

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Regular Meeting

November 28, 2022
6:00 p.m.

Council Chambers
Bellevue, Washington

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

ABSENT: None.

1. Call to Order

The meeting was called to order at 6:00 p.m., with Mayor Robinson presiding.

→ Councilmember Zahn moved to approve an excused absence for Deputy Mayor Nieuwenhuis from the December 5 meeting, and Councilmember Stokes seconded the motion.

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

2. Roll Call; Flag Salute

City Clerk Charmaine Arredondo called the roll and all Councilmembers were present. Councilmember Zahn led the flag salute.

(a) Toni Call Commendation

Deputy Mayor Nieuwenhuis read the commendation recognizing Toni Call's 11 years of service with the City of Bellevue. Ms. Call joined the City in 2011 and most recently served as the Director of the Finance and Asset Management Department.

Ms. Call thanked the Council for the commendation and for their service to the community. She complimented City Manager Miyake and the Leadership Team for their professionalism, collaboration, mentorship and commitment to public service.

City Manager Brad Miyake acknowledged Ms. Call's family in attendance including her mother, husband and children. Mr. Miyake noted the many staff members in attendance and thanked them for their work and support. He commended Ms. Call for her critical thinking skills, positive energy, stewardship ethic and caring leadership.

3. Approval of Agenda

- Deputy Mayor Nieuwenhuis moved to approve the agenda, and Councilmember Stokes seconded the motion.
- The motion carried by a vote of 7-0.

4. Oral Communications

- (a) Randy Gaddy thanked the Council for its goal to significantly increase the availability of affordable housing in Bellevue by 2044. He thanked Deputy Mayor Nieuwenhuis and Councilmember Zahn for visiting the Isola property in the Lakemont area. Mr. Gaddy said the former owner of the property previously sold other property to the City to preserve it for park use. Mr. Gaddy said the remaining 12.5 acres is special due to its coal mining history and its function as a wildlife corridor connecting the Coal Creek Natural Area and the Cougar Mountain Regional Wildland Park. Mr. Gaddy urged the City and King County to purchase the land for the purposes of preservation, education and recreation. He said the developer's plan to build 35 homes on the site will not address the need for affordable housing.
- (b) Madhu Reddy Timiri said he is the current owner of the property at 4277 137th Avenue NE, which is being considered for inclusion in King County's Public Benefit Rating System (PBRS) program [Agenda Item 10(c)]. He said he applied for the program in part to make up for the additional greenhouse gases and climate impacts of development in Bellevue. He said he was approached earlier this year by developers interested in purchasing the property. He described the wildlife that travels through the property including pileated woodpeckers, lynxes, coyotes, owls, American bald eagles and other species. He said the reforestation plan for the property will require a substantial investment by him. He thanked the Council for its consideration of his request.
- (c) Alex Zimmerman said the City of Seattle and King County are controlled by Democrats. He expressed concerns regarding tech companies and the cost of housing.
- (d) Joan Nolan said she has lived in Bellevue for 29 years and she appreciates living in the City in a Park. She urged the Council to protect the Isola property from development. She previously worked for the Washington State Department of Ecology in the areas of water quality protection and restoration. She expressed concern that while the Isola development proposal might be legal in terms of stormwater permitting, the development will not allow natural infiltration on site. She said the engineers involved with the Isola property determined that the site is not feasible for low-impact development practices. She said stormwater will be collected and filtered in a giant stormwater vault before it is discharged above the iconic waterfall next to the Coal Creek trail. She expressed concern regarding the development's impacts on salmon restoration efforts and the tree canopy.

- (e) Pamela Johnston said the characteristics mentioned above about the Timiri property are applicable to essentially all Bridle Trails properties. She spoke in favor of approving the PBRS designation for the 0.28 acre section. However, she recommended rejecting the request for the restoration portions because there are too many unanswered questions. She noted that King County approved the proposal for those portions with conditions. Ms. Johnston said the proposal does not meet the PBRS law's purpose of retaining forest, agriculture and open space. She expressed concern that neighboring property owners were not notified about the application.
- (f) Steve Williams said he worked for 20 years as the King County park manager for the Coal Creek Natural Area and Cougar Mountain Regional Wildland Park. He led educational hikes and nature walks throughout his career and has recently been leading history hikes through the Eastside Heritage Center. He said more than 100 species live or travel through the wildlife corridor connecting the two parks. He encouraged the City to partner with King County, the Trust for Public Land, and/or the Conservation Futures program to acquire the Isola property to complete the Coal Creek Natural Area.
- (g) Brad Jones, Executive Director for Visit Bellevue Washington, thanked the City's cultural and economic development staff for their work related to economic growth and development in Bellevue's visitor economy. He said the highest priorities in the Bellevue Destination Development Plan are organization, operations and budget. He encouraged the City to partner with Visit Bellevue Washington and hoteliers to form a Tourism Promotion Area (TPA) to provide ongoing funding to support development plans and community economic priorities. He said there are currently 16 TPAs in Washington state. He asked the Council to approve the TPA Interlocal Agreement.
- (h) Loretta Lopez, Co-President of the Bridle Trails Community Club, recalled the Council's discussion on September 6 regarding the PBRS proposal for the Timiri property. At that meeting she stated that the club had not taken a position on the proposal because residents felt they did not have adequate information. She said she tried repeatedly to get information from City staff and did not receive satisfactory responses. She said she had hoped the Council would not take up this issue again immediately after Thanksgiving. She said the club did not ignore or forget about this issue. She said they were unable to analyze or take a position regarding the PBRS proposal because they continue to lack adequate information.
- (i) Claire Sumadiwirya, the founder of Bellden Café on Main Street, expressed support for the proposed TPA. She said the TPA will benefit small businesses and the entire community. She said the enhanced focus on economic vitality will help to maintain Bellevue's quality of life and diversity.
- (j) David Nadelman, Area Vice President and General Manager for the Hyatt Regency Bellevue, thanked the City for its close partnership with hoteliers and Visit Bellevue Washington. He asked the Council to support the formation of the TPA. He noted his past experience working with TPAs in San Francisco and Anaheim. Mr. Nadelman said they have collected signatures representing 80 percent of Bellevue hotel rooms in support of

the TPA, far above the state requirement of 60 percent. He said that more than 90 percent of hoteliers in TPAs indicated that they increased the number of hotel nights sold due to TPA programs.

5. Reports of Community Councils, Boards, and Commissions: None.
6. Report of the City Manager

- (a) First Place 2022 Digital Cities Survey Award

City Manager Brad Miyake welcomed staff to provide an update regarding the recent Digital Cities Survey Award.

Sabra Schneider, Director of the Information Technology Department, introduced Chelo Picardal, Assistant Director, and PJ Rodriguez, Assistant Director. Ms. Schneider said Bellevue won first place in the 125,000-250,000 population category for 2022. This is the fifth year in a row that Bellevue has placed in the top three cities and the third time that Bellevue has been awarded first place. Ms. Schneider noted that Councilmember Zahn attended the National League of Cities (NLC) conference and accepted the award on behalf of the City.

Ms. Picardal said the annual Digital Cities Survey examines the overall technology, programs and plans for each town and city that applies for the awards. The survey covers data management, analytics, networking, security, digital innovation, culture and leadership, application development, user-centric technologies and cost-effective services. The projects highlighted in Bellevue's survey were interactive data dashboards, the multilingual chatbot and the public records center. The award application emphasized progress on the City's Smart Mobility Plan including Vision Zero partnerships that utilize video from traffic cameras to track near-collisions and improve safety. Ms. Picardal said that with the onset of the pandemic, free public internet service to affordable housing properties, community centers, parks and other facilities was upgraded.

Mr. Rodriguez said the data dashboards highlighted in the City's application included the Council priorities dashboard launched in 2022, which showcases progress toward Council goals as well as key performance indicators. The Police data dashboard supports community transparency, trust and accountability while helping to achieve the Council's priorities. Mr. Rodriguez said the City also provided data to the public related to employment, tourism, small businesses, workforce development and international trade. The MyBellevue chat bot was relaunched and expanded beyond Covid-19 questions and now supports general questions and continues to expand in multiple languages. Mr. Rodriguez said the City also redeveloped a public document center allowing for the public to access frequently requested documents such as ordinances, resolutions, Council meeting packets and meeting minutes. Another initiative highlighted in the application was the City's response to the pandemic involving hybrid public meetings, outreach and services.

Ms. Schneider said the award highlights work and digital transformation across the City from pandemic response and recovery to resident communications and operational efficiencies. She

said this is all made possible by the Council's innovative vision, partnerships in the community and region, and by the many staff involved in numerous projects.

Mayor Robinson congratulated staff on the award.

- (b) Environmental Stewardship Initiative (ESI) Quarterly Update
[Written information only. No presentation.]

7. Council Business and New Initiatives: None.

8. Consent Calendar

→ Deputy Mayor Nieuwenhuis 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 14, 2022 Regular Meeting
- (b) Ordinance No. 6699: 1) authorizing execution of an agreement with Premier Golf Centers, LLC for the management of the clubhouses and driving ranges at Bellevue and Crossroads Golf Courses for an initial five-year term with an option to renew for an additional four-year term in an amount not to exceed \$26,000,000 plus all applicable taxes; 2) amending Ordinance No. 6698, adopted November 21, 2022, to amend the 2023-2024 budget to increase the General Capital Investment Program (CIP) Fund appropriation by \$50,000 with funds contributed by Premier Golf Centers, LLC; and 3) amending the 2023-2029 CIP Plan to increase the budget for the Enterprise Facility Improvements (CIP Plan No. P-R-02) by \$50,000 for capital improvements at the Bellevue and Crossroads Golf Courses.
- (c) Ordinance No. 6700 amending Ordinance No. 6622, adopted November 22, 2021 and previously amended, to amend the 2021-2022 Budget by amending the 2021-22 Hotel/Motel Tax Fund by increasing the estimated revenues and appropriation by \$1,300,000, for the estimated amount of actual Transient and Occupancy Tax (TOT) revenue collections above budget.
- (d) Ordinance No. 6701: (1) amending Ordinance No. 6622, adopted November 22, 2021, and previously amended, to amend the 2021-2022 Budget to increase the Parks Enterprise Fund appropriation by \$1,200,000 to sufficiently budget for Bellevue and Crossroads Golf Course user fee revenues and vendor contract expenses, and (2) amending Resolution No. 9491, adopted November 19, 2018, to increase the Premier Golf Centers, LLC contract by an amount not to exceed an additional \$1,200,000, plus all applicable taxes.

- (e) Ordinance No. 6702 amending Ordinance No. 6622, adopted November 22, 2021 and previously amended, to amend the 2021-2022 Budget by increasing the General Self Insurance Fund appropriation by \$400,000 to reflect actual costs of liability claims made against the City, purchase of commercial insurance coverage, and administrative costs.
- (f) Resolution No. 10165 authorizing the execution of a Property Exchange Agreement, and all necessary documents attached thereto, between the City of Bellevue and Rochel, L.L.C., which would exchange publicly owned property for easement rights needed for the Valley Creek Flood Control project
- (g) Resolution No. 10166 authorizing execution of all documents necessary for the acquisition of property in the Cougar Mountain/Lakemont neighborhood area, at 6999 SE Cougar Mountain Way, including a purchase and sale agreement, in an amount not to exceed \$980,000, plus related costs.
- (h) Resolution No. 10167 authorizing execution of an amendment to the Professional Services Contract with Seamark Law Group PLLC, outside counsel for the City in the lawsuit Hoydal v. City of Bellevue, et al (KCSC Case No. 20-2-16392-9), in an amount not to exceed \$150,000, exclusive of any applicable taxes.
- (i) Resolution No. 10168 authorizing execution of an amendment to the Professional Services Contract with Seamark Law Group PLLC, outside counsel for the City in the lawsuit Santangelo v. City of Bellevue, et al (KCSC Case No. 21-2-00478-1), in an amount not to exceed \$115,000, exclusive of any applicable taxes.
- (j) Resolution No. 10169 authorizing execution of an amendment to a professional services contract (No. 2150019) with Stantec Consulting, for Miscellaneous AC Water Main Replacement Project Services - 2021, to revise scope of services and increase contract capacity by \$12,504, for a total contract amount not to exceed \$102,144, plus all applicable taxes.
- (k) Resolution No. 10170 authorizing execution of an amendment to a professional services contract (No. 2050024) with HDR Engineering, Inc., for Utilities On-Call Professional Services (2020-2022) for Water, Sewer and Stormwater, to renew for an additional 2-year term, revise scope of services, and increase contract capacity by \$2,000,000, for a total contract amount not to exceed \$9,000,000, plus all applicable taxes.
- (l) Resolution No. 10171 authorizing execution of an amendment to a professional services contract (No. 2050026) with Jacobs Engineering Group, Inc., for Utilities On-Call Professional Services (2020-2022) for Water, Sewer and Stormwater, to renew for an additional 2-year term, revise scope of services, and increase contract capacity by \$2,000,000, for a total contract amount not to exceed \$9,700,000, plus all applicable taxes.

- (m) Resolution No. 10172 authorizing execution of a professional services contract with Community Attributes Inc. (CAI), for a fixed sum not to exceed \$112,000, plus all applicable taxes, for a Retail Study to define current and future retail needs and identify actions to support retail in the City of Bellevue.
- (n) Resolution No. 10173 authorizing execution of an amendment to a professional services contract (No. 2050025) with Consor North America Inc. (formerly doing business as Murrysmith Inc.), for Utilities On-Call Professional Services (2020-2022) for Water, Sewer and Stormwater, to renew for an additional 2-year term, revise scope of services, and increase contract capacity by \$2,000,000, for a total contract amount not to exceed \$9,000,000, plus all applicable taxes.
- (o) Resolution No. 10174 authorizing execution of an amendment to a professional services contract (No. 2050038) with Tetra Tech, Inc., for Utilities On-Call Professional Services for Water, Sewer and Stormwater (2020-2022), to renew for an additional 2-year term, revise scope of services, and increase contract capacity by \$2,000,000, for a total contract amount not to exceed \$9,000,000, plus all applicable taxes.

9. Public Hearings: None.

10. Study Session Items

- (a) Proposed Ordinance Adopting Public Defense Standards

City Manager Miyake introduced discussion regarding the proposed ordinance adopting public defense services standards. He said the City has been providing funding for several years for public defender services to individuals who are unable to pay for legal counsel.

Bianca Seigl, Assistant Director, City Manager's Office, said staff is requesting Council direction to return to a future meeting for formal action on the proposed public defense standards.

Allison Zegarra, Management Fellow, said the public defense program includes client screening and legal counsel by one of the City's contracted public defenders. One public defense firm represents the majority of clients, and two conflict public defense firms provide legal counsel if the defendant has a conflict with the primary public defense firm.

Ms. Zegarra said state law requires that cities adopt public defense standards. The City sees this as an opportunity to support high-quality and effective legal representation of clients by incorporating standards into the city code. The proposed ordinance incorporates guidance from the Washington State Bar Association Standards for Indigent Defense Services, relevant court cases, and the rules adopted by the Washington State Supreme Court. Ms. Zegarra said staff also reviewed public defense standards in neighboring jurisdictions.

The proposed ordinance addresses contractor duties and responsibilities, case load limits, reporting requirements, accessibility, client complaints, and training and supervision requirements. The benefits of the ordinance are effective public defense representation, the codification of existing practices, and to qualify the City to apply for grant funds that can be used to enhance the program.

Ms. Zegarra requested Council direction to return with an ordinance at a future meeting for final action on adopting public defense standards.

Councilmember Zahn thanked staff for the presentation. Responding to Ms. Zahn, Ms. Zegarra confirmed that the City would not be eligible for grant funds if public defense standards are not in place. She said translation services are a compensated expense for the contracted attorneys. Grant funds are targeted toward services that the City is not already providing.

Catherine Drews, City Attorney's Office, said there is a standard stating that public defense attorneys shall have or make available translation services and other accommodations. Ms. Zahn asked whether there is representation for individuals who may have neurodiversity. Ms. Drews said the public defender services contract requires that public defenders are able to communicate with their clients. She said there are non-discrimination provisions in the standards. The standards refer to the qualifications for attorneys and have provisions to ensure that client services are provided in a manner that is understandable and reachable to the population intended to be served.

Councilmember Zahn expressed support for adopting public defense standards.

Councilmember Robertson noted language in the proposed standards referring to providing services that facilitate communications based on a client's communication disability. Ms. Robertson thanked staff for bringing this issue forward. She expressed support for the proposed ordinance and noted a willingness to adopt the ordinance tonight or on a future consent calendar.

Councilmember Stokes concurred with Ms. Robertson and complimented staff on their work. As a lawyer, he said he would be pleased to be able to work within this context. He believes the standards will help to ensure effective public defense services.

Councilmember Lee said it sounds like the standards will make the public defense program more effective and responsive. Responding to Mr. Lee, Ms. Zegarra said the state law is intended to encourage cities to adopt standards by offering grant funding as an incentive. Mr. Lee expressed support for the proposed ordinance.

Councilmember Barksdale asked about the potential for organizing a community group to periodically review the public defense program. Ms. Siegl said she believed that could be considered in the future.

Deputy Mayor Nieuwenhuis thanked staff for the presentation and proposed ordinance. He said whenever there are clear expectations, relationships and partnerships tend to work more effectively. He expressed support for the proposed ordinance.

- Deputy Mayor Nieuwenhuis moved to direct staff to prepare an ordinance adopting public defense standards for final action at a future meeting on the Consent Calendar. Councilmember Stokes seconded the motion.
- The motion carried by a vote of 7-0.

(b) Update on Establishment of a Tourism Promotion Area (TPA)

City Manager Miyake introduced discussion regarding the proposed establishment of a Tourism Promotion Area (TPA).

Jesse Canedo, Assistant Director, Community Development Department, recalled that the potential for a TPA was first discussed with the Council in 2017-2018 during the preparation of the Destination Development Plan with Visit Bellevue Washington. He thanked local businesses for their involvement in this process.

Lorie Hoffman, Arts Community Manager, said a TPA is a way to generate revenues for tourism promotion. It adds a per-night charge on lodging in the defined TPA. In King County, two or more local governments are needed to establish a TPA.

The proposed Bellevue-Redmond TPA Interlocal Agreement is a five-year agreement with the City of Bellevue designated as the legislative authority. Bellevue and Redmond are separate zones and the revenue generated is kept separate. The proposed charge is \$2.50 per room, per night and the City of Bellevue may retain five percent of all revenues to cover administrative costs. The TPA Interlocal Agreement creates an advisory board of hoteliers. The City Council would approve or deny any recommendations, including the budget, by the advisory board.

Ms. Hoffman commented on the economic impacts of tourism. If a visitor spends \$300 on their hotel stay, they can be expected to spend an additional \$660-720 in the local economy during their stay. Ms. Hoffman said the TPA could generate more than \$3.5 million for tourism promotion in its first full year. TPA revenues can only be spent on activities that promote tourism and Visit Bellevue's Destination Development Plan represents an action plan. Activities that could be supported by the TPA include multicultural and cross-cultural events, an expanded Tourism Ambassadors program, development as a culinary destination, festivals and events, outdoor recreation and music performances.

Ms. Hoffman said there is strong support from hotels for the TPA in Bellevue and Redmond. She said state law requires that representatives of 60 percent of hotel rooms sign the TPA petition, and there is currently 80 percent support with no vocal opposition.

Ms. Hoffman highlighted the TPA formation process. If the Council decides to move forward, the draft Interlocal Agreement will be reviewed and approved by both cities and a public hearing will be held in early 2023. The TPA ordinance will be adopted and the advisory board will be convened by mid-2023. The collection of the TPA revenues is anticipated to begin on July 1, 2023.

Deputy Mayor Nieuwenhuis, liaison to the Bellevue Convention Center Authority (BCCA) Board of Directors, said Bellevue has much to offer and enhanced marketing will stimulate tourism. He anticipates more successful events such as the Rock 'n' Roll half-marathon in Bellevue.

Responding to Mr. Nieuwenhuis, Ms. Hoffman said the five-year Interlocal Agreement will automatically renew. However, the stakeholders could petition to dissolve the TPA during that time period. Ms. Hoffman said they have not heard any strong vocal opposition to the TPA to date. However, the public will have the opportunity to comment during the public hearing next year.

Mayor Robinson said she appreciates that the arts and culture program is part of the economic development division. She said the TPA is collaborative, opportunistic and beneficial to economic development. She noted that Copenhagen had a reputation for terrible food some years ago, and they subsequently undertook a deliberate and successful effort to become a culinary destination.

Councilmember Barksdale expressed support for generating revenue to increase visitor activities in Bellevue. He asked about the potential for supplementing the advisory board with other stakeholders affected by the TPA. Mr. Canedo said the TPA advisory committee will work closely with the Visit Bellevue advisory board, which includes representatives of hotels, small businesses, cultural institutions and others.

Councilmember Lee noted his longstanding interest in economic development and vitality. He said the proposed TPA does not change Bellevue's model but generates revenue to increase tourism. He asked whether there are other models that might be more efficient or effective in raising funding.

Mr. Canedo said staff studied other models during the drafting of the Destination Development Plan. He said the TPA is considered the most common and effective approach in the country.

Mr. Lee commented that he would rather not have five percent of the revenues going to the City of Bellevue as the administrator. He would prefer that all of the revenues be used to promote tourism.

Councilmember Stokes said many of the activities are already in place and the TPA will bring those efforts together. He expressed enthusiastic support for partnering with the City of Redmond and for moving forward with the Interlocal Agreement.

Councilmember Robertson said she was initially skeptical about the idea of a TPA. However, after learning more about it and seeing the support of the hotel industry, she is excited about the potential for the program. Responding to Ms. Robertson, Ms. Hoffman confirmed that approximately \$2.5 million will be raised for Bellevue and \$1 million will be raised for Redmond during the first year. Councilmember Robertson said she is pleased to see that the

revenue from the two cities will be kept separate. In further response to Ms. Robertson, Ms. Hoffman said there is nothing that would prohibit adding another city to the TPA in the future.

Councilmember Robertson said the Interlocal Agreement refers to the advisory board's role in making recommendations regarding the TPA budget or other policies. The agreement states that the City of Bellevue could approve or deny, but not alter, the recommendations. Ms. Robertson said she did not see that limitation in the statute.

Ms. Hoffman said the intent is for the stakeholders (hoteliers) to be heard. If the City wanted to modify the budget, for example, the suggested revisions could be forwarded to the stakeholder advisory board for consideration.

Ms. Robertson expressed concern about the language. She said state law indicates that the legislative authority (Bellevue) imposing the TPA charge shall have the sole discretion as to how the revenue is used to promote tourism. It further states that the legislative authority may appoint existing advisory boards or commissions to make recommendations, or the legislative authority may create a new advisory board or commission for that purpose. Ms. Robertson said that while she supports the concept of an advisory board, she is not comfortable with limiting the City's legislative authority. She expressed support for the Interlocal Agreement but would like to revisit that provision.

Mr. Canedo said the provision was a key priority for the hotels, especially in Redmond. He said staff will discuss the issue with the stakeholders.

Councilmember Robertson noted that the advisory board will have an equal number of representatives from Bellevue and Redmond. She suggested that Bellevue should have greater representation if it is generating two-thirds of the anticipated revenue.

Councilmember Zahn said she was the former liaison to the BCCA Board. She expressed support for the proposed TPA and noted that there are other cities charging much higher TPA fees. She said the TPA was initiated by the hotels and she is comfortable with the proposed approach. She likes the idea of forming an advisory board and supports keeping revenues separate between the two cities. Responding to Ms. Zahn, Ms. Hoffman said that up to five percent of the revenues could go to the City as the legislative authority.

→ Deputy Mayor Nieuwenhuis moved to direct staff to continue to work on the Bellevue-Redmond Tourism Promotion Area (TPA) and to return with an Interlocal Agreement for approval at a future meeting. Councilmember Stokes seconded the motion.

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

At 7:45 p.m., Mayor Robinson declared a short break. The meeting resumed at 7:55 p.m.

- (c) Council consideration of an application for Public Benefit Rating System (PBRs) Open Space Classification of the Timiri and Ostergaard property located at 4277 137th Avenue NE, Bellevue, Washington (King County Parcel No. 8669400210).

City Manager Miyake recalled that this issue was last before the Council on September 6. At that time, the Council held a public hearing and discussed the application for a Public Benefit Rating System (PBRs) Open Space Classification for property in the Bridle Trails neighborhood. The Council directed staff to provide responses to questions, which are included in tonight's meeting packet, and to reach out to the Bridle Trails community for input.

Nick Whipple, Planning Manager, Development Services Department, said staff is asking the Council to consider the adoption of the resolution to approve, with conditions, the Timiri and Ostergaard application through the PBRs program. The PBRs program was enacted by the Open Space Taxation Act in 1970 to encourage voluntary resource conservation on private property in exchange for a tax incentive. The program is administered by King County.

Mr. Whipple said the PBRs application was submitted to King County in December 2021. The King County Council held a public hearing and issued its approval on June 21, 2022. Mr. Whipple said the required public notice was published in The Seattle Times. He noted that the program does not require notification to property owners within 500 feet as is required for certain land use matters. The City Council held its hearing on September 6. Mr. Whipple said staff engaged with the Bridle Trails neighborhood for two meetings and exchanged additional emails regarding the PBRs application. If approved by the Council, the open space taxation agreement will be drafted and signed in December for the tax reduction to begin in January 2023.

Mr. Whipple described the roles of King County and the City. King County created the PBRs program and reviews applications based on evaluation criteria. The King County Council holds a public hearing and approves, approves with conditions or denies the applications. The City does not have a PBRs program and may consider King County's decision and approval. The City reviews the applications based on the evaluation criteria provided in the Open Space Taxation Act [RCW 84.34.037(2)]. The City Council holds a public hearing and may approve, approve with conditions or deny the application.

The evaluation criteria in the Open Space Taxation Act requires the consideration of the resulting revenue loss or tax shift and whether granting the application will provide certain enumerated benefits related to conserving natural resources, protecting streams and shorelines, enhancing the value of abutting or neighboring parks and open spaces, enhancing recreation opportunities, preserving historic or archaeological sites, and others. The application does not need to meet all of the evaluation criteria.

Mr. Whipple described an aerial view of the Timiri and Ostergaard property. King County recommends approval of the PBRs designation for a 0.23-acre portion of the property. He noted that Puget Sound Energy power lines and the Olympic Pipeline are located in that strip of property. The County conditionally approved the designation for two additional sections (0.46 acres and 0.41 acres). The remainder of the site has a home and is not eligible for the designation.

The 0.23-acre eligible portion of the site includes a 30-foot trail easement. This portion was identified for the public recreation area and unlimited public access categories. The tax reduction

would be 50 percent on the 0.23-acre portion, reflecting an overall revenue impact of \$278, including \$28 annually for the City. Mr. Whipple provided additional details about the property. The public recreation area category was based on large trees and native plantings, as well as passive and active recreation use. The unlimited public access category is warranted due to the existing trail that is used by both pedestrians and equestrians.

Mr. Whipple said the two conditionally approved areas were enrolled under the resource categories of urban open space and resource restoration. The tax reduction would be 70 percent, or \$4,298 annually for the property owner. The revenue loss to the City is \$443. To qualify for the urban open space category, the portion of the property must be at least one-half acre and the area must conserve, enhance or protect natural resources. The resource restoration category requires the property owner to remove invasive species and restore native plantings.

Catherine Drews, Assistant City Attorney, said the Council may approve the PBRs application with additional conditions or deny the application. State law indicates that the City Council should consider the evaluation criteria in making its decision and should document a denial in writing. If the Council wishes to approve the application, the resolution should be adopted tonight to meet the timeline outlined above. If the Council denies the application, staff requests direction to provide findings and to prepare a resolution denying the application for future Council action.

Mayor Robinson thanked staff for the presentation.

Councilmember Robertson said the Open Space Taxation Act states: "It is in the best interest of the state to maintain, preserve, conserve and otherwise continue in existence adequate open space lands for the production of food, fiber and forest crops, and to ensure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the state and its citizens. The legislature further declares that assessment practices must be so designed as to permit the continued availability of open space lands for these purposes, and it is to the intent that this chapter so to provide. The legislature further declares its intent that farm and agricultural lands shall be valued on the basis of..."

Ms. Robertson said the property is located in a city within the urban growth area and is developed with a single-family home. She said the trail easement is already used by the public. She said the application does not align with the intent and criteria provided in state law. She noted that the Council recently completed its budget process and it does not make sense to decrease revenues. She said there is no proposal to enhance the trail or expand public access. She said the application does not enhance recreation opportunities or protect streams, stream corridors, wetlands, natural shorelines or aquifers. She said none of the wildlife species listed on the application are designated as endangered, threatened, sensitive or candidate species of concern by the Washington State Department of Fish and Wildlife. She said the proposal does not offer educational opportunities, enhance abutting parks or open space, preserve a historic or archaeological site, or preserve the visual quality along highways, roads, street corridors or scenic vistas.

Ms. Robertson said the site is fully developed, zoned as R-1, and encumbered by the Puget Sound Energy and Olympic Pipeline easements. She opined that none of the portions of site meet the evaluation criteria or the intent of the law. She recommended denying the application.

Councilmember Stokes thanked Councilmember Robertson for her comments and for providing context. He concurred with Ms. Robertson about the original language and intent of the law. He would like to see something like this in place. However, he noted a lack of clarity regarding the goal and specific elements of the proposal. He expressed concern about the long-term monitoring of PBRS properties. He suggested that the Council address the broader program in the future and noted that the City is likely to receive more applications in the future. Mr. Stokes said the Council is interested in preserving open space and trees, and this appears to be a potential tool.

Councilmember Zahn said there are a lot of unanswered questions and it is unfortunate that there is an urgency to vote tonight. She agrees with the values of preserving open space and native vegetation and appreciates the property owner's goals. However, she is not convinced that the application fits the intent of the state law. She questioned whether the City would be able to approve and monitor specific conditions.

Mr. Whipple said there are statutory requirements regarding the timeline for processing the PBRS application. Ms. Drews said that if the Council approves the application, an agreement must be developed between the property owner, King County and the City to be signed by the end of the year. If the Council denies the application, it would be preferable to do so by the end of the year as well.

Mr. Whipple said the conditions recommended by staff relate to approval of the plan by Puget Sound Energy and the Olympic Pipe Line Company, approval of the plan and schedule by the Director of the Development Services Department, and any required permits and approvals for the work. After the required plantings are completed, King County monitors the property for five years. Mr. Whipple said any follow-up activity would involve King County and not the City.

Mayor Robinson concurred with Councilmember Robertson that the application does not meet the original intent of the law. Ms. Robinson said she is concerned that this is not consistent with the uniformity of taxation law.

Responding to Ms. Robinson, Mr. Whipple said King County's approval indicated that the landscape plan shall be submitted by November 1. However, the County was agreeable to a later submission based on the current status of the process. Mr. Whipple said the City recently received a preliminary draft of the landscape plan.

In further response to Ms. Robinson, Ms. Drews said the applicant could reapply 365 days from the original application date if this application is denied.

Deputy Mayor Nieuwenhuis thanked staff for their work on this matter within a short time period. He agreed with Councilmember Robertson that the application does not meet the intent of the law. Mr. Nieuwenhuis said he shares Mayor Robinson's concern about uniform taxation. He expressed concern regarding potential budget implications and future tax revenues. He

appreciates the City's commitment to environmental stewardship. However, he does not see this as the best path forward at this time.

Deputy Mayor Nieuwenhuis encouraged more robust public outreach and observed that placing a legal ad in The Seattle Times is not sufficient public notice. He would like the City's public outreach to include notifying neighborhood associations and surrounding residents. He encouraged a process that addresses Ms. Lopez's comments during earlier oral communications.

Mayor Robinson said one good example of the use of the Open Space Taxation Act is in San Juan County, where a nonprofit organization and the County are purchasing farmland to preserve it for agriculture and protect it from development.

Councilmember Barksdale observed that two key issues are legislative intent and potential public benefits. Responding to Mr. Barksdale, Mr. Whipple said City staff reviewed King County's approval and decision, which provided an extensive review of how the property aligns with the open space resource categories and the benefits of those categories. City staff visited the site as well and determined that the application is consistent with the City's values regarding open space and that it could be approved based on the categories identified by King County.

Mr. Barksdale opined that the application meets the evaluation criteria related to conservation and aligns with the City's Environmental Stewardship Initiative (ESI) goals. He said the tax impact is minor and he would be inclined to support the application.

Councilmember Lee thanked the applicant for his good intent to preserve this property. However, based on comments by Mayor Robinson, Deputy Mayor Nieuwenhuis and Councilmember Robertson, he agrees that the application does not fit the intent of the law or the evaluation criteria. Mr. Lee questioned the public benefit of the property. He suggested there might be another path for the applicant to accomplish his goals. Councilmember Lee said he does not support approval of the application.

Mayor Robinson suggested further Council discussion at the annual retreat regarding the broader topic of how the City should address PBRS applications.

Councilmember Stokes acknowledged that the Council would like a better understanding of the implications of approving this type of request. He appreciates the intent of the application but questions whether this is the right time to move forward with approval. He commented that PBRS designations have been approved in other places, however, and not just to preserve farmland.

Responding to Councilmember Zahn, Ms. Drews said King County administers the PBRS program under state law and cities are not authorized to develop their own PBRS program. Ms. Drews said this is an unusual situation because the property is located within an incorporated area.

Councilmember Barksdale suggested that the Council could approve the application while also working to develop a process for the City to evaluate applications in the future.

Councilmember Lee thanked everyone for the discussion and concurred with Deputy Mayor Nieuwenhuis's earlier comments regarding expanded public outreach.

- Councilmember Robertson moved to deny the application and to direct staff to return on the consent calendar with a resolution of denial based upon the following factors: The impact that this will have on the City's budget in light of the City's budgetary process that we just went through and the structural budget cap projected in the future. The trail parcel already containing a public trail and that there's no proposal to enhance that trail or expand public access, so this application does not enhance recreation opportunities. The proposal does not protect streams, stream corridors, wetlands, natural shorelines or aquifers. The proposal does not protect unique or critical wildlife as none of the wildlife species in the application are endangered, threatened, sensitive or candidate species of concern by the Washington State Department of Fish and Wildlife. The proposal does not offer educational opportunities. The record does not demonstrate that the proposal enhances the value to the public of abutting or neighboring parks, forest, wildlife preserves, nature reserves, sanctuaries or other open spaces. The proposal does not preserve historic or archaeological sites. The proposal does not preserve visual quality along highways, roads, street corridors or scenic vistas. There is also an absence in the proposal of other factors relevant to providing benefits to the general welfare of preserving the current use of land, which in this case is fully developed under the existing Land Use Code of R-1 and encumbered by Olympic Pipeline and Puget Sound Energy easements. Councilmember Lee seconded the motion.

Councilmember Zahn said she did not agree that the application does not meet any of the evaluation criteria.

Councilmember Stokes asked about the minimal language that could be used to deny the application. Ms. Drews said the statute states that when a City makes a determination about whether to approve or deny, the City "shall consider" revenue impacts and the other criteria listed in the law. The application does not need to meet all of the criteria. The Council's decision should be based on the record and on their discussion about whether or how the application aligns with the criteria.

Councilmember Zahn said she is concerned about a record that says \$443 in annual revenue loss is unacceptable. She opined that the proposal aligns with the criteria regarding the conservation of natural resources and protection of critical wildlife habitat.

Mayor Robinson suggested using the language from the statute as a basis for denying the application, given the focus on preserving farmland: "The legislature hereby declares that it is in the best interest of the state to maintain, preserve, conserve and otherwise continue in existence adequate open space lands for the production of food, fiber and forest crops, and to ensure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the state and its citizens."

Ms. Drews said the Council's reasons should be stated in writing in the resolution based on the record and the evaluation criteria.

Deputy Mayor Nieuwenhuis said that the tax reduction for the conditionally approved portions would be \$443 for the City but \$4,298 for the overall tax reduction, most of which goes to King County. He expressed concern about the potential budget impacts if more PBRS applications come forward.

Responding to Councilmember Zahn, Ms. Drews said Councilmember Robertson's motion is providing staff with direction and findings about the application. Staff will work with the direction received from the Council to draft the resolution.

In further response to Ms. Zahn, Mr. Whipple confirmed that the total tax savings for the property owner would be approximately \$4,298 annually.

→ The motion carried by a vote of 4-3, with Councilmember Barksdale, Councilmember Stokes and Councilmember Zahn dissenting.

Mayor Robinson thanked everyone for the good discussion.

Ms. Drews said staff will draft the resolution for future Council action.

11. Land Use: None.
12. Other Ordinances, Resolution, and Motions: None.
13. Unfinished Business: None.
14. New Business: None.
15. Executive Session: None.
16. Adjournment

At 9:07 p.m., Mayor Robinson declared the meeting adjourned.

Charmaine Arredondo, CMC
City Clerk

/kaw