East Bellevue Community Council
Summary Minutes of Regular Meeting

July 3, 2012
6:30 p.m.

Lake Hills Community Clubhouse
Bellevue, Washington

PRESENT: Chair Kasner[1], Vice Chair Seal, and Councilmembers Gooding[2] and Hughes

ABSENT: Councilmember Capron

STAFF: Catherine Drews, Legal Planner, Development Services Department

1. CALL TO ORDER

The meeting was called to order at 6:38 p.m. with Vice Chair Seal presiding.

2. ROLL CALL

The Clerk called the roll. Councilmembers Capron and Gooding were absent.

Vice Chair Seal led the flag salute.

3. COMMUNICATIONS - WRITTEN AND ORAL: None.

4. APPROVAL OF AGENDA

Councilmember Kasner moved to approve the agenda, and Councilmember Hughes seconded the motion. The motion carried by a vote of 3-0.

5. PUBLIC HEARING

(a) Proposed interim official zoning controls regarding medical marijuana collective gardens for a period of six months, to be in effect while the City drafts, considers, holds hearings and adopts permanent collective gardens zoning regulations; to be effective immediately upon adoption, scheduling a hearing on the maintenance of the interim zoning ordinance and declaring an emergency.

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[1] Mr. Kasner participated via speakerphone.
[2] Councilmember Gooding arrived at 7:14 p.m.

Ms. Drews noted written materials in the meeting packet on Ordinance No. 6058, which established an interim zoning control regulating medical marijuana collective gardens. She explained that Initiative 502, which would decriminalize marijuana, with limits for individuals over 21 years of age, will be on the November 6 general election ballot. I-502 will not amend medical marijuana laws. However, its passage would provide medical marijuana patients with a readily available source of marijuana.

Ms. Drews reported that proponents of medical marijuana collective gardens were the only individuals who spoke during the public hearing on July 2 before the City Council. The interim zoning control established by the City Council expires on November 7. Ms. Drews said the City Council directed staff after the public hearing to proceed with developing permanent regulations, with the assistance of the Planning Commission. The interim zoning control will be maintained until permanent regulations are adopted.

Ms. Drews said that Ordinance No. 6058 affects the Land Use Code, and therefore the East Bellevue Community Council should formally approve or disapprove it. Staff will develop a process with the Planning Commission for compiling a record and drafting permanent regulations for medical marijuana collective gardens. Ms. Drews invited Community Councilmembers to call or email her with any questions or suggestions about the process going forward.

Responding to Mr. Hughes, Ms. Drews said that marijuana remains illegal under federal law. However, the Medical Marijuana Act was passed by voters in this state in the 1990s. It listed specific medical conditions eligible for medical marijuana usage, but the law did not identify a way for individuals to obtain medical marijuana.

In 2011, the state legislature attempted to allow the licensing of medical marijuana dispensaries. The governor then received a letter from the U.S. Attorney General's Office which stated that the federal government could take enforcement action against public officials who allow medical marijuana usage. As a result, the governor vetoed large sections of the proposed bill, leaving in place language on collective gardens.

Under state law, a collective garden is described as a place in which 10 qualifying patients share in responsibility for acquiring and supplying the resources required to produce and process cannabis for medical use, such as a location for a collective garden, equipment, supplies, and labor necessary to plant, grow and harvest cannabis.

Ms. Drews said the U.S. Department of Justice has more recently produced letters to the State Attorney General stating that the agency will continue to enforce controlled substances, but with a focus on cartels and large-scale commercial operations. The agency indicated it will not pursue medical marijuana patients.

Ms. Drews said that, when the City began receiving phone calls inquiring about regulations in Bellevue, the City Council decided to establish interim zoning control in order to allow adequate time to fully review the issue and establish permanent regulations.

Councilmember Seal observed that Bellevue already has homes being used as growing operations in neighborhoods. He said that Ordinance No. 6058 states that collective gardens must be inside a structure.

Mr. Kasner said the gardens are allowed in Light Industrial zones. Mr. Seal said they are also allowed in General Commercial, Bel-Red General Commercial, and the Medical Institution land use districts.

Ms. Drews said that none of this zoning currently exists in the East Bellevue Community Council area of jurisdiction.

Mr. Seal expressed concern that General Commercial zoning could be established in East Bellevue in the future. If that happened, a collective garden could be allowed by an administrative decision without the Community Council's control. He noted that the gardens are not allowed within 1,000 feet of schools, religious institutions, and other facilities.

Councilmember Hughes observed that the latter regulation essentially covers the East Bellevue area.

Councilmember Kasner questioned the effect of the Community Council not approving the ordinance. Ms. Drews said, in that case, the ordinance would not apply in the East Bellevue area. Instead, the State's collective gardens provisions would apply, and individuals could use that to argue that the gardens are allowed in residential areas. However, Ms. Drews acknowledged that the effect of any of the regulations is somewhat unknown, especially given the pending fall initiative and federal law.

Mr. Seal said he favors the City of Kent's approach to ban all collective gardens. Ms. Drews noted that the City of Kent has been sued on that issue.

Councilmember Seal expressed concern that collective garden locations potentially attract robberies and other undesirable activity.

Councilmember Hughes expressed support for the ordinance, which is moving toward a policy of allowing marijuana to be distributed and taxed as proposed by Initiative 502. He believes the country appears to be moving in this direction. Mr. Hughes observed that marijuana is relatively easy to obtain in today's society, and he is concerned about the money spent to attempt to prohibit it.

Vice Chair Seal opened the public hearing on City Council Ordinance No. 6058.

No one came forward to comment.

Mr. Kasner moved to close the public hearing. Mr. Hughes seconded the motion, which carried by a vote of 3-0.

6. **RESOLUTIONS**

(a) Resolution 524/524A approving/disapproving City Council Ordinance No. 6058 adopting interim official zoning controls regarding medical marijuana collective gardens for a period of six months, to be in effect while the City drafts, considers, holds hearings and adopts permanent collective gardens zoning regulations; to be effective immediately upon adoption; scheduling a hearing on the maintenance of the interim zoning ordinance; and declaring an emergency.

Councilmember Hughes moved to adopt Resolution 524 approving City Council Ordinance No. 6058 regarding medical marijuana collective gardens. Mr. Kasner seconded the motion, which carried by a vote of 3-0.

7. **REPORTS OF CITY COUNCIL, BOARDS, AND COMMISSIONS**: None.

8. **DEPARTMENT REPORTS**: None.

9. **COMMITTEE REPORTS**: None.

10. **UNFINISHED BUSINESS**

Councilmember Hughes noted that he has some concerns about Puget Sound Energy's proposed transmission line project, which was discussed in June. He said he drove down 148th Avenue since that time and noticed that many trees have signs indicating that they are protected. He questioned whether this is connected to the power line project.

Councilmember Seal said the signs are to alert workers about trees that should not be removed as part of the power line project.

Mr. Hughes questioned whether the project can be completed if all of the trees with signs are left in place.

The Clerk reminded the Community Council that the project is potentially a quasi-judicial matter. She suggested that Councilmembers reserve their questions until the public hearing.

11. **NEW BUSINESS**

Mr. Hughes expressed concerns about the vacant Key Bank site including garbage, weeds, and a downed fence. He has been told that neither the Community Council or owner/developer of the Kelsey Creek Shopping Center site can do anything about the situation.

The Clerk noted that a private citizen can file a complaint. Mr. Hughes said he will do that online. However, he wondered if the Community Council could do anything.

Mr. Kasner said this is a code compliance issue for the City to address.

[Councilmember Gooding joined the meeting.]

Moving on, Mr. Hughes said an organization called the Urban Boulevards Team was mentioned in the past by Parks Department staff. He said he contacted a Parks staff member but has not had a chance to talk with him yet. Mr. Hughes said he toured boulevard areas within East Bellevue with Jeffrey Hummer, a horticulturist, which will be discussed in September.

Mr. Kasner said he spoke recently with Geoff Bradley, who indicated that it would not be feasible or affordable to update all of the medians to today's standards.

Mr. Hughes reiterated that these issues will be discussed in greater detail during the September meeting. He said he will be meeting with Mr. Hummer every Monday morning for the near term, and he invited other Councilmembers to attend as well.

12. CONTINUED COMMUNICATIONS

Councilmember Kasner reported that he attended a Planning Commission meeting and later met with Commissioner Kevin Turner, the former Chair. Mr. Kasner said that Mr. Turner was open to joint meetings with the Community Council.

Councilmember Seal said that John Carlson was elected as the Chair of the Planning Commission.

Mr. Kasner said he and Mr. Seal attended the Eastside Transportation Association meeting. Mr. Kasner presented to the Transportation Commission on June 14 regarding 148th Avenue and its ranking with other transportation priorities.

Mr. Kasner attended the City Council's budget hearings, where he spoke with Utilities and Code Compliance staff about issues in East Bellevue.

Mr. Seal noted the recent articles by Mr. Kasner in Bellevue's *It's Your City* newspaper.

Mr. Hughes reported that he and Mr. Capron, and their wives, attended the Walmart VIP pre-grand opening event.

Paul Jacobson, a commercial real estate broker, joined the meeting and indicated that he represents some of the medical marijuana businesses in Seattle. He said they are interested in expanding to the Eastside. Mr. Jacobson expressed an interest in Ordinance No. 6058.

Mr. Seal referred Mr. Jacobson to the text of the ordinance and to state law for more information. He noted that Bellevue's interim zoning restricts medical marijuana collective gardens to certain land use districts. None of these zones are located within the jurisdiction of the East Bellevue Community Council.

Mr. Seal said the City Council and staff are continuing to study the issue and are waiting for the outcome of lawsuits involving other jurisdictions.

Mr. Seal referred Mr. Jacobson to the City's web site for information on the Planning Commission and City Council and their process to address medical marijuana.

13. **EXECUTIVE SESSION**: None.

14. **APPROVAL OF MINUTES**: None.

15. **ADJOURNMENT**

Councilmember Kasner moved to adjourn. Mr. Hughes seconded the motion, which carried by a vote of 4-0.

At 7:40 p.m., Vice Chair Seal declared the meeting adjourned.

Michelle Murphy, CMC
Deputy City Clerk

/kaw