinson moved to close the public hearing, and Councilmember Stokes seconded the motion.
- The motion carried by a vote of 7-0.

Responding to Deputy Mayor Robinson, Ms. Ebert said the property owner is responsible for the maintenance of the private easement.

- Councilmember Lee moved to approve Resolution No. 9699, and Councilmember Robertson seconded the motion.
- The motion carried by a vote of 7-0.

10. Land Use *[Item moved to end of agenda.]*

11. Other Ordinances, Resolutions and Motions

- (a) Ordinance No. 6489 regarding development services under the Bellevue City Code; fees for applications requiring construction, land use, fire, survey, sign, transportation, utility, and clearing & grading review and inspection services; repealing Ordinance No. 6439; and establishing an effective date.

City Manager Miyake introduced a series of actions related to the adoption of modifications to the 2019-2020 Biennium Budget and the 2019-2025 Capital Investment Program (CIP) Plan.

Toni Call, Director of the Finance and Asset Management Department, requested Council action on modifications to the budget related to development services fees, fire inspection fees, the Transportation Impact Fee Schedule, the 2020 property tax and banked capacity, and staffing for the Police Department, Development Services Department, and A Regional Coalition for Housing (ARCH). The one-percent property tax adjustment reflects a cost of \$8 annually for a median-priced home in Bellevue (\$936,000). Ms. Call said the property tax rate will decrease from 92 cents per \$1,000 assessed valuation (AV) to 90 cents per \$1,000 AV in 2020.

- Deputy Mayor Robinson moved to adopt Ordinance No. 6489, and Councilmember Stokes seconded the motion.
- The motion carried by a vote of 7-0.
 - (b) Ordinance No. 6490 amending Bellevue City Code section BCC 23.11.113 related to fire inspection fees; and establishing an effective date.
- Deputy Mayor Robinson moved to adopt Ordinance No. 6490, and Councilmember Stokes seconded the motion.
- The motion carried by a vote of 7-0.
 - (c) Ordinance No. 6491 approving the 2020 Transportation Impact Fee Rate Schedule to reflect updated Institute of Transportation Engineers (ITE) trip generation factors and a base fee rate of \$6,854 (Attachment A), to be effective on January 1, 2020; retaining a fixed three percent indexing to be applied annually to the rate schedule beginning January 1, 2021; and repealing Ordinance No. 6266-D.
- Deputy Mayor Robinson moved to adopt Ordinance No. 6491, and Councilmember Stokes seconded the motion.
- The motion carried by a vote of 7-0.
 - (d) Ordinance No. 6492 establishing the amount of property taxes to be levied for the year 2020, the second year of the City of Bellevue's 2019-2020 fiscal biennium.
- Deputy Mayor Robinson moved to adopt Ordinance No. 6492, and Councilmember Stokes seconded the motion.

Councilmember Lee said he typically does not like to use the property tax unless it is for a specific purpose. While the property tax rate is decreasing, the total amount of taxes paid by a resident is increasing due to the rise in property values. He said the Council would be able to increase the property tax rate in the future if needed.

Councilmember Robertson said the City has been very responsible in its budgeting and tax levies. She noted that Resolution No. 9700 reflects a property tax banked levy capacity of nearly \$9 million due to the Council's past decisions over a number of years to not increase the property tax. Ms. Robertson said the revenue is needed to support multiple items including police officers and the establishment of Fire Station 10. She said the City's expenses are projected to exceed revenues within the next couple of years. She said the local inflation rate is currently 2.2 percent, and Bellevue's property tax adjustment is one percent. Ms. Robertson noted that economic development generates additional taxes, which helps to maintain a low property tax rate. She expressed support for the motion as the responsible course of action.

Mayor Chelminiak concurred with Councilmember Robertson's comments and expressed support for the motion.

Councilmember Stokes expressed support for the motion and noted that property tax adjustments are always considered very carefully by the Council and staff. He said it is important to be able to continue to fund needed services in Bellevue.

Councilmember Zahn expressed support for the motion. She thanked the Police Department for its thorough review of its staffing needs and costs.

→ The motion carried by a vote of 6-1, with Councilmember Lee dissenting.

- (e) Resolution No. 9700 providing for the banking of levy capacity pursuant to RCW 84.55.005, 84.55.0101 and 84.55.092.

→ Deputy Mayor Robinson moved to approve Resolution No. 9700, and Councilmember Stokes seconded the motion.

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

- (f) Ordinance No. 6493 adopting the modification of the 2019-2020 Biennium Budget and 2019-2025 Capital Investment Program Plan, as both have been previously amended; setting forth the estimated revenues and appropriations; establishing job classifications and pay ranges; and establishing an effective date.

→ Deputy Mayor Robinson moved to adopt Ordinance No. 6493, and Councilmember Stokes seconded the motion.

Councilmember Robertson expressed support for the proposed modifications to the 2019-2020 Biennium Budget and the 2019-2025 Capital Investment Program (CIP) Plan. She said the budget update includes a number of important revisions, including items to strengthen public safety.

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

- (g) Ordinance No. 6495 amending the Bellevue Land Use Code at Parts 20.30I.130.A.2.d, 20.30I.110, and 20.30I.A.2.a LUC, for the annual Comprehensive Plan Amendment process; and establishing an effective date.

City Manager Miyake recalled that the Council last discussed on November 4 the proposed Land Use Code Amendment (LUCA) related to the annual Comprehensive Plan Amendment (CPA) process.

Mac Cummins, Director of the Community Development Department, noted that staff was present to respond to questions from the Council.

Responding to Councilmember Zahn, Mr. Cummins said the proposed amendments create a three-year waiting period from the date of submitting a Comprehensive Plan Amendment (CPA) application. In further response to Ms. Zahn, Senior Planner Nicholas Matz said the Planning Commission had extensive discussion regarding a two-year versus three-year waiting period for resubmitting a CPA proposal. They discussed the potential economic, land use, and neighborhood participation impacts and ultimately decided to support the three-year limitation. Ms. Zahn said she is inclined to support the three-year waiting period.

Councilmember Lee expressed support for staff's recommended three-year waiting period for resubmitting a CPA proposal.

Councilmember Robertson said she supports the ordinance as presented by staff. She expressed support for the proposed annual deadline of September 15 for submitting CPA applications. If the waiting period begins at the time of application, she supports a two-year waiting period before resubmitting a proposal. She believes that the earlier deadline will result in more serious and thoughtful applications. She expressed concern that the longer waiting period could result in missed opportunities for development and redevelopment.

- Deputy Mayor Robinson moved to adopt Ordinance No. 6495, and Councilmember Robertson seconded the motion.
- Deputy Mayor Robinson moved to amend Ordinance No. 6495 to read "three-year limitation" instead of two years. Councilmember Lee seconded the amendment.

Responding to Deputy Mayor Robinson, Mr. Matz said the existing statute includes a three-year limitation. Ms. Robinson said she is comfortable with the three-year waiting period.

Responding to Mayor Chelminiak, Mr. Matz clarified that under the current process, an applicant must wait three annual cycles to resubmit a CPA proposal if it is not advanced from threshold review to final review or is denied by the Council following final review.

Councilmember Stokes expressed support for a two-year waiting period between submitting CPA applications for the same property. He expressed concern regarding the potential for missing out on development opportunities that might be wanted by the neighborhood or broader community.

Councilmember Nieuwenhuis said he supported the ordinance as written, including the two-year waiting period. He opined that a three-year period could be seen as punitive and could discourage developers and residents from working together for better solutions.

Councilmember Zahn noted that she and Councilmember Lee supported the staff recommendation for a three-year waiting period during the November 4 Council meeting.

Responding to Ms. Zahn, Mr. Matz said the ordinance requires a new pre-development services application, which provides the opportunity for City staff in a number of departments to review and comment on the proposal.

Councilmember Lee acknowledged that the purpose of the waiting period is to discourage the submittal of less serious proposals. He said that, if a CPA proposal is denied, the Council could initiate a similar CPA for the same property.

Deputy Mayor Robinson asked staff to comment on the possible scenario of a Council-initiated CPA proposal following the denial of a private CPA application, in order to expedite the rezone and avoid waiting for two or three years. Mr. Matz said the Council may initiate a CPA at any time, and those proposals move directly to final review.

Mr. Cummins said the Council typically initiates CPAs for a public purpose (e.g., adding transportation projects to the Comprehensive Plan). He said the process is not intended to encourage the initiation of a CPA by the Council if a private application is denied through the regular CPA process. Mr. Cummins confirmed that there is a process to address situations in which substantial changes affecting a CPA proposal have occurred during the resubmittal waiting period.

Councilmember Robertson recalled that the last Council-initiated CPA involved the placement of affordable/transitional housing at St. Margaret's Episcopal Church. The church had missed the application deadline and asked the Council to enable the development of transitional housing by processing a CPA. Ms. Robertson said she is not aware of any Council-initiated CPA intended to implement a failed private CPA application. She reiterated that the three-year waiting period is unfairly punitive and she would not want it to discourage innovation, investment, and redevelopment. Councilmember Robertson said she would not support the motion to amend.

Councilmember Stokes reiterated his concern that the three-year waiting period is too long. He expressed support for the two-year limitation and for encouraging proposals to move forward for the benefit of the community.

Responding to Mayor Chelminiak, Mr. Matz said staff identified 11 past repeat CPA applications shared by four property owners.

Mr. Chelminiak expressed a preference for the three-year waiting period. He said a Council-initiated CPA should be used only to achieve a public benefit. He recalled that in the past, the Council initiated a CPA to allow pedestrian bridges in the Downtown in order to support redevelopment.

→ The motion to amend carried by a vote of 4-3, with Councilmembers Nieuwenhuis, Robertson, and Stokes opposed.

Councilmember Robertson opined that the three-year waiting period is too harsh and potentially inconsistent with the Growth Management Act.

Councilmember Nieuwenhuis said the two-year waiting period provides a good balance between residents' concerns about the process and the goal of encouraging serious, well thought out CPA proposals.

Councilmember Stokes concurred and reiterated his concern that the three-year waiting period will have a negative effect on redevelopment.

→ The motion to adopt Ordinance No. 6495, as amended, carried by a vote of 4-3, with Councilmembers Nieuwenhuis, Robertson, and Stokes opposed.

Councilmember Robertson recused herself from the next item and left the meeting at 9:45 p.m.

10. Land Use

- (a) Ordinance No. 6494 denying appeals of the Hearing Examiner's decision approving a Conditional Use Permit with conditions, on the application of Puget Sound Energy for the South Bellevue Segment of the Energize Eastside Project located at 13625 SE 30th Street and south to the Bellevue city limits at 6927 128th Place SE, Application No. 17-120556-LB; approving said Conditional Use Permit; and establishing an effective date.

City Attorney Kathy Gerla noted that this is a quasi-judicial proceeding. She said the Appearance of Fairness Doctrine requires that the City announce the contents of ex parte communications and the parties' right to rebut the substance of any contacts. She said 18 emails were previously identified as potentially containing ex parte communications regarding the conditional use permit (CUP) application of Puget Sound Energy for the South Bellevue Segment of the Energize Eastside project. Staff has not identified additional ex parte communications since the November 14 Council meeting.

Responding to Mayor Chelminiak, all Councilmembers indicated that they had no new ex parte contacts to disclose.

Ms. Gerla advised that the parties to the appeal, if present, should be invited to rebut the substance of the previously disclosed communications. No one came forward to comment.

Ms. Gerla recalled that in June 2019, the City's Hearing Examiner issued a decision approving Puget Sound Energy's CUP application for the South Bellevue Segment of the Energize Eastside project. The Hearing Examiner's decision contained 57 conditions of approval. Five appeals of the Hearing Examiner's decision were filed and the Council held a limited appeal hearing in October. After review and consideration of the record before the Hearing Examiner and the arguments of the parties during the November 14, 2019 Council meeting, Councilmembers discussed their views about whether or not the permit should be granted. Ms. Gerla said that at that same meeting, the Council approved a motion directing the City Attorney's Office to draft an ordinance denying the appeals and approving the CUP as approved by the Hearing Examiner.

Ordinance No. 6494 responds to the Council's previous direction to staff. If adopted, it will deny the appeals of all of the appellants on the basis that they failed to meet their burden to prove that the Hearing Examiner's decision was not supported by material and substantial evidence in the record. The ordinance contains conclusions about the Council's lack of jurisdiction over several

issues and approves the CUP application of Puget Sound Energy for the South Bellevue Segment of the Energize Eastside project as conditioned by the Hearing Examiner.

Ms. Gerla noted that, if the ordinance is approved tonight, Councilmembers still should not discuss this matter with members of the public supporting or opposing the permit because the matter is likely to be appealed to the Superior Court and could be remanded back to the Council.

Mayor Chelminiak requested Council action on the proposed ordinance.

→ Deputy Mayor Robinson moved to adopt Ordinance No. 6494, and Councilmember Stokes seconded the motion.

→ The motion carried by a vote of 6-0, with Councilmember Robertson absent.

12. Unfinished Business: None.

13. Continued Oral Communications: None.

14. New Business: None.

15. Executive Session: None.

16. Adjournment

At 9:51 p.m., Mayor Chelminiak declared the meeting adjourned.

Charmaine Arredondo, CMC
City Clerk

/kaw