East Bellevue Community Council
Summary Minutes of Regular Meeting

April 1, 2014
6:30 p.m.

Lake Hills Boys & Girls Club
Bellevue, Washington

PRESENT: Chair Capron, Councilmember Hughes, Councilmember Hummer, Councilmember Gooding, Councilmember Kasner

ABSENT: None

STAFF: Carol Helland, Land Use Director;
Catherine Drews, Legal Planner;
Monica Buck, EBCC Attorney

1. **CALL TO ORDER**

The meeting was called to order at 6:34 p.m. with Chair Capron presiding.

2. **ROLL CALL**

The Deputy City Clerk called the roll. All Councilmembers were present.

3. **FLAG SALUTE**

Councilmember Hummer led the flag salute.

4. **COMMUNICATIONS: WRITTEN AND ORAL**

None.

5. **REPORTS OF CITY COUNCIL, BOARDS AND COMMISSIONS**

(a) Community Council Business and New Initiatives

Chair Capron spoke about his observations at the Lake Hills shopping center. The project is progressing nicely.

Councilmember Gooding mentioned the City's idea of fencing in Larsen Lake.

Councilmember Hummer noted that she helped with some annual landscaping at St. Louise.

Councilmember Kasner spoke about his recent use of the boardwalk on 148th. The house that was off its foundation is now replaced with new million dollar homes that are all occupied. Mr. Kasner ran into one of those neighbors recently who complained about crime in the area. Mr.

Kasner encouraged the resident to become involved in helping other people understand what the challenges are. Mr. Kasner also attended the PSE public meeting. Andy Wappler was the facilitator and spoke about building public trust. The Montessori school that came before EBCC is a building that should be finished soon. Also, many residents got a notice today that the finalists for the City Manager position will be presented on Friday night at a public reception. Mr. Kasner encouraged people to attend and meet the candidates.

Councilmember Hughes spoke about the PSE 230kv line from south of Renton to Bothell, which will be coming through Bellevue. There were a lot of unhappy people at the meeting. The hired facilitator had a hard time keeping the meeting together. People were attacking Mr. Wappler and other PSE employees. Mr. Hughes felt it was unfair for people to have been attacking PSE employees. People know very little about PSE. Mr. Hughes also mentioned that he met with City Councilmember Robinson. Mr. Hughes is interested in streamlining the building permit process. He has been going around to other neighbors to see what their experience was with permitting. He has noticed inconsistencies in implementing building codes.

Bill Vogt spoke about the time he has spent in the library. He has noticed beams all along the library with cracks. There are vertical cracks in wooden posts. The floor under the steps is rusted out after only 3 years. There are pillars in the garage that are small and if a big truck hits them it will take them down. Mr. Vogt questioned how things are being inspected. He has decided to take some pictures of things he sees and send them to the City for review.

Councilmember Hummer spoke about the cracks in the wood that Mr. Vogt was referring to and how it does not always affect the structural integrity. She suggested that Mr. Vogt speak with Oscar del Moro, who can address all of the concerns. As a side note, she stated the area under the library with the pillars was never intended to be a parking lot. It was intended to be a grocery store.

6. APPROVAL OF AGENDA

Councilmember Kasner would like to amend the agenda to include a section 12 b) Future Agenda Items. Councilmember Kasner moved to approve the amended agenda. Chair Capron seconded the motion and it carried unanimously.

7. DEPARTMENT REPORTS

None.

8. PUBLIC HEARINGS

a) Public Hearing to Consider Extending Interim Zoning Controls Adopted by Ordinance No. 6156

Catherine Drews presented the staff report. She explained that the City Council adopted Ordinance 6156 extending the zoning controls. City Council added a new provision to the Ordinance that any retail stores must be located at least 1000 feet from each other.

Chair Capron questioned whether this will be finished in 6 months or whether the EBCC will be asked to extend the ordinance again.

Ms. Drews responded that it may come back again for another extension because the City wants to take its time and get it right.

Councilmember Kasner questioned whether the City Council will say they do not want marijuana in Bellevue. He noted that all of this becomes moot if the City Council decides they do not want to be in the marijuana business.

Ms. Drews noted that if Council made that decision then staff would come back with another ordinance that would encompass all direction that staff received from Council.

Councilmember Kasner questioned if the clock begins ticking once the liquor control board issues a license to a Bellevue business. He questioned if, under this ordinance, there is a way to be a producer or a retailer in Bellevue right now.

Ms. Drews responded that the Washington State Liquor Control Board has administration of this program. They license marijuana producers, processors and retailers. The City's zoning stated in the ordinance that you have to have a state issued license before your use can come to Bellevue. The use has to meet the ordinance.

Councilmember Kasner noted that this does not prevent a legally licensed retailer to operate in Bellevue, providing they meet the requirements of this ordinance.

Ms. Drews confirmed.

Councilmember Kasner questioned whether there are any sites that meet the requirements.

In response, Ms. Drews explained that there are sites that work. The City had over 58 applications for the 4 retail spots. There will be a vetting process and a lottery conducted by the Liquor Control Board.

Chair Capron questioned whether there are any areas in the EBCC jurisdiction that meet the requirements of the ordinance.

Ms. Drews responded that there is not a zone in the EBCC jurisdiction where these businesses could locate. Producers and processors can only go in Light Industrial zoned areas, which the EBCC does not have. The retailers can go in one area in Factoria, several areas of the downtown, some general commercial and some community business. The State separation requirements are that the retailers be 1000 feet from a playground, recreational center, school, licensed child care center, transit center, etc. The separation requirements have taken a lot of the available space out of play. Ms. Drews pointed out that the map is clear that there are no areas in the EBCC where a retailer could locate. She will provide the Deputy City Clerk with a map.

Chair Capron opened the public meeting.

Robert Leingang spoke and asked if the regulations are similar to the regulations that would apply to a brewer or distiller.

Ms. Drews said she can only comment on what she knows of the State regulation because the State does the administering and licensing. The City is not similar to that, but for the State it is modeled after how alcohol production is regulated.

Mr. Leingang questioned whether Bellevue will discriminate against marijuana producers differently than they discriminate against brewers and distillers.

In response, Ms. Drews would not say that there is discrimination. The City is allowed to put zoning in place to make sure that uses are compatible with each other.

Lei Wu spoke and noted that the zoning uses seem quite broad. Alcohol, in terms of police enforcement, is very established. Ms. Wu wants to bring attention to enforcement in terms of driving and safety.

Wesley Clark noted that if we ever have retail in the EBCC area, he would like to propose a state and local excise tax. A portion of that tax would go to education on the use of marijuana. The State of New York does this already.

Ms. Drews declared that she is not an expert on the revenue side of the marijuana bill, but that yes, currently the revenues are flowing to the State. Unfortunately the legislature did not get to completion of marijuana issues this time around.

Councilmember Kasner noted that currently the cities have no authority to do anything to the revenue streams.

Mr. Clark stated that using this type of tax for educational purposes is a great possibility. He would encourage the City of Bellevue to reach out to Jubilee Reach.

Chair Capron noted that it is interesting that the recreational marijuana use has come down to a taxation question, whereas with tobacco the focus comes down to a person's health.

Ken Seal spoke and would like City Council to take advantage of the Attorney General's statement that cities do not have to allow retail sales of marijuana. As far as smoking marijuana, Mr. Seal read an article that stated one joint is the carcinogenic equivalent of 20 cigarettes.

Sandra Hughes spoke and noted that the voters of our State voted to legalize marijuana. That included the voters in Bellevue. It is not any business of the Council or the City to say whether we want it or not. Those arguments should have been held a long time ago. This is not a prohibition state. She feels the City needs to move forward with how to facilitate safe sales of marijuana.

Mr. Vogt recalled some stories of his time at Boeing and the marijuana usage he saw. If the State wants Boeing to stay then marijuana has to go. He feels generations of young people have been destroyed by drugs.

Councilmember Hughes questioned why we are treating marijuana differently than we treat alcohol. If we had not passed the law that allowed liquor to be sold in grocery stores, then we would not be going through what we are now. There would be a place to sell marijuana through the State. A person can buy as much marijuana as they want, and children buy it every day, in all the high schools and the junior highs of Washington. He noted you can go down to Sammamish High School and buy cocaine, meth, heroin, marijuana, and oxy. This law that we are discussing is for people 21 and over and he believes it will slow down the usage by kids because the adults in Bellevue will not be buying at the high schools like they are now.

Ron Murk spoke about how the residents of the State of Washington, in the future, will come to the realization that implementing recreational marijuana was a mistake. He noted you can put all kinds of regulations on it but none of it will compensate for the cost on society. Mr. Murk stated he is a recent lung cancer survivor. He does not know how much his treatments cost but it was a substantial sum and it was documented that it was caused from smoking. Mr. Murk noted he was a lot older than 21 and was still buying cigarettes and smoking two packs a day. He believes that the tax revenue generated from sales will never cover the social costs. He feels there is no need for marijuana.

Hearing no further comments, Chair Capron closed the public hearing.

9. **RESOLUTIONS**

a) Resolution No. 540

Councilmember Kasner moved to approve Resolution No. 540. The motion was seconded by Councilmember Hummer and passed unanimously.

10. **COMMITTEE REPORTS**

None.

11. **UNFINISHED BUSINESS**

None.

12. **NEW BUSINESS**

a) Shoreline Master Program Update

Carol Helland presented the staff report. She noted that the Planning Commission has completed their work and has made a recommendation to the City Council. Council developed the completion plan that is page 19 of the EBCC packet materials. There has been no substantive conversation yet. The focus has first been on the process to get the work done. They have to digest a notebook full of information that the Planning Commission developed over the course of years.

Ms. Helland went on to say that on March 10 the City Council endorsed this process. On April 14 the Council will do a high-level overview of the recommendation. The notebook is 3 inches thick and contains a tremendous amount of consensus in it. All the stakeholders were concensed on the recommendation that moved forward. The area of most significant debate had to do mostly with residential regulations. Understandably, that is where the City Council will want to spend most of their time understanding the balance of the policy issues.

On April 28 the City Council will receive the last two pieces of the SMP update that were not prepared by the Planning Commission. The first piece is a cumulative impact analysis being presented by the consultant, Watershed Company. They will present the results of their review at the April 28 meeting. The second piece is a small light rail component that is needed for consistency.

After the meeting on the 28th, they will have a public hearing on May 5 to take public comment before they jump into the details. Then on May 12, 27, and June 9 the City Council will take on three topics per meeting where they will discuss the things that were most important to the Planning Commission. They will, very methodically, take on those specific topics.

Ms. Helland stated that if there are any changes directed by the Council, staff will prepare those and then another public hearing will be held to finalize the draft. The process has been laid out. If EBCC is interested in influencing the outcome of the plan, Ms. Helland encourages the EBCC to engage in those conversations. The Planning Commission did a tremendous amount of work on this document. EBCC has very little shoreline area in its jurisdiction. The jurisdiction is really limited to the open water of Larsen Lake and most of that is in City ownership.

Chair Capron noted that there has been a Court opinion about the Community Council not really having any influence over shorelines. Chair Capron questioned Monica Buck, Assistant City Attorney, about this.

In response, Ms. Buck stated that there was a court case involving the Sammamish Community Council regarding traffic concurrency standards. The statute that governs EBCC discusses zoning regulations, which is the only place this will fall. The statue states that zoning regulations did not include things that only had incidental impacts to the development of land, which includes Shoreline Master Plans.

Chair Capron noted that the court case involving Sammamish Community Council was over how they counted traffic.

Councilmember Kasner stated that the EBCC has control over the what, not the how. He then questioned Ms. Helland regarding what types of things will be heard at the April 14 meeting on the SMP adoption requirements.

Ms. Helland stated there are a lot of different ways that a community can choose to adopt an SMP that is consistent with state guidelines. The state guidelines, in and of themselves, provide a tremendous amount of discretion. The question is if the plan, in its totality, hits the mark. What staff will focus on is does the plan reflect the policy choices that they believe are the best for the city. Once that is determined, staff will do whatever they can to get that passed through ecology.

Councilmember Kasner noted that it may not be what Ecology currently asked for in which case the question becomes, can we convince Ecology that we're doing it right for the citizens of Bellevue.

In response, Ms. Helland spoke to the fact that Ecology has opined that they believe the plan is deficient in some areas. The Watershed Company has been working on this. Information was prepared by the Sensible Shorelines Association. They have a biologist and other experts that have been working with them. That information was all provided to the Watershed Company.

Councilmember Kasner noted that Professor Settle is not from Watershed.

Ms. Helland responded that Professor Settle is an attorney with Foster Pepper. In early 2000 the State adopted a set of guidelines for updates to the SMP's. There was a lawsuit regarding those guidelines. The litigation was stayed. There were three facilitators appointed to try and navigate all the interests of the various stakeholders in order to come to an agreed conclusion. They were successful in doing so. Professor Settle was a facilitator that negotiated the settlement. He has a tremendous amount of experience with what was intended under the guidelines.

Councilmember Kasner noted that he was hoping this would be far more substantive so that if EBCC wanted to get involved between now and May 5, they would have background on potential issues. He noted that only process has been discussed.

Ms. Helland noted that for each of the meetings in May and June there will be a packet of material describing what the existing strategy is and what is the strategy recommended by the Planning Commission, as well as Comp Plan requirements.

Councilmember Kasner questioned whether we already know that information.

In response, Ms. Helland stated that the conversation will be had with the Council now. The focused review for public access and setbacks will happen on May 12. Vegetation, docks, and critical areas will be May 27.

Ms. Helland noted that the Planning Commission has already evaluated all the tradeoffs and have created their plan. The Council added the public hearing to make sure there was an opportunity for anyone who participated in the Planning Commission process to come in and speak their mind before the Council started their work. The last public hearing on this was on a draft that was released in 2012.

Councilmember Kasner questioned if the current draft is available to the public.

Ms. Helland noted that it is on the City's website and explained where to find it.

Councilmember Kasner asked Ms. Helland to explain the public access piece in nutshell.

In response, Ms. Helland stated that the current plan is deficient regarding public access. For instance, on Lake Sammamish and Lake Washington there are utility properties where pump

stations are provided and access has to be provided, or there has to be a good reason to deny access. If there is a reason for excluding the public for safety, then there are provisions for provide visual access in those locations.

Jim Loring spoke and questioned whether there is any way in this process to evaluate the economic value. He noted that a lot of Phantom Lake and the swamp area serves a purpose. It mitigates storm water.

Ms. Helland responded that yes, in the city programs and projects they look at the fiscal impact.

Mr. Loring noted his pleasant surprise by the outcome of 140th. He questioned how that would be evaluated as far as the economic tradeoff.

In response, Ms. Helland noted the triple bottom line. The cost to build it versus the cost to operate over time is looked at.

Mr. Loring questioned if, when the City put in its application for a long term plan, as far as installing storm water drains, is it possible to quantify the rate impact.

Ms. Helland noted that she does not have an exact answer for that.

Councilmember Kasner noted one of the hottest issues throughout all of this was the management of Phantom Lake.

In response, Ms. Helland stated that it is water under the bridge. What staff are going to try and do is set the Council up to make policy choices for moving forward.

b) Discussion of Future Agenda Items

Councilmember Kasner noted he would like to see a presentation or update or 148th and potential CIP projects and budget.

Chair Capron noted that he drove 148th from Redmond to Bellevue recently and did not feel like he was waiting any extraordinary amount of time. He noted a big change since WLSP was re-opened. People out of Microsoft area that were going down 148th are back on WLSP to I-90. Chair Capron agrees that we need an updated traffic count.

Sandra Hughes commented that she sat through 3 light cycles on Lake Hills Boulevard to cross 148th to come to this meeting.

Councilmember Hummer agreed that she would like to see the traffic people come back with an update. She commented about 20 million dollars being spent on an HOV lane down Bellevue Way, which she noted has virtually no traffic lights. She feels it is important for EBCC to hear regularly from traffic staff. Imperial East is not the only neighborhood with limited access.

Sandra Hughes questioned whether the red light cameras will be looked at again when the contracts come up for renewal.

Councilmember Kasner stated that the only two schools in the district that have those cameras are Lake Hills Elementary and Stevenson Elementary because they claim to be the only schools on arterials. However, the normal 25 mph in neighborhoods is exceeded in most neighborhoods and most schools every day. The cameras only impact East Bellevue residents. Councilmember Kasner noted that former City Councilmember Davidson believed that the cameras were only operating during school times, which is not true.

Councilmember Hughes noted a big issue in his neighborhood is the crumbling sidewalks. He questioned whether the EBCC is able to bring that issue up.

Mr. Loring noted that he is exclusively a pedestrian. He noted the crumbling sidewalk issue, but also stated that the bigger problem is the crosswalks. Trying to get across SE 148th is very difficult.

Councilmember Kasner noted that the City of Bellevue is not very old. Sidewalks last for 50 to 60 years and so some of East Bellevue's sidewalks are at or over 60 years old. They were designed to fail. He questioned that now that we know they are past their useful life, do we replace them or should they be removed.

Chair Capron noted he would like to see the traffic people back in June for an update.

Tammy Foss spoke and noted she works in Seattle and lives in Bellevue. She stated she makes a choice between 520 and I-90 every day. She questioned how residents could be surveyed to find out what choices they are making every day. She also questioned whether EBCC has looked at the intersection at 156th and what the impacts will be of the new shopping center.

Councilmember Hughes noted that Oscar del Moro addressed that at a meeting in the past.

13. CONTINUED COMMUNICATIONS

Councilmember Kasner spoke about an urban geography study regarding unequal exposure. He noted that he and Councilmember Hughes have been invited to watch the student presentations on April 16 and 17.

14. EXECUTIVE SESSION

None.

15. APPROVAL OF MINUTES

(a) Summary Regular Meeting Minutes - March 4, 2014

Councilmember Kasner moved to amend the minutes to correct the spelling of Ron Murk's name.

Councilmember Kasner moved to approve the amended minutes of March 4, 2014. The motion was seconded by Councilmember Gooding and carried unanimously.

16. **ADJOURNMENT**

Chair Capron adjourned the meeting at 8:16p.m.

Charmaine Arredondo
Deputy City Clerk