

CITY OF BELLEVUE  
CITY COUNCIL

Summary Minutes of Extended Study Session

January 14, 2013  
6:00 p.m.

Council Conference Room 1E-113  
Bellevue, Washington

PRESENT: Mayor Lee, Deputy Mayor Robertson, and Councilmembers Balducci<sup>1</sup>,  
Chelminiak, Davidson, Stokes, and Wallace

ABSENT: None.

1. Executive Session

The meeting was called to order at 6:14 p.m., with Mayor Lee presiding. He noted that the Executive Session had been moved to the end of the meeting.

2. Oral Communications

- (a) Alex Zimmerman, Stand Up America, said he has received 28 traffic tickets from Bellevue. He said it must cost a great deal for the City to defend each ticket. He said the City pays a significant amount for Police officers, who he believes should be going after criminals. He commented that slower driving speeds in Bellevue make drivers use more gas.

Mayor Lee explained that the meeting format does not allow the Council to respond to speakers. However, the City Manager or other staff can provide information and answers to questions. Mayor Lee encouraged Mr. Zimmerman to send his suggestions in writing to the Council.

Councilmember Wallace suggested requesting minutes of meetings and/or other documentation from individuals speaking for organizations during Oral Communications. He expressed concern regarding the best use of the Council's time and the ability to determine the nature and extent of support for the perspectives shared by representatives of organizations.

Mayor Lee said staff is working on defining the criteria for a recognized organization and on updating the Council's rules for oral communications.

- (b) Victor Bishop commented on priorities reflected in the Council's interest statement for the state transportation revenue package. He distributed copies of a pamphlet published by the Eastside Transportation Association (ETA), which is a group of private parties.

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<sup>1</sup> Councilmember Balducci departed at approximately 8:40 p.m., before the last agenda item, due to illness.

The organization advocates for reducing traffic congestion by investing in car-based projects which he believes provide more person trips than transit. He highlighted large transportation projects and estimated costs described in the pamphlet, and distributed copies of the pamphlet to the Council and staff. Mr. Bishop spoke to the need for investments in roadways versus transit services. He encouraged the City to pursue state gas tax funding from the Transportation Improvement Board.

Councilmember Balducci noted that two of the I-90 lanes mentioned by Mr. Bishop are to be added specifically to support transit and do not represent a loss of general purpose lanes. Mr. Bishop said the ridership for light rail is already using the bus system, and he believes the incremental increase in transit users will be relatively small with the implementation of light rail. Ms. Balducci suggested the two agree to disagree and thanked him for his comments.

Councilmember Wallace observed that I-90 will be going from five wider lanes to four narrower lanes with the implementation of light rail.

- (c) Wendy Jones, representing the Enatai Neighborhood Association, noted her understanding that the City and Sound Transit are continuing to evaluate two options for light rail on Bellevue Way. The alternative identified in the East Link MOU (Memorandum of Understanding) is an elevated station at the South Bellevue Park and Ride with light rail on the east side of Bellevue Way and a trench in front of the Winters House. A cost-saving option shifts Bellevue Way to the west, closer to homes, and adds one HOV lane. The Association conducted an online survey and an overwhelming majority of Enatai residents expressed a preference for the alternative identified in the MOU. She expressed concerns including environmental and aesthetic impacts. She said that some residents are frustrated because they feel the City is not hearing their concerns and opposition to shifting Bellevue Way to the west. She thanked the Council for the opportunity to speak.

Responding to Councilmember Chelminiak, Ms. Jones said she will send her comments to the Council.

- (d) Brooks Beaupain noted that he is a member of the Enatai Neighborhood Association but speaking as an individual. He has researched transit-oriented development and Sound Transit's and the Puget Sound Regional Council's plans for South Bellevue. The agencies are interested in developing a large TOD project at the South Bellevue Park and Ride. He said residents are opposed to TOD, and he acknowledged that the Council has expressed opposition to TOD in South Bellevue as well. However, he observed that PSRC continues to advocate for their plan.

### 3. Study Session

- (a) Council Business and New Initiatives

Councilmember Balducci commented on the testimony just presented to the Council. She requested an update on the Growing Transit Communities study by PSRC. As Chair of the PSRC Transportation Policy Board, she said the Board has not discussed or advocated for TOD in South Bellevue. Ms. Balducci said the topic of TODs was discussed at the Sound Transit Board retreat last year, during which she shared Bellevue's position regarding TOD projects. She said the Downtown is already transit-oriented and TOD is planned for the Bel-Red Corridor but not in the South Bellevue Park and Ride area.

Ms. Balducci noted that the light rail Land Use Code Amendment was taken off tonight's agenda. While she supports the intent to recalibrate the level of detail under discussion at recent meetings, she questioned when the City is scheduled to complete the work.

City Manager Steve Sarkozy said a decision on the Light Rail Overlay Land Use Code Amendment is targeted for February 19.

Responding to Ms. Balducci, Deputy Mayor Robertson recalled that the Council directed staff last week to draft a letter to the Sound Transit Board in response to their letter sent at the beginning of the year. Staff indicated at that time that a letter would be ready for review before the Sound Transit Board's next meeting. Ms. Balducci suggested including the February 19 date in the letter.

Mayor Lee said he does not want to set the expectation that February 19 is a firm date for a Council decision. Ms. Balducci opined that there is an understanding that the City is doing its best to complete the work.

As a separate topic, Councilmember Balducci said the Council has talked over the past couple of years about creating an ethics ordinance for the Council. She suggested addressing this topic at the upcoming Council Retreat. She said that other cities have created and/or updated their ethics policies, in some cases working with the Seattle Ethics Commission.

Councilmember Stokes said a discussion about PSRC's Growing Transit Communities study is planned for the February 4 Study Session.

Councilmember Davidson noted communications over the weekend about the subcommittee working on the GTC initiative, which includes four former Planning Commission members and staff. He had suggested adding the topic for the February 4 meeting.

Councilmember Chelminiak questioned how the Council will get its input into the Light Rail Land Use Code Amendments. He said he viewed last week's Council meeting, and he is concerned that there has not been discussion about station design or developing criteria for design review.

Mr. Sarkozy said staff is compiling the Council's comments to incorporate into the proposed Code modification for the Council's review in late January or early February. Mr. Chelminiak said there are items of importance to him that have not yet been discussed. Responding to

Councilmember Chelminiak, Mr. Sarkozy said he is welcome to schedule time with staff to discuss his priorities and suggestions. Mr. Sarkozy said there is a great deal to address in the Code, and there might be elements that are not discussed until the draft is released.

Mr. Chelminiak noted illustrations presented in a Sound Transit video of stations outside of Bellevue. He said those are not the types of stations he would like for Bellevue.

Mr. Chelminiak concurred with Councilmember Balducci's suggestion to discuss an ethics ordinance at the Council retreat.

Mayor Lee said that, if the topic cannot be added to the retreat agenda, he understands that some Councilmembers would like to schedule it for discussion in the near future.

Councilmember Wallace would like the letter to the Sound Transit Board to request an update on the status of the East Link light rail cost-savings options, which were to be finalized by the end of December according to the memorandum of understanding (MOU), and on the proposed maintenance facility. Mr. Wallace believes that work is needed in order to address the City's Land Use Code amendments. He is concerned that the February deadline for completing the Light Rail Overlay does not allow time for allowing the public to review the suggested Land Use Code amendments.

Councilmember Stokes suggested keeping February 19 as the target date. He said two study sessions are scheduled to discuss the Code amendments before that date. However, he does not want the February 19 date to be used to rush something through.

Councilmember Chelminiak concurred that the work needs to be completed by February 19.

Deputy Mayor Robertson said the Light Rail Overlay issues will come back to the Council for discussion and a review draft will be completed. She suggested that the Council decide what it would like to do with that review draft. Does the Council want to take public comments and/or hold a formal public hearing? She said there must be time for public input before the Council adopts the final Land Use Code amendments.

Ms. Robertson noted that a number of citizens in the audience are interested in the Downtown Livability discussion. She suggested switching the order of the next two agenda items.

→ Councilmember Stokes moved to amend the agenda by switching the order of Items 3(b) and 3(c). Deputy Mayor Robertson seconded the motion.

→ The motion to amend the agenda carried by a vote of 7-0.

Councilmember Balducci requested a schedule for the Council to develop the draft Light Rail Overlay, engage the public, and take final action. She expressed concern about how the East Link MOU process is being managed.

City Manager Sarkozy said staff will outline a schedule for accomplishing the work as quickly as possible. He said he chose the February 19 date as the earliest the Council could potentially resolve the matter. He acknowledged that a public process would take more time, however.

Deputy Mayor Robertson would like to see the public review draft of the Light Rail Overlay released before the Council's meeting on February 4.

Councilmember Stokes said February 19 was established as a target, and the Council can control the process if that is not feasible. He said it is unlikely that public outreach can occur before a decision on February 19.

(c) Council Principles to Guide Downtown Livability Initiative and Project Advisory Body

Mr. Sarkozy introduced staff's presentation on the Downtown Livability Initiative, which is intended to address the Council principles and public engagement plan.

Planning Director Dan Stroh said there have been comments on the scope of the Downtown Livability Initiative. He clarified that there is a companion effort to review and update the Downtown Transportation Plan. He further clarified that the Downtown Livability Initiative includes topics beyond the business community including the pedestrian environment, improving the residential setting, fostering economic development, incorporating transportation-related elements, and creating a vibrant urban center that works for everyone.

Mr. Stroh described a map of the Downtown's zoning districts, which cover approximately 410 acres. Staff will be looking at the interaction between the Downtown core and the Wilburton commercial area east of I-405 as well.

Emil King, Strategic Planning Manager, reviewed previous Council direction from the July and September 2012 meetings. On September 17, the Council identified items to be addressed in the scope of work including the amenity incentive system, building form and height, the NE 6<sup>th</sup> Street Pedestrian Corridor, parking, East Link light rail interface, design guidelines and a number of additional items. The Council has allocated a budget of \$435,000 for the work which designates \$385,000 for consultant resources and \$50,000 for limited-term staff.

Mr. King reported on the November 29 open house and scoping meeting, which was hosted to introduce the project to the public and to ask for input regarding the elements to be analyzed. More than 150 individuals attended the meeting and written comments continue to be received. Issues of interest to the public are largely consistent with the scope of work identified by the Council including improvements to the pedestrian and bicycle environment and to traffic and transit mobility.

Mr. King highlighted items that have been suggested in the public comments including pursuing a Downtown community/senior center and considering building code provisions to allow five-over-two construction within the Downtown (i.e., five wood-frame levels over two concrete/steel

levels). Another issue is the Downtown boundary along Main Street, where split-zone parcels exist as a relic of the 1979 establishment of the boundary. Additional areas of interest are a civic parking garage, Downtown branding, and enhancing public safety within the Downtown.

Mr. King noted that Attachment 1 in the meeting packet is the Draft Public Engagement Plan which lists the objectives to seek ideas and perspectives on an ongoing basis, keep stakeholders informed, coordinate with Downtown organizations, and ensure that information is well documented and distributed to the community.

Responding to Councilmember Davidson, Mr. Stroh recalled that staff discussed the area around 112<sup>th</sup> Avenue and I-405 during the September Council meeting. He said staff does intend to address it within the scope of the Downtown Livability Initiative.

Continuing with the presentation, Mr. Stroh said staff recommends the creation of an Advisory Body, or committee of commissioners, to guide the Downtown Livability effort. A possible composition is three representatives from the Planning Commission and two each from the Transportation Commission, Parks and Community Services Board, Human Services Commission, Arts Commission, and Environmental Services Commission. The majority of this group's work would occur in 2013 and result in a transmittal of recommendations to Council and the Planning Commission. The full Planning Commission would conduct its standard review and hold a public hearing on the entire code package prior to Council action.

Councilmember Davidson said he is not sure that the public would be supportive of this type of approach. He wondered if it might be better to have a public process led by the Planning Commission, including a public hearing.

Responding to Councilmember Balducci, Mr. Stroh said the overall public process would involve a number of stakeholders, and the Planning Commission would hold a public hearing. The proposed committee of commissioners would be an advisory body to support and steer the process to develop a thorough set of recommendations for vetting by the Planning Commission and the City Council.

Dr. Davidson questioned whether citizens will feel like they are truly represented by this type of advisory body. He noted the tradition of Citizen Advisory Committees for similar projects.

Deputy Mayor Robertson recalled the Bel-Red process which involved a Steering Committee. At the same time, the Boards and Commissions conducted their own reviews and provided input to the Steering Committee. This involved all members of the Boards and Commissions and obtained their input before the recommendations were forwarded to the Council.

Ms. Robertson suggested that, given the Downtown Transportation Plan Update and Transit Master Plan Update to occur along with the Downtown Livability work, it might be most productive to have joint meetings of the Planning Commission and Transportation Commission. This is how she would like to see the process work, which is the traditional approach to Land Use Code updates.

Councilmember Chelminiak observed that there is not yet full agreement on the scope of work. He recalled the Bel-Red Corridor Plan work which was a full transformation of a large geographic area. He liked that process but it did take a long time, approximately two years. Conversely, he sees the Downtown Livability Initiative as encompassing policy adjustments and modifications but not sweeping changes.

Mr. Chelminiak said he sees Board and Commission members as representing the broad cross-section of the community. He expressed general support for staff's recommendation, but suggested two representatives from each Board and Commission instead of the proposed three from the Planning Commission. He sees the project as addressing the overall Downtown living environment and not just Land Use Code issues.

Councilmember Stokes spoke in support of staff's recommendation. He concurred with Mr. Chelminiak that this should be more than a review of the Land Use Code and should address a broad range of issues. He noted that, as a member of the Parks and Community Services Board, he served on the Eastgate/I-90 Citizen Advisory Committee, and he saw his role as representing the entire community. If the Planning Commission is going to ultimately be responsible for the Downtown Livability code package, he believes the process should not compromise the Planning Commission's ability to be objective. However, the Downtown Livability work involves more than Land Use Code issues. He suggested moving forward with the scope of issues previously identified by the Council.

Councilmember Wallace recalled that the Downtown Livability Initiative was originally presented as a less extensive review with relatively minor modifications to the Land Use Code. He observed that the current code is serving the community well and he noted new development going forward in Bellevue. He said there is a need to better define the scope and purpose of this effort. Mr. Wallace said that, if this is going to be a bigger endeavor, he suggested drawing on experts and professionals in the community for input on modifying the existing Land Use Code.

Councilmember Davidson suggested that perhaps a hybrid approach to the formal advisory board strategy would work. He said he is not sure whether any member of the City's Boards and Commissions lives in the Downtown. He wondered if citizens will feel like they are being represented.

Councilmember Balducci said it is important to be clear about what the Council and City wants from an advisory group. The value of a citizen advisory committee is having people representing all walks of life and areas of knowledge and expertise. She observed that the proposed committee of commissioners is a good way to obtain input from the topical areas of the Boards and Commissions. However, it does not necessarily represent the cross-section of the community in the way that a citizen advisory committee is able to do.

Ms. Balducci concurred with Dr. Davidson that perhaps a hybrid approach would be preferable. She said the Bel-Red planning effort utilized a steering committee along with supporting committees to provide certain types of input. She would support a committee of commissioners

with additional seats for broader representation of the community or with a separate citizen committee.

Mr. Stroh confirmed that staff engaged a number of focus/stakeholder groups throughout the Bel-Red process to provide needed input.

Mayor Lee commented that Bellevue does a good job of involving the public and community in planning and discussions. However, he noted the need to have experts who understand downtown livability and what that means. Is it just tinkering with the code, or is it a broader visioning effort for the long term? He suggested the City should engage experts in creating a world-class Downtown.

Councilmember Stokes said he likes the idea of adding certain individuals to the proposed group, which was essentially the approach used for the Eastgate study. He noted the key contributions of staff's professional expertise and interaction with consultants. Additional valuable input was provided by citizens and community organizations (e.g., Bellevue College) who attended to offer information and feedback. He said some of the best input came from individuals who were not members of the committee. He suggested there are ways to incorporate more expert advice without necessarily expanding the committee to be too big.

Responding to Mr. Stokes, Mr. Stroh said 15 is about the maximum number of individuals for a group of this type. Mr. Stokes said one option would be to have one representative from each Board and Commission to allow other types of representatives.

Councilmember Chelminiak said the Meydenbauer Bay Land Use Plan committee had a number of Board and Commission representatives as well as outside individuals.

Mr. Chelminiak observed that Councilmember Wallace raised a good question about the objective of the task at hand. His understanding is that the scope is to incorporate Great Streets concepts and to selectively modify the Land Use Code. Mr. Chelminiak believes it is important to have representation of other interests because he sees this project as about the human realm and human experience as created and effected by the Land Use Code.

Mr. Chelminiak said he does not see enough in the scope of work about adjacent neighborhoods. He believes this issue is about more than just smooth transitions but about how they all interact.

Responding to Councilmember Balducci, Mr. Stroh said that bicycling issues will be addressed within the Downtown Transportation Plan parallel process.

Ms. Balducci said she understands that public safety is not included in the scope of work because it cannot include everything. However, public safety is an important component of livability for citizens. She suggested it should be included or addressed in a parallel effort.

Deputy Mayor Robertson commented on the scope of work. She is interested in the split zone issue along Main Street because this has been a challenging situation for some time. She



observed that this could be addressed during the separate Comprehensive Plan Update process. Responding to Ms. Robertson's inquiry about the Ashwood community center idea, Mr. King said staff is coordinating with other departments to determine when the Ashwood Master Plan work will move forward. One item under study is a Downtown fire station.

With regard to public safety, Ms. Robertson observed that the Land Use Code can be used to design areas to discourage criminal activity and promote a safer public environment.

Deputy Mayor Robertson returned to the scope and advisory body issues. She concurred with the need to define whether the project is about a fast and efficient update or a grand re-visioning. If the process is to be limited to 12-18 months, involving a large advisory body will lengthen the process. If the goal is a grand re-visioning or transforming of the Downtown, she agrees that a formal committee representing a broad cross-section of the community should be utilized.

Councilmember Wallace requested Ms. Robertson's perspective as the Council's Planning Commission liaison and a former Planning Commission Chair. If this is not a grand re-visioning but more along the lines of tinkering, he questioned whether this is something the Planning Commission could handle effectively on its own.

Ms. Robertson said she believes the Commission could do so but the effort will involve a great deal of information and input from the community. She likes how the Bel-Red process worked. The Steering Committee provided input to the Planning Commission, and each Board and Commission provided feedback to the Planning Commission. She felt this was an efficient process. She chaired the Planning Commission for 12 months of that process and noted that it was wrapped up within another one or two months later.

Responding to Mr. Wallace, Ms. Robertson confirmed that the process was centered around all entities providing input to the Planning Commission.

Mr. Stroh said staff struggled with the scope of the Downtown Livability Initiative as well. Staff does not see this as a complete re-visioning of the Downtown. However, this is the first overall review of the Downtown Land Use Code in 30 years.

Mayor Lee said it is important that the Council provide more specific direction to staff regarding the scope and process.

Councilmember Stokes spoke in favor of moving forward with the scope identified by the Council in September. He would like to be more inclusive. He supports the proposed committee of commissioners as an advisory body to gather input from many interests.

At 8:06 p.m., Mayor Lee declared a short break. The meeting resumed at 8:20 p.m.

Mayor Lee reviewed that there have been comments on the scope of work and on whether to use a formal advisory body. He suggested that the City Manager and staff discuss the topic based on

the Council's discussion and come back to the Council with options for consideration and a proposed course of action.

Continuing with the presentation, Mr. Stroh reviewed the draft Council principles established for the Downtown Livability Initiative [Attachment 2, Page 3-11 of meeting packet].

Deputy Mayor Robertson encouraged a balance between commercial and residential interests. However, she observed that the Downtown is one square mile and does not need to provide everything for everyone. Bellevue's other neighborhoods have their own assets and amenities.

Responding to Ms. Robertson, Mr. Stroh said the principles are meant to indicate that land use and transportation policies are closely related. Ms. Robertson encouraged the consideration of connections to Meydenbauer Bay Park.

In further response to Ms. Robertson, Mr. Stroh said the Downtown Implementation Plan and 2004 Subarea Plan update envisioned distinct emphases for specific streets. A related approach is to look at the different areas (e.g., Old Bellevue, Ashwood, Downtown Core) and their needs and characteristics.

Councilmember Chelminiak said he would like to advance the Great Streets strategy. He suggested that the draft Council Principles are too broad. He is interested in how the Downtown integrates with surrounding neighborhoods. He does not want to see the neighborhoods walled off from the Downtown. He suggested refining and narrowing the principles and including an emphasis on implementation for the overall project.

Mayor Lee said the Council has the discretion to modify the principles. He concurred that land use and transportation are important and interconnected. He said the environment and demographics have changed, and Bellevue is now a global city.

Councilmember Balducci said the list of the Council's principles is almost too long, and she wonders how useful it is to staff. She suggested focusing on why the City is taking this up now. For her, one reason is to review incentives for developers and to determine whether modifications are warranted. Another reason is that more people are living in the Downtown, and there is a street life and vitality that did not exist until recent years.

Ms. Balducci said she has liked the recurring use of word "memorable" over the years and finds it helpful and meaningful. She observed that Bellevue has a beautiful skyline but perhaps incentives could encourage something more distinctive to set it apart from other skylines. She said holiday events and the annual arts fair create memorable experiences in Bellevue, and she would like to see further development of the Pedestrian Corridor. She said this effort provides the opportunity to address environmental issues in the Downtown as well.

Ms. Balducci observed that the first principle, Viable, Livable and Memorable, is the overall theme of the work and the remaining principles fall within that concept and vision.

Mayor Lee concurred that the Downtown has changed significantly including younger residents, increased high-rise development, emerging transit services, and overall changing demographics.

Councilmember Davidson said that tourism is linked to the objective of creating a memorable community and experience.

Councilmember Stokes said the principles provide a good framework for going forward. He recalled his trip last year to Denver, which touts that it is the #1 destination for the “Millennials” generation. He concurred that the Downtown Livability Initiative should create a memorable community and the commitment to implement the plan.

Councilmember Wallace reminded everyone of his employment with Wallace Properties and referred the public to the company’s web site for information on Downtown properties it manages.

Mr. Wallace suggested a focus on predictability and flexibility with regard to development bonuses and incentives. He observed that Seattle has been successful in its growth due to its flexibility.

Mr. Wallace highlighted that a light rail station will be located in the Downtown, which is a significant change since the last code update. Mr. Wallace said he has heard comments from the public indicating that the City plans to change its concurrency model with regard to traffic and the State Environmental Policy Act (SEPA). If this is true, he would like for the Council to have that discussion first. He noted the importance of maintaining a balance between growth and the traffic grid in Downtown Bellevue.

Councilmember Balducci reiterated her interest in developing an ethics ordinance in the future. However, she indicated that she would be leaving the meeting due to illness at the conclusion of this item.

Mr. Stroh said staff will refine the project principles and scope of work based on tonight’s discussion.

- (b) Presentation regarding Meeting Protocols, Public Meeting Requirements and Public Records Responsibilities

City Manager Steve Sarkozy introduced Matt Segal and Jessica Skelton, Pacifica Law Group, to present information regarding meeting protocols, legal requirements, and other standards that apply to meetings of the City Council.

Mr. Segal noted that the Pacifica Law Group focuses on public clients. He explained that procedures for meetings are governed by the Bellevue City Code, state law, Council Rules, and, where a specific rule does not apply, Robert’s Rules of Order.

Ms. Skelton described the origin and purpose of Robert's Rules, which are designed to place the entire membership on equal footing and to ensure constructive and democratic meetings. She described the general conduct of meetings, noting that all statements must be addressed through the Chair/Mayor. Members may direct questions to the public only with the Chair's permission. A quorum is necessary to transact official business. Council Rules state that a quorum is four members (a majority).

Ms. Skelton explained that the Council Rules and Robert's Rules provide guidance on meeting agendas and motions. Motion procedures are at the heart of Robert's Rules.

Ms. Skelton described the types of motions. Council Rules indicate that a motion may be withdrawn by the person who made the motion at any time before action is taken. The rules do not require the consent of the motion seconder.

Ms. Skelton described the rules pertaining to discussing a motion. She said Robert's Rules do not bar discussion unless a motion is on the table. However, it discourages such discussion with the intent of moving the meeting along and maintaining order and structure.

Ms. Skelton described rules for voting, public testimony, and conflicts of interest including recusal from participation.

Mr. Segal said Bellevue City Code Chapter 3.92 adopts an ethics ordinance which is based on state law. When recusing oneself from an issue, the Councilmember must state the grounds of the recusal and cannot participate in debate or discussion.

Councilmember Chelminiak said he has chosen to recuse himself from a particular item based more on the appearance of fairness. He questioned whether that is a legitimate basis.

Mr. Segal said that state law provides a general framework for recusals. He said the Council may set its own rules to anticipate likely or actual situations.

Deputy Mayor Robertson indicated that she has also recused herself in certain situations when it was not legally required.

Mr. Segal and Ms. Skelton responded to questions of clarification. Mr. Segal described the provisions of the Open Public Meetings Act, including what constitutes a meeting. Violations of the Open Public Meetings Act may result in civil penalties against members and in fees and penalties assessed against the City.

Responding to Dr. Davidson, Mr. Segal explained that the word "action" under state law is broad and applies generally to discussion about any topics that might fall under Council business.

Mr. Segal described key elements of the Public Records Act, in which a "record" is broadly defined. He explained that Councilmembers must comply with retention requirements for any records they are creating on their personal computers and mobile devices. Retention

requirements were just updated in November. Washington courts have held that even personal emails can be subject to disclosure, including records on personal and home computers. Mr. Segal suggested segregating Council business email from personal email.

Ms. Skelton described the implications of social media with regard to the Public Records Act and OPMA requirements. Mr. Segal noted that, if Councilmembers are observed texting and using smartphones during meetings, those texts and communications could be subject to public disclosure.

Ms. Skelton described guidelines against using any City resources for election-related purposes. Mr. Segal said Councilmembers must be very careful about what they post on a campaign Facebook page, for example. He suggested publishing a disclaimer on the campaign Facebook page that it does not represent the City or City business in any way. He cautioned Councilmembers against updating their campaign page, blog, or other communications from a City computer or other electronic device.

Mayor Lee noted the time and invited Councilmembers to direct additional questions for the consultants to the City Clerk.

Councilmember Chelminiak said he has a question about what constitutes a formal subcommittee.

Deputy Mayor Robertson indicated that Deputy City Attorney Berens has addressed Mr. Chelminiak's question.

Mr. Chelminiak indicated that he would like to obtain an outside opinion on the issue.

- Councilmember Chelminiak moved to extend the meeting to 10:15 p.m., and Deputy Mayor Robertson seconded the motion.
- The motion carried by a vote of 6-0.

Mayor Lee thanked the consultants for their participation.

#### 4. Executive Session

At 9:54 p.m., Mayor Lee declared recess to Executive Session for approximately 30 minutes to discuss one item of property acquisition.

The Executive Session concluded at 10:30 p.m., and the meeting was adjourned.

Myrna L. Basich, MMC  
City Clerk

/kaw