

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Extended Study Session

March 10, 2014
6:00 p.m.

Council Chambers
Bellevue, Washington

PRESENT: Mayor Balducci, Deputy Mayor Wallace, and Councilmembers Chelminiak, Robertson, and Stokes

ABSENT: Councilmembers Lee and Robinson

1. Executive Session

Deputy Mayor Wallace called the meeting to order at 6:05 p.m., and declared recess to Executive Session for approximately 90 minutes to discuss one item of potential litigation and one personnel matter.

The meeting resumed at 7:33 p.m., with Mayor Balducci presiding.

2. Oral Communications

Mayor Balducci said there is a 20-minute limit on oral communications. Given the number of individuals signed up to comment, she limited each speaker to two minutes. She said there will be a public hearing on the Shoreline Master Program in the future and everyone will have the opportunity to speak at that forum.

- (a) Queen Pearl noted that it is Women's History Month. She expressed concern that the King County Council does not welcome public speakers and commented on the importance of free speech. She thanked the Council for the opportunity to speak.
- (b) Erica Tiliacos spoke on behalf of Save Lake Sammamish. She said the Planning Commission's recommendation on the Shoreline Master Program Update is an inappropriate attempt to weaken the Critical Areas Ordinance (CAO). She noted that the Draft SMP Update has not yet been adopted by the City Council or approved by the Washington State Department of Ecology. Ms. Tiliacos submitted her comments in writing.
- (c) Alex Zimmerman, President of StandUP-America, reiterated his ongoing issues/requests: the adoption of Council term limits, a monthly public forum hosted by the City Manager,

and stopping the use of red light cameras. He asked the Council to help stop the King County Council "mafia" that does not allow public comments.

- (d) Joe Rosmann, Co-Chair of Building a Better Bellevue, said residents have been studying Sound Transit documents and have developed an alternative design for the South Bellevue light rail station and surrounding area to reduce visual, noise, and environmental impacts. Mr. Rosmann said some members of the Light Rail Permitting Citizens Advisory Committee have responded favorably to their recommendation. He submitted a diagram of the proposed design and conceptual simulation.
- (e) Al Cecil said he has studied the Seattle light rail tunnel. As a result his design, described by Mr. Rosmann, lowers the station at the South Bellevue Park and Ride to facilitate entry into the tunnel. He said the lowered station also works well with the current B2M alignment, and he believes it should be seriously considered.
- (f) Bill Popp provided additional details on the proposed alternative design for the South Bellevue light rail station. The proposal places the station in a partially lidded trench with buses, pedestrians and cars crossing the top of the platform. The design is consistent with the level of detail in Sound Transit's Environmental Impact Statement (EIS) conceptual engineering drawings as contained in Appendix H of the EIS. Joe Rosmann suggested that Councilmembers read the minutes of the February 19 meeting of the Light Rail Permitting CAC. He began reading portions of the minutes and the Mayor informed him that the speakers had used all of their allotted time.
- (g) Marty Nizlek, representing the Washington Sensible Shorelines Association (WSSA), noted the members and supportive residents in the audience. He said a number of issues have been resolved by the State Legislature. For example, it has been concluded that not all shorelines are critical and that legally established improvements to shoreline properties should be considered conforming as opposed to non-conforming. He said that many of the initial regulations were intended to improve salmon habitat and recovery. However, during the past several years, salmon returns are meeting and exceeding fishery goals, and there has been acknowledgement that factors other than shoreline conditions need to be recognized (e.g., overfishing, sewage, and road drainage). Mr. Nizlek noted the need to balance the Shoreline Master Program Update in a Bellevue-specific manner. He said the Planning Commission unanimously supports the draft update. He submitted his comments in writing.
- (h) Jeff Kirby, a resident of Skagit Key, said Newport Shores developed their covenants in 1978. He complimented the City's view of the man-made canals, which are finally coming back into alignment with the original CCRs. He has been on the neighborhood's architectural advisory committee which serves to address how conditions fit into their compliance levels.

3. Study Session

- (a) Council Business and New Initiatives

Mayor Balducci recalled that, last week, the Council briefly discussed the vacancy on the Light Rail Permitting Citizens Advisory Committee (CAC). She said there appears to be general Council support to appoint Wendy Jones, a resident of the Enatai neighborhood.

→ Councilmember Stokes moved to appoint Wendy Jones to fill a vacancy on the Light Rail Permitting CAC. Councilmember Chelminiak seconded the motion.

Mayor Balducci said Wendy Jones has been attending all of the CAC meetings and is well informed on the issues, including the impacts to the adjacent neighborhoods.

→ The motion carried by a vote of 5-0.

- (b) Plan for completion of the Shoreline Master Program (SMP) Update, and Transmittal of the Planning Commission Recommendation on the SMP Conformance Amendments.

Mike Brennan, Director of Development Services, opened staff's presentation on the Shoreline Master Program (SMP) Update. He said the purpose of the discussion was to initiate Council consideration of the SMP Update, seek Council support for the SMP completion process, and transmit the SMP conformance amendments from the Planning Commission. Mr. Brennan said state law mandates the Shoreline Master Program (SMP) Update for all jurisdictions.

Carol Helland, Land Use Director, recalled that grants were accepted from the State Department of Ecology in 2008 to begin the SMP Update process. A Public Hearing draft was released in 2011, and the Planning Commission developed its initial recommendation in early 2013. In May 2013, the Commission's recommendation was transmitted to Council and the Washington State Department of Ecology conducted its first review.

In July 2013, the Council directed that staff consider the following principles in completing the SMP Update: share information broadly, move forward expeditiously, and limit the amount of rework or duplication of effort in preparing the final package for DOE review. Council directed that staff engage with the DOE to further educate the agency on the City's policies, practices, and basis for the draft SMP Update. Council directed that: 1) the Planning Commission complete its work on the conformance amendments, 2) the consultant seek support, where necessary, to evaluate risk, analyze cumulative impacts, and finalize the submittal package, and 3) staff and the Council facilitate policy level decision-making with regular check-ins, orientation to Code issues, and consideration of the risk analysis.

Ms. Helland presented the results of the DOE's review to date. Of the total 186 entries in the first DOE review in May 2013, the City's SMP Update was declared to be compliant with 39 items. Following additional meetings and education, the September 2013 DOE review identified 56 items as compliant and lowered the number of non-compliant items from 101 to 24. For both reviews, 33 items were determined to be not applicable.

Responding to Councilmember Robertson, Ms. Helland said the DOE review was based on the Planning Commission's final version, with the exception of the greenscape requirement added between December and January by the Commission.

Responding to Mayor Balducci, Ms. Helland said staff does not believe the City's plan is very penetrable for the DOE because the City does not draft its plan for DOE review. The City's plan is drafted for the use of citizens and applicants. The DOE better understood the City's plan when staff members were able to point to sections for the information that DOE staff were seeking. This resulted in the DOE moving many of the previously identified non-compliant items to the "To be determined" column because the DOE is withholding judgment until the City's full package is submitted.

Lacey Hatch, Assistant City Attorney, introduced Dick Settle, Foster Pepper PLLC, who will be assisting the Council in analyzing the policy issues. He has extensive experience in shoreline management litigation and is a current professor of law at Seattle University teaching primarily environmental and land use law classes. He is a leading author on the State Environmental Policy Act (SEPA), Shoreline Management Act, and a number of other land use matters. Ms. Hatch said Mr. Settle was one of three mediator facilitators from 2001 to 2003 involving litigation related to the DOE regulations to be discussed as the Council moves forward.

Mr. Settle said he looks forward to working with the Council.

Mr. Brennan said staff is seeking Council direction on the process for completing the SMP Update including the cumulative impact analysis, light rail component as it relates to the SMP, and certain policy topics of the greatest interest to the Planning Commission. The process is outlined on Attachment A, page 3-7 of the meeting packet.

Councilmember Robertson expressed general support for the recommended process. She suggested having a public hearing earlier in the process, however. She said that Councilmember Robinson is also supportive of an earlier public hearing. Ms. Robertson said there was fairly extensive participation in the 2011 public hearing before the Planning Commission.

Councilmember Robertson questioned whether the list of policy topics could be covered in two meetings instead of the three meetings scheduled for May 12, May 27 and June 9.

Ms. Robertson said it would be useful to have at least one Planning Commission member available when the Council discusses the topical areas. This would provide an opportunity to learn more details about the Planning Commission's review and evaluation.

Mayor Balducci suggested adding a public hearing earlier in the process while maintaining the public hearing scheduled for later in the process.

Councilmember Stokes agreed. He said he looks forward to completing the SMP Update and expressed support for the recommended process and the addition of a public hearing.

Ms. Helland said that, by the proposed earlier public hearing date of May 5, the Council will be oriented to the full program including light rail components and the cumulative impact analysis. Subsequent meetings will address specific topical areas in greater detail. She said it is possible that the nine topical areas can be covered in two meetings.

Councilmember Chelminiak supports adding the early public hearing. He would like the public to be able to know the areas of special interest to the DOE, staff and the consultant by the April 28 meeting, if possible. He did not want to make a decision at this time about reducing the three topical discussions to two meetings.

Mayor Balducci said she supports an early public hearing. It will be helpful to hear the public's concerns and interests before extensive Council discussion, and again later to hear the public's reaction to the Council's decisions.

Responding to Councilmember Robertson, Ms. Helland said she will add conformance amendments to the floodplain topic discussion.

Ms. Robertson said the Planning Commission has several other work items related to shorelines that they want the Council to consider, and she does not see those items on the SMP Update completion schedule. She suggested addressing those issues soon after the SMP package is submitted to the DOE. Ms. Helland concurred.

Deputy Mayor Wallace said he supports a minimum of two public hearings. This is a complex topic, and the Council needs to take whatever time is needed to fully address the issues and policy implications.

Mr. Wallace expressed concern about the scoping of the process going forward. He said there needs to be sufficient information available to the public before the hearings.

Mr. Wallace expressed concern about including the light rail project within this broad SMP discussion. He suggested the Council give some thought to the specific light rail issues to be included. If those issues are going to draw out extensive additional public comment that is separate from the main SMP subject matter, he suggested it might be best to separate those discussions.

Ms. Helland confirmed that discussion of the implications for the Light Rail Overlay is scheduled for a night separate from the other nine topical areas. She said light rail is scheduled for the same discussion about the cumulative impact analysis but commented that maybe that is not separate enough. Mr. Wallace said he would leave it up to staff to determine the appropriate approach.

Ms. Helland said no new work is intended as part of the light rail discussion within the context of the Shoreline Master Program. The intent is to move the relevant components of the Light Rail Overlay from the Critical Areas Code to the Shoreline Code.

Responding to Deputy Mayor Wallace, Ms. Helland said she will communicate this information to Kate March, the public outreach staff person working with the Light Rail Permitting CAC.

Mayor Balducci said there are two or three points along the south end of the light rail alignment that touch the shoreline jurisdiction. Responding to Ms. Balducci, Ms. Helland confirmed that the Light Rail Overlay adopted by the Council applies to those points. Ms. Helland recalled that the Critical Areas Ordinance adopted in 2006 was intended to be an interim measure for the purpose of protecting shorelines until the Shoreline Master Program was updated. The Light Rail Overlay includes shoreline provisions currently in that ordinance. As part of this process, those provisions will be moved to the Shoreline Master Program.

Mayor Balducci observed that completion of the SMP Update will be similar to the process of adopting the Critical Areas Ordinance. That was a similarly challenging process, but a balanced compromise was reached.

Diane Tebelius, Planning Commission Chair, presented the Commission's transmittal of conformance amendments, which are a companion piece to the SMP Update package. The purpose of the conformance amendments is to ensure the SMP Update is consistent with the rest of the Land Use Code. The Planning Commission requests that the Council implement legislation approved in 2010 under EHB 1653, which determined that all shorelines are not necessarily critical areas. Ms. Tebelius said there are currently shoreline properties that are not critical areas but are being treated subject to the Critical Areas Ordinance. She noted that every member of the Planning Commission has indicated his or her willingness to attend Council sessions to be available to answer questions.

Mayor Balducci thanked the Planning Commission for its work.

Mr. Brennan said staff will return on April 14 to review the Planning Commission-recommended policies, regulations, maps and restoration plan. On April 28, staff will present the Cumulative Impact Analysis prepared by the Watershed Company. The substantive topic areas will be addressed in May and early June including public access, lake levels, setbacks/buffers, docks, and vegetation. The Council's public hearing and adoption of the final SMP Update package is slated for late June/early July.

Responding to Councilmember Robertson, Ms. Helland said that all related materials are on the City's web site.

Councilmember Robertson requested a copy of the Shoreline Management Act (RCW 90.58).

Councilmember Stokes thanked staff for their work and for all of the information made available to the Council and the public.

4. Continued Oral Communications

→ Councilmember Robertson moved to add continued oral communications to the agenda, and Councilmember Stokes seconded the motion.

- The motion to add continued oral communications carried by a vote of 5-0.
- (a) Anita Skoog-Neil asked that staff publish the order in which the topical areas will be addressed during the May and June Council meetings.
 - (b) Marty Nizlek thanked Mayor Balducci and the Council. He noted he would stay after the meeting if anyone wants to speak with him.

Deputy Mayor Wallace invited citizens to email the Council (Council@bellevuewa.gov) with input and suggestions.

Mayor Balducci declared the meeting adjourned at 8:43 p.m.

Myrna L. Basich, MMC
City Clerk

/kaw